



LINN COUNTY BOARD OF SUPERVISORS

District 1 | Kirsten Running-Marquardt

District 2 | Ben Rogers

District 3 | Louis J. Zumbach

WORK SESSION AGENDA

Monday, September 11, 2023 | 10:00 AM

Formal Board Room | Jean Oxley Public Service Center

935 2nd St. SW, Cedar Rapids, Iowa

Call to Order

Public Comment: Five Minute Limit per Speaker

This comment period is for the public to address topics on today's agenda.

Minutes

Discuss and decide on meeting minutes.

Claims

Discuss and decide on claims.

Regular Agenda

Discuss a Service Agreement for scheduling software between Linn County LIFTS and TripMaster by CTS effective September 2023 through September 2028

Discuss Public Health Fiscal Year 2023 carryover request

Discuss Mainstreet award and allocation Fiscal Year 2023 carryover request

Discuss and decide on Linn County Departments' requests for American Rescue Plan Act funds

Public Comment: Five Minute Limit per Speaker

This is an opportunity for the public to address the board on any subject pertaining to board business.

Payroll Authorizations

Discuss and decide on Employment Change Roster (payroll authorizations).

Correspondence

Appointments

Approve appointment of township officers and advisory board and commission members.

Bertram Township: Clerk

Adjournment

For questions about meeting accessibility or to request accommodations to attend or to participate in a meeting due to a disability, please contact the Board of Supervisors office at 319-892-5000 or at bd-supervisors@LinnCountyIowa.gov.



MASTER SERVICES AGREEMENT

This Master Hosted Services Agreement ("Agreement"), effective as of the acceptance date of this Cost Proposal (the "Effective Date"), is entered into by and between ("Customer") and Foxster Opco, LLC, d/b/a CTS Software ("CTS Software", "CTS"), a North Carolina corporation, located at Post Office Box 57, Swansboro, North Carolina 28584. The parties agree as follows:

1. DEFINITIONS. Capitalized terms used but not defined elsewhere in this Agreement have the meanings set forth below.

1.1 "Customer Data" means data and information submitted by or for Customer into the Hosted Services.

1.2 "Documentation" means the user guides, technical literature, and functional specifications for the Services, as provided and updated by CTS from time to time.

1.3 "Hosted Services" means the applicable software services to be provided by CTS to Customer over the internet through a web browser or other CTS authorized application, as further described and set forth in an Order and this Agreement.

1.4 "Order" means an order form specifying the Service(s) and/or Devices to be provided hereunder that is executed by the parties, including any addenda and supplements thereto.

1.5 "Professional Services" means any consulting, development, implementation, configuration, training, support, or other professional services that are described in an Order. Hosted Services are not Professional Services.

1.6 "Services" means the Hosted Services and Professional Services. "Services" excludes Customer Data.

2. SERVICES.

2.1 Orders for Services. CTS will make the Services available to Customer in accordance with the terms and conditions of this Agreement and any applicable Order. In the event of a conflict between the terms of this Agreement and the terms of an Order, the terms of this Agreement will govern to the extent of the conflict unless the Order expressly states that it is intended to modify the conflicting terms of this Agreement, in which case the terms of the Order will govern to the extent of the conflict.

2.2 Orders for Devices. Customer may purchase Devices (as defined in Schedule 2) pursuant to the

execution of an Order between the parties. The additional terms set forth on Schedule 2 will apply to such purchases.

2.3 Hosted Services. CTS will provide to Customer the Hosted Services specified in an Order. Customer will identify to CTS, in the manner specified by CTS from time to time, its employees that require access to the Hosted Services. CTS will provide standard support for the Hosted Services to Customer at no additional charge (including new releases, upgrades, updates, patches, and bug fixes as they may, from time to time, be developed and made generally available as part of the Services). CTS will provide the Hosted Services in accordance with the service level agreement set forth in Schedule 1.

2.4 Professional Services. If specified in an Order, CTS will provide Professional Services to Customer in accordance with the applicable Order. For example, upgrades to the Hosted Services that are requested and made available for the benefit of the Customer will not be offered at no additional charge. Such upgrades will be quoted by CTS upon written request from the Customer and memorialized in a signed Order for Professional Services. CTS will own any improvements, enhancements, configurations, or other derivative works to the Hosted Services made by CTS in connection with the Professional Services.

2.5 Service Delivery. CTS may provide the Services from any facility and may from time to time transfer any or all of the Services being provided hereunder to any new facility(ies) or relocate the personnel, equipment and other resources used in providing those Services. CTS may, in its sole discretion, make any changes to any Service that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of CTS' products or services to its customers, (b) the competitive strength of, or market for, CTS' products or services, (c) such Services' cost efficiency or performance, or (ii) to comply with applicable law.

2.6 Protection and Use of Customer Data. CTS will maintain administrative, physical, and technical safeguards designed to protect the security, confidentiality, and integrity of Customer Data, as described in the Documentation. Those safeguards will include measures for preventing access, use, modification, or disclosure of Customer Data by CTS personnel except: (a) to provide the

Services, prevent or address service or technical problems, or as described herein; (b) as compelled by law in accordance with Section 6.3 (Compelled Disclosure) below; or (c) as Customer expressly permits in writing. Customer shall protect and maintain the confidentiality of any logins, passwords or other access credential supplied by CTS for use with the Services. Customer is liable for all authorized and unauthorized uses of such account credentials.

3. USE OF SERVICES AND CONTENT.

3.1 Customer Responsibilities. Customer will: (a) be responsible for its and its contractors' compliance with this Agreement and for all their acts and omissions of as if they were Customer's acts or omissions; (b) be responsible for the accuracy, quality, and legality of Customer Data and the means by which Customer acquired Customer Data; (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Services and notify CTS promptly of any unauthorized access or use of which Customer becomes aware; (d) use Services only in accordance with this Agreement, any applicable Order, and the Documentation; (e) comply with all laws applicable to Customer's use of the Services; and (f) promptly and fully cooperate with CTS and make the necessary personnel and resources available to CTS for CTS to deliver the Services, as reasonably requested by CTS.

3.2 Usage Restrictions. Customer will not: (a) use the Hosted Services outside the licensing metrics set out in the applicable Order (e.g., per user limitations), if any; (b) make any Service available to, or use any Service for the benefit of, anyone other than Customer; (c) lease, license, sell, sublicense or otherwise transfer its access to or use of the Services, or include any Service in a service bureau or outsourcing offering; (d) use or permit use of any Service in contravention of Section 3.4 (Prohibited Uses); (e) interfere with or disrupt the integrity or performance of any Service; (f) attempt to gain unauthorized access to any Service; (g) permit direct or indirect access to or use of any Service in a way that circumvents a usage limit; (h) copy a Service or any part, feature, function, or user interface thereof; (i) copy any Service except as permitted herein or in an Order or the Documentation; (j) frame or mirror any part of any Service; (k) access any Service in order to build a competitive product or service; or (l) reverse engineer any Service (to the extent this restriction is permitted by law).

3.3 Technical Requirements. Customer will need certain equipment, software, and Internet access to be able to access the Hosted Services. Acquiring, installing, maintaining and operating equipment and Internet access is solely Customer's responsibility. Customer is responsible for ensuring that such equipment is compatible with the Services and complies with all configurations and specifications

provided by CTS, which may be amended from time to time. CTS neither represents nor warrants that the Hosted Services will be accessible through all web browser releases or used with all operating systems.

3.4 Prohibited Uses. Customer will not and will not permit others in using the Services to: (a) defame, abuse, harass, stalk, threaten any individual or infringe or otherwise violate the legal rights (such as rights of privacy, publicity and intellectual property) of others or CTS; (b) distribute any harmful, inappropriate, profane, vulgar, infringing, obscene, false, fraudulent, tortuous, indecent, unlawful, or otherwise objectionable material or information (including any unsolicited commercial communications); (c) engage in or encourage any conduct that could constitute a criminal offense or give rise to civil liability for CTS; (d) misrepresent or in any other way falsely identify Customer's identity or affiliation, including through impersonation or altering any technical information in communications using the Services; (e) transmit or upload any material through the Services that contains viruses, trojan horses, worms, time bombs, cancelbots, or any other programs with the intent or effect of damaging, destroying, disrupting or otherwise impairing CTS', or any other person's or entity's, network, computer system, or other equipment; (f) interfere with or disrupt the Services, networks or servers connected to the CTS systems or violate the regulations, policies or procedures of such networks or servers, including unlawful or unauthorized altering any of the information submitted through the Services; (g) attempt to gain unauthorized access to the Services, other CTS customers' computer systems or networks using the Services through any means; or (h) interfere with another person's use of the Services. CTS has no obligation to monitor Customer's use of the Services. However, CTS reserves the right (but has no obligation) at all times to monitor, review, retain and disclose any information as necessary to satisfy or cooperate with any applicable law, regulation, legal process or governmental request.

3.5 Removal of Content. If CTS is required by any third-party rights holder to remove any content or information, or receives information that any content or information provided to Customer may violate applicable law or third-party rights, CTS may remove such content or information and/or notify Customer that it must discontinue all use of such content or information, and to the extent not prohibited by law, Customer will do so and promptly remove such content or information from its systems.

4. PROPRIETARY RIGHTS AND LICENSES.

4.1 Reservation. CTS and its licensors reserve all of their rights, title, and interest in and to the Hosted Services and the Documentation, including all updated,

upgrades, or derivative works from the foregoing, and all intellectual property rights therein. No rights are granted to Customer hereunder other than as expressly set forth in this Agreement.

4.2 Access to Hosted Services. Subject to Customer's compliance with this Agreement and any Orders, CTS grants to Customer a non-exclusive, personal, non-transferable, limited license for its employees to access and use the Hosted Services and Documentation solely for Customer's internal business purposes.

4.3 Customer Data. As between CTS and Customer, Customer owns the Customer Data. Customer grants to CTS and its subcontractors a non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit, translate, and otherwise use, disclose and process Customer Data for any lawful purpose, including but not limited to as reasonably necessary or useful to perform and improve the Services and for the exercise of CTS' rights under this Agreement and for scenarios including but not limited to data sharing to brokers and clearinghouses on behalf of the Customer. Customer warrants to CTS that Customer has the right to grant the foregoing license and provide Customer Data to CTS in accordance with this Agreement. CTS may anonymize and de-identify Customer Data so that it does not identify Customer or any individual, and cannot be used to identify Customer or any individual, for analytical and benchmarking purposes, for the development of new products and services, and to improve CTS' products and services.

5. FEES AND PAYMENT TERMS

5.1 Services Fees. For the Services provided under this Agreement, Customer will pay CTS the fees in the amounts set forth in the applicable Order. Unless otherwise set forth in the applicable Order, applicable fees will be invoiced to Customer annually in advance. Fees are non-cancelable and non-refundable. Unless otherwise agreed in an Order, Customer will pay all invoices net 15 or 25 days, depending on pricing, from the date of the CTS invoice. All fees paid and expenses reimbursed under this Agreement will be in United States currency. All standard fees will automatically increase by 3% per year after the five-year anniversary of the Effective Date of the Initial Term.

5.2 Late Fees. If any invoiced amount is not received by CTS by the due date, then, without limiting CTS' rights or remedies, those amounts will accrue interest at a rate of 1.5% per month or the maximum allowed under state law (whichever is lower). CTS, at its option, may suspend the Services, in whole or in part, if CTS does not receive all undisputed amounts due and owing under this Agreement within thirty (30) days after delivery of notice to Customer of

the failure to pay such overdue balances. CTS shall be entitled to an award of its reasonable attorney's fees and collection costs in connection with Customer's breach of its payment obligations.

5.3 Taxes. CTS Software's invoices for fees will include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, "**Taxes**") unless official proof of tax-exempt status is provided.

5.4 No Offset. Fees and expenses due from Customer under this Agreement may not be withheld or offset by Customer against other amounts for any reason.

6. NON-DISCLOSURE AND CONFIDENTIALITY.

6.1 Definition of Confidential Information. "**Confidential Information**" means information disclosed by a party to the other party that is designated as confidential or that reasonably should be considered confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Customer includes Customer Data; Confidential Information of CTS includes the Services and Documentation; and Confidential Information of each party includes the terms and conditions of this Agreement and all Orders (including pricing), as well as information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing; "**Disclosing Party**" refers to the party disclosing Confidential Information hereunder, whether such disclosure is directly from Disclosing Party or through Disclosing Party's employees or agents; and "**Recipient**" refers to the party receiving any Confidential Information hereunder, whether such disclosure is received directly or through Recipient's employees or agents. Confidential Information does not include information that: (a) is already known to the Recipient without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Recipient; (c) is developed by the Recipient independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Recipient from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

6.2 Requirement of Confidentiality. The Recipient agrees that it will use the same degree of care it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (a) not disclose or otherwise make available Confidential Information of the Disclosing Party to any third party without the prior written consent of the Disclosing Party, provided

that the Recipient may disclose the Confidential Information of the Disclosing Party to its, and its affiliates', officers, employees, consultants and legal advisors who have a "need to know," who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section 6; and (b) use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations or as otherwise authorized under this Agreement. The Recipient will promptly notify the Disclosing Party in the event it becomes aware of any loss or disclosure of any of the Confidential Information of Disclosing Party. The obligations in this Section 6 will survive termination and continue for so long as the applicable information constitutes Confidential Information.

6.3 Compelled Disclosure. The Recipient may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Recipient gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Recipient is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Recipient for its reasonable cost of compiling and providing secure access to that Confidential Information.

6.4 Feedback. Any feedback, comments, suggestions or proposed modifications to the Services provided by Customer to CTS may be freely used by CTS without limitation, notice, or duty of accounting.

7. THIRD PARTY SERVICES.

7.1 Integration with Third Party Services. The Hosted Services may contain features designed to interoperate with products, applications, or services not provided by CTS (collectively, each a "Third Party Service"). To use such features, Customer may be required to obtain access to such Third Party Service from its provider, and may be required to grant CTS access to Customer's account(s) on such Third Party Service. Customer shall provide, and shall cause the provider of the Third Party Service to provide, CTS with any reasonably requested information and materials needed to integrate the Third Party Service with the Services.

7.2 Permissions; Disclaimer. CTS does not warrant or support Third Party Service or other third-party products or services. If Customer chooses to use a Third Party Service with the Services, Customer grants CTS permission to allow the Third Party Service and its provider to access any data (including, without limitation, data that

may constitute Confidential Information) provided to CTS in connection with the Services as required for the interoperation of that Third Party Service with the Services. CTS is not responsible for any disclosure, modification or deletion of such data resulting from access by any Third Party Service or its provider. Any acquisition by Customer of a Third Party Service, and any exchange of data between Customer and any Third Party Service or its provider, is solely between Customer and the applicable third-party provider. Further, CTS cannot guarantee the continued availability of any Service features that interoperate with Third Party Service, and may cease providing them without being in breach of this Agreement or entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third Party Service ceases to make the Third Party Service available for interoperation with the corresponding Service features in a manner acceptable to CTS.

8. REPRESENTATIONS, WARRANTIES, AND DISCLAIMERS.

8.1 Mutual Representations. Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

8.2 Services Warranties. CTS represents and warrants that it will provide the Professional Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Hosted Services will conform substantially in accordance with the Documentation under normal use and circumstances. Customer's sole remedy for breach of a warranty in this Section shall be to have CTS use commercially reasonable efforts to promptly correct, replace or provide a work around for such breach, at no charge to Customer.

8.3 Customer Warranties. Customer represents and warrants that (a) Customer will use, and will ensure that all users use, each Service in full compliance with this Agreement, CTS' end-user terms of use and all applicable laws and regulations; (b) Customer owns or has a license to use and has obtained all consents and approvals necessary for the provision and use of all of the Customer Data that is placed on, transmitted via or recorded by any Service; (c) the provision and use of Customer Data as contemplated by this Agreement and any Service do not and shall not violate any Customer's privacy policy, terms- of-use or other agreement to which Customer is a party or any law or regulation to which Customer is subject to; and (d) no Customer Data will include social security numbers or other government-issued identification numbers, financial account numbers, credit card or debit card numbers, credit report information or other

personal financial information, health or medical information or other information that is subject to international, federal, state, or local laws or ordinances now or hereafter enacted regarding data protection or privacy, including, but not limited to, the Health Insurance Portability and Accountability Act, the Health Information Technology for Economic and Clinical Health Act, the Fair Credit Reporting Act, the Children's Online Privacy Protection Act and the Gramm-Leach-Bliley Act.

8.4 Disclaimer.

(a) OTHER THAN AS EXPRESSLY SET FORTH IN THIS SECTION 7, CTS SOFTWARE DISCLAIMS ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO CUSTOMER REGARDING THIS AGREEMENT AND THE SERVICES, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE EXPRESSLY EXCLUDED AND DISCLAIMED BY CTS SOFTWARE. NO WARRANTY IS MADE THAT USE OF THE SERVICES WILL BE ERROR FREE OR UNINTERRUPTED, THAT ANY ERRORS OR DEFECTS IN THE SERVICES WILL BE CORRECTED, OR THAT THE SERVICES FUNCTIONALITY WILL MEET CUSTOMER'S REQUIREMENTS. CTS SOFTWARE DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING CTS SOFTWARE.

(b) Customer acknowledges and agrees that (i) it is solely responsible for providing and ensuring the proper training of its drivers, owners or operators in the operation of the motor vehicle or motor vehicles (i.e. any automotive machinery utilized for the transport of persons or goods), (ii) CTS shall not be liable to Customer or any other entity or individual for any claim or action including costs arising out of the use or misuse of any motor vehicle operated by or on behalf of the Customer or any such entity or individual in connection with this Agreement, including any personal injury or property damage claim or action, and (iii) Customer shall include this paragraph, or the substance thereof, in any agreements between Customer and any third party involving the Hosted Services or other CTS property.

9. **LIMITATION OF LIABILITY.**

9.1 Exclusion of Damages. EXCEPT AS OTHERWISE PROVIDED IN SECTION 9.3, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER OR TO

ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF USE, REVENUE, PROFIT, OR DATA, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 Liability Cap. EXCEPT AS OTHERWISE PROVIDED IN SECTION 9.3, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID TO CTS SOFTWARE PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

9.3 Exceptions. The exclusions and limitations in Section 9.1 and Section 9.2 will not apply to: (a) damages or other liabilities arising out of or relating to a party's failure to comply with its obligations under Section 6 (Non-Disclosure and Confidentiality); or (b) a party's obligations under Section 10 (Indemnification).

10. **INDEMNIFICATION.**

10.1 CTS Indemnification. CTS will defend Customer and its officers, directors, employees, agents, successors and permitted assigns against any claim, suit, action or proceeding brought by a third party alleging that Customer's receipt or use of the Services in accordance with this Agreement infringes any intellectual property right or misappropriates any trade secret of that third party (each, a "**Claim Against Customer**"), and will pay all settlements entered into and damages awarded against Customer as a result of a Claim Against Customer; provided, however, that CTS will have no obligations under this Section 10.1 with respect to claims to the extent arising out of: (a) any instruction, information, designs, specifications or other materials provided by Customer to CTS; (b) use of the Services in combination with any materials or equipment not supplied to Customer or specified by CTS in writing; (c) any modifications or changes made to the Services by or on behalf of any person or entity other than CTS; (d) the use of any version of the Hosted Services other than the most current release made available by CTS; (e) Customer Data; or (f) Customer's breach of this Agreement, the Documentation, or the applicable Order(s). If a Service, or any part thereof, becomes, or in the opinion of CTS may become, the subject of a claim of infringement or misappropriation, CTS may, at its option: (x) obtain a license

for Customer's continued use of that Service in accordance with this Agreement; (y) replace or modify the Services so that they are no longer claimed to infringe or misappropriate; or (z) terminate this Agreement and refund to Customer any portion of the fees prepaid by Customer for the infringing Service.

10.2 Customer Indemnification. To the extent permitted by the laws of Iowa and the Iowa Constitution, Customer will defend CTS and its officers, directors, employees, agents, affiliates, successors and permitted assigns against any claim, suit, action or proceeding brought by a third party: (a) alleging that any information or materials provided by Customer (including Customer Data), or CTS' receipt or use thereof, infringes any intellectual property right or misappropriates any trade secret of that third party; (b) arising from Customer's breach of Section 3.2; (c) arising from Customer's failure to comply with applicable law; or (d) arising in connection with any event described in Section 8.4(b) or any from a dispute between Customer and any customer of Customer (each of (a) – (d), a "**Claim Against CTS Software**") and will pay all settlements entered into and damages awarded against CTS as a result of a Claim Against CTS. Customer does not waive its defenses available under Chapter 670 of the Code of Iowa.

10.3 Indemnification Procedures. The party seeking indemnification hereunder will promptly notify the indemnifying party in writing of a claim for which it seeks indemnification hereunder and cooperate with the indemnifying party at the indemnifying party's sole cost and expense. The indemnifying party will immediately take control of the defense and investigation of the claim and will employ counsel of its choice to handle and defend the same, at the indemnifying party's sole cost and expense. The indemnifying party will not settle any claim hereunder in a manner that adversely affects the rights of the indemnified party without the indemnified party's prior written consent, which will not be unreasonably withheld or delayed. The indemnified party's failure to perform any obligations under this Section 10.3 will not relieve the indemnifying party of its obligations under this Section 10 except to the extent that the indemnifying party can demonstrate that it has been materially prejudiced as a result of such failure. The indemnified party may participate in and observe the proceedings at its own cost and expense.

11. TERM AND TERMINATION.

11.1 Term. This Agreement will commence on the Effective Date and will continue until the time which the last active Order has terminated or expired. The term of each Order will be specified in the applicable Order.

(a) Termination. Without prejudice to any other remedies and in addition to any other termination rights herein, this Agreement may be terminated by either party if the other party commits a material breach of this Agreement and such breach remains uncured 30 days after written notice of such breach is delivered to such other party, with a material breach including Customer's failure to pay, when due, any fees due to CTS.

11.2 Effect of Termination or Expiration. The expiration (as distinct from the termination) of this Agreement will not terminate any Order that is then in effect and not otherwise terminated and, notwithstanding anything in this Section 11.2, the terms and conditions of this Agreement will continue in effect with respect to any such Order until its expiration or termination. Subject to the preceding sentence, upon expiration or termination of this Agreement for any reason: (a) all Orders hereunder will terminate, and all rights and licenses granted by CTS hereunder to Customer will immediately cease; and (b) Customer will immediately cease use of any Services and, within thirty (30) days after termination or expiration of this Agreement, return to CTS or, at CTS' written request destroy, all CTS Confidential Information in Customer's possession or control. The following sections of this Agreement will survive its termination or expiration: Section 1 (Definitions); Section 3.5 (Removal of Content); Section 4.1 (Reservation); Section 4.3 (Customer Data); Section 5 (Fees and Payment Terms); Section 6 (Non-Disclosure and Confidentiality); Section 8.3 (Disclaimer); Section 9 (Limitation of Liability); Section 11.2 (Effect of Termination); Section 11.3 (Portability and Deletion); and Section 12 (General).

11.3 Portability and Deletion. If Customer requests in writing within 30 days after the effective date of termination or expiration of this Agreement: (a) CTS will make Customer Data available to Customer for export or download and (b) CTS will return to Customer all Customer Confidential Information other than Customer Data in CTS' possession or control. After that 30-day period, CTS will have no obligation to maintain or provide any Customer Confidential Information, and will thereafter delete or destroy all copies of Customer Confidential Information in its systems or otherwise in its possession or control, unless legally prohibited.

12. GENERAL.

12.1 Governing Law. This Agreement will be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law provision or rule. The United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or the parties. In the event any litigation or other action to

enforce the terms and conditions hereof is commenced by either party to enforce this Agreement, such litigation or action will be filed and litigated only in a court of competent jurisdiction located in the State of North Carolina. Each party waives any and all rights to have this action brought in any place other than the State of North Carolina.

12.2 Delay in Performance. If CTS' performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, CTS shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay, and CTS' obligation to perform will be extended by the same number of days as Customer's contingent action is delayed.

12.3 Conflicting Terms in Customer Purchase Orders. Notwithstanding the content of any Customer purchase order or any other document or record generated by Customer (other than an executed Order), whether in writing or electronic, relating to the subject matter of this Agreement, the terms of this Agreement will govern and any conflicting, inconsistent, or additional terms contained in such documents will be null and void.

12.4 Notice. All communications required or otherwise provided under this Agreement will be in writing and will be deemed given when delivered (a) by hand, (b) by registered or certified mail, postage prepaid, return receipt requested; or (c) by a nationally recognized overnight courier service; to the address set forth for the applicable party on the first page of this Agreement, as may be amended by the party by written notice to the other party in accordance with this Section 12.4.

12.5 Assignment. Neither party may assign, transfer or delegate any or all of its rights or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed; provided that upon prior written notice to the other party, either party may assign this Agreement, in whole, to a successor of all or substantially all of the assets of that party through merger, reorganization, consolidation or acquisition. If a party makes any attempted assignment, transfer or other conveyance in violation of the foregoing, the attempted assignment, transfer, or other conveyance will be null and void.

12.6 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" will be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and

"hereunder" refer to this Agreement as a whole. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same may not apply a presumption that the terms of this Agreement will be more strictly construed against one party than against another.

12.7 Severability. In case any one or more of the provisions of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby.

12.8 Entire Agreement. This Agreement, including the schedules and exhibits hereto and Orders entered hereunder, constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto.

12.9 Publicity. Customer agrees to serve as a customer reference for CTS. Additionally, Customer shall permit CTS to feature Customer in a press release upon execution of this Agreement and shall permit CTS to feature Customer in marketing materials following the implementation of the Hosted Services. CTS and Customer agree to collaborate on public announcements and marketing materials, and shall refrain from issuance or distribution of marketing materials without first obtaining the prior written consent of the other party, which shall not be unreasonably withheld.

12.10 Amendment; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the party so waiving.

12.11 Export. Customer shall not itself, or permit any third party, to, export, re-export or release, directly or indirectly, the Services to any country, jurisdiction or individual person to which the export, re-export or release of the Service (a) is prohibited by applicable law and associated regulations or (b) without first completing all required undertakings, including obtaining any necessary export license or other governmental approval. Customer indemnify and hold CTS harmless from any breach of this section.

12.12 Force Majeure. Neither party will be liable for delay or failure in performing any of its obligations (other than payment obligations) hereunder due to causes beyond its reasonable control, including an act of God, war, natural disaster, governmental regulations or orders, epidemics or

pandemics, terrorism, communication or utility failures or casualties or the failures or acts of third parties.

12.13 Equitable Relief. Each party acknowledges that a breach by a party of Section 3.2 (Usage Restrictions) or Section 6 (Non-Disclosure and Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies will not be deemed to be exclusive but will be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

12.14 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and,

except as expressly set forth in Section 10 (Indemnification), nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

12.15 Relationship of Parties. Nothing in this Agreement will constitute or be deemed to constitute a partnership between the parties hereto or constitute or be deemed to constitute one party as agent of the other, for any purpose whatsoever, and neither party will have the authority or power to bind the other, or to contract in the name of or create a liability against the other, in any way or for any purpose.

12.16 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Remainder of Page Intentionally Blank; Signature Page Follows]

WITH THE INTENT TO BE BOUND, the parties have executed this Agreement as of the Effective Date.

Foxster Opco, LLC dba CTS Software

Linn County Lifts

By: _____

By: _____

Name: Adam Fox

Name: _____

Title: CEO

Title: _____

Date: _____

Date: _____

Schedule 1

Service Level Agreement

Service Levels. Subject to the terms and conditions of this Agreement, CTS will use commercially reasonable efforts to make the Hosted Services Available (as defined below) at least ninety-nine percent (99.0%) of the time as measured over the course of each calendar month during the Term (each such calendar month, a “**Service Period**”), excluding unavailability as a result of any of the Exceptions described below in this Section (the “**Availability Requirement**”). “**Service Level Failure**” means a material failure of the Hosted Services to meet the Availability Requirement. “**Available**” and “**Availability**” mean the Hosted Services are available for access and use by Customer. For purposes of calculating the Availability Requirement, the following are “**Exceptions**” to the Availability Requirement, and neither will the Hosted Services be considered un-Available nor any Service Level Failure be deemed to occur in connection with any failure to meet the Availability Requirement or impaired ability of Customer to access or use the Hosted Services that is due, in whole or in part, to any: (a) access to or use of the Hosted Services by Customer, or using Customer’s access credentials, that does not strictly comply with this Agreement; (b) Customer’s delay in performing, or failure to perform, any of its obligations under this Agreement; (c) Customer’s Internet connectivity; (d) force majeure event; (e) failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by CTS pursuant to this Agreement; (f) scheduled downtime for routine maintenance of which CTS has provided Customer at least 72 hours’ prior notice via email or through the Hosted Services; or (g) disabling, suspension or termination of the Services pursuant to the Agreement.

PRICING ORDER

GENERAL INFORMATION	
Customer: Linn County Lifts	Effective Date:
Order Term: Five (5) year from Effective Date, and auto renewing for additional one (1) month periods unless a party notifies the other in writing of its intent to non-renew at least 30 days prior to the next Order Term.	

This Order (the “**Order**”) is made and entered into as of the above “**Effective Date**” by and between **Foxster Opco, LLC, dba CTS Software** (“**CTS Software**”, “**CTS**”, “**Licensor**”, “**we**”, “**our**”, or “**us**”) and the Customer listed above (“**Customer**”, “**Licensee**”, “**you**”, or “**your**”). This Order is governed by the terms and conditions of the Master Services Agreement (the “**Master Contract**”) executed between the parties and all capitalized terms not defined herein shall have the meaning provided in such Master Contract.

1. FEES:

- 1.1 The Licensee’s chosen software, services, monthly fees, annual fees, and upfront fees if applicable are identified in the Pricing in Exhibit A.
- 1.2 Beginning on the Effective Date of the Agreement, Licensee shall pay Licensor the fees set forth in the Pricing in Exhibit A, which hereby is incorporated by reference herein for all Support Services (as defined in Schedule 1 of the Agreement)
 - a. If such fees are to be paid annually, payment will be due and payable within fifteen (15) days after receipt of the applicable invoice.
 - b. If Licensee elects to pay such fees monthly, Licensor will submit the monthly invoice via email on the first day of each month, and such fees shall be due and payable by the fifteenth day of such month.
 - c. Payments not received by the due date will be subject to late fees and suspension of Support Services.
- 1.3 Under terms of the Agreement, the Licensor will charge Licensee an additional fee per vehicle per month if the number of vehicles exceeds that noted on the Pricing in Exhibit A if applicable.
- 1.4 Under terms of the Agreement, the Licensor will charge Licensee an additional price per License/User ID per month if the number of licenses exceeds that noted on the Pricing in Exhibit A if applicable.
- 1.5 Full pricing and other details for any fees described in this Order are set forth in the Pricing in Exhibit A.

2 IMPLEMENTATION:

- 2.1 Licensor shall provide online setup and support services to Licensee unless onsite training has been selected and noted on the Pricing in Exhibit A. Five, one hour, remote training sessions are included in the System Set-Up fee shown on the Pricing in Exhibit A. This fee is nonrefundable. Online training and support services will be provided remotely, as determined by Licensor in its sole and exclusive discretion. Charges for such services shall be billed at the rate and quantity defined on the Pricing in Exhibit A.
- 2.2 Retraining of Licensee’s employees shall be charged at Licensor’s training rate (\$150.00 per hour) with a one-hour minimum and will include reimbursement by Licensee of any and all expenses incurred by Licensor in connection therewith. Such charges shall be charged and billed separately and are in addition to all other charged fees.

3 ADDRESSES FOR NOTICES:

For Foxster Opco, LLC dba CTS Software (“Licensor”):

Foxster Opco, LLC dba CTS Software
Post Office Box 57
Swansboro, North Carolina 28584
Attn: Adam Fox, President
(910) 290-6300

Licensor has the right to change the address for notifications by notifying Licensee in accordance with the notice provisions of the Agreement.

4. **COMPLETE AGREEMENT:** This Order, Master Contract, and any terms of use, online click-through terms, elected by you or additional terms executed by the parties under the terms of the Master Contract comprise the entire understanding, agreement and representations of the parties with respect to the matters contained herein and supersedes all prior writings, discussions, representations, and understandings. In the event of a conflict between the terms of this Order and any written amendment, the document later in time will prevail. In the event of a conflict between the Master Contract and an Order, the Order will prevail. If the Order is silent on a particular issue, the Master Contract will govern.

CTS Software and Customer agree to the above terms and conditions and have signed the Order through their authorized representatives as of the Effective Date.

IN WITNESS WHEREOF, each Party has caused this Software License & Services Agreement Order to be executed by its duly authorized representative to be effective as of the date executed by both Parties.

Foxster Opco, LLC dba CTS Software

Linn County Lifts

By: _____

By: _____

Printed Name: Adam Fox _____

Print Name: _____

Title: CEO _____

Title: _____

Date: _____

Date: _____

Exhibit A Pricing

The pricing below is valid for 30 days post the Effective Date of this Order and will be reevaluated at the time of contract renewal. All applicable sales and use tax will be applied in addition to the fees below unless official proof of tax exemption is supplied.

For: Linn County Lifts, IA		20	Vehicles	4	Licenses
Software		Unit Price	Unit	Quantity	Amount
TripMaster Software	\$720	Vehicle	20	\$14,400	
<u>TripScheduler</u> Software Module	\$400	Vehicle	20	\$8,000	
ParaScope - Tablet Software Application	\$600	Vehicle	20	\$12,000	
Pre- and Post-Trip Inspections	Included	Vehicle	20	\$0	
<u>TripReminder</u> Module	\$300	Vehicle	20	\$6,000	
<u>TripPortal</u> Module	\$300	Vehicle	20	\$6,000	
<u>TripBroker</u> Integration Module	Included	Vehicle	20	\$0	
Licenses	\$400	License	4	\$1,600	
Software Total				\$48,000	
Implementation and Hardware Fees		Unit Price	Unit	Quantity	Amount
Data Acquisition, Conversion and Install	\$1,000	Lot	1	Included	
Remote System Set-up	\$750	Lot	1	\$750	
Onsite Training	\$3,000	Trips	1	\$3,000	
Onsite Travel Expenses	\$700	Days	5	\$3,500	
Implementation Total				\$7,250	
Monthly Maintenance and Support		Unit Price	Unit	Quantity	Amount
TripMaster Base Fee	\$400	Lot	1	\$400	
License Fee	\$20	License	4	\$80	
<u>TripScheduler</u> Vehicle Fee	\$10	Vehicle	20	\$200	
ParaScope - Tablet Software Vehicle Fee	\$12	Vehicle	20	\$240	
<u>TripReminder</u> Fee (1,000 Calls/Texts) Fee	\$33	Batch	5	\$165	
Where's My Ride Vehicle Fee	\$8	Vehicle	20	\$160	
<u>TripPortal</u> Module Annual Fee	\$20	Vehicle	20	\$400	
Monthly Fee Total				\$1,645	
Software, Implementation, and Training Total				\$55,250	
Annual Total				\$19,740	
3% increase to monthly/annual fee total at the end of the initial term					



Cost Proposal

Pricing provided includes software and related services for a total fleet of 20 vehicles and 4 licenses (users) to access TripMaster with TripScheduler (Intelligent Automated Scheduling), ParaScope (driver application) with pre- and post-trip inspections, TripReminders with Where's My Ride, TripPortal (online and app-based passenger/delegate booking), Trip Broker Integrations, mapping/AVL and reporting. CTS Software is proposing one (1) onsite visit for in-person training totaling five (5) days based on the scope and size of the project, but these quantities are negotiable.

Optional modules and features are listed but not included in the quantity nor cost totals. These options include; TripMaintenance (preventative vehicle maintenance), TripPass (contactless diminishing balance), MicroTransit TripPay (online credit card processing), Map Overlays, Microtransit marketing packages (Silver, Gold, and Platinum), Bus Buzz (passenger complaint tracking app. Fixed/Deviated Fixed Route Module, and TripView (camera solution with software integration).

TripMaster is compatible with the existing in-vehicle hardware specified by Linn County Lifts. No additional in-vehicle equipment is needed based on our understanding of the project.

The duration of this contract is defaulted to five (5) years but if Linn County would prefer a longer term, that can be arranged and would extend the length of time before the 3% annual/monthly increase takes place.

