

## **CONTRACT**

**by and between**

**CUYAHOGA COUNTY, OHIO**

**and**

**PARAGRID, INC**

THIS AGREEMENT is made and entered into this 18<sup>th</sup> day of October, 2013, by and between Cuyahoga County, Ohio (the "County"), on behalf of the Cuyahoga County REDSS system and Paragrid, Inc. (Paragrid), an Ohio corporation, having principal place of business at 7100 E. Pleasant Valley Rd. STE 150, Independence, Ohio 44131. (the "Provider")

WHEREAS, the Cuyahoga County REDSS system has a present need for system maintenance of the REDSS' existing HP P4000 cluster; and

WHEREAS, Paragrid, Inc. is a provider of these services, and

WHEREAS, the County desires to avail itself of system maintenance from Paragrid Inc., and Paragrid, Inc. is willing to provide such service to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Paragrid, Inc. and the County agree as follows:

### **ARTICLE I – AGREEMENT AND TERM**

1.1 Scope of Agreement. During the term of this Contract, Paragrid, Inc., shall provide the service to the County listed on Schedule A. In the event that a discrepancy exists between the terms of Schedule A and this agreement, the terms of this agreement will be controlling and binding.

1.2 Term. The term of this Contract shall commence as of October 1, 2013; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of two months from commencement date. (10/1/13 through 12/1/13). The cost of this Contract shall not exceed Six Thousand Dollars and Zero Cents (\$6,000.00).

## ARTICLE II - SCOPE OF WORK

2.1 Rendering of Services. Paragrid, Inc. hereby agrees to render the services identified in Schedule A at a total price, not to exceed, Six Thousand Dollars and Zero Cents (\$6,000.00).

## ARTICLE III – PAYMENT AND INVOICING

3.1 Payment. During the term of this contract, the County shall pay Paragrid, Inc. for the services outlined in Schedule A upon receipt of said invoice and approval of the County Executive.

3.2 Invoicing. Paragrid, Inc. shall invoice the County for the services outlined in Schedule A upon execution of this Contract. Paragrid, Inc. shall submit original invoice(s) to the following address:

Cuyahoga County Department of Information Technology  
Business Department  
1255 Euclid Avenue, 4<sup>th</sup> floor  
Cleveland, Ohio 44115

## ARTICLE IV - INDEMNITIES

4.1 Indemnification. Contractor hereby indemnifies, defends and holds harmless the County and its respective officers, officials, directors, board members, employees, and agents, from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including attorney's fees and other costs of defense), of any nature, kind or description, that result from (a) the negligent acts or omissions of Contractor, including all of its officers, owners, principals, subcontractors, employees, and agents, or (b) breach or default by Contractor under any terms or provisions of this Contract.

Contractor acknowledges that, as a political subdivision of the State of Ohio, the County does not indemnify any person or entity. Contractor agrees that no provision of this Contract or any other contract or agreement between Contractor and the County may be interpreted to obligate the County to indemnify or defend Contractor or any other party.

## ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

5.1 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination

for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. Paragrid, Inc., however, shall be paid for all services and/or materials provided on or prior to the date of termination.

5.2 Termination for Financial Instability. In the event that Paragrid, Inc. becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against Paragrid, Inc. of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

5.3 Termination for Convenience. The County may terminate this contract or any order under this contract for its convenience and without cause. Any notice of termination will be effective 30 days after the Contractor receives it. If the termination is for the convenience of the County, the Contractor will be entitled to compensation for any deliverable that the Contractor has delivered before termination.

5.4 Dispute Resolution.

a) In the event of any dispute or disagreement between Paragrid, Inc. and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by Paragrid, Inc. or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either party, each party will appoint a designated officer whose task it will be to meet for the purpose of endeavoring in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Contract. The designated officers shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one party to the other for information will be honored in order that each of the parties may be fully advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the binding arbitration of such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other party.

- (b) The rights and obligations of the parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder

#### ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

6.1. THE CONTRACTOR AGREES ON BEHALF OF THE SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, THAT ALL CONTRACT DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. THE CONTRACTOR ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

#### ARTICLE VII – Contract Administration

##### 7.1 Insurance.

The contractor shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this Contract.

##### 1. **Mandatory Insurance Requirements**

The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless otherwise specified.

- (a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including Employers' Liability coverage with limits of liability not less than:

- \$1,000,000 each accident for bodily injury by accident;
- \$1,000,000 each employee for bodily injury by disease;
- \$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;  
\$1,000,000 personal & advertising injury;  
\$2,000,000 general aggregate;  
\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

Note: If the services required under this Contract include the repairing, servicing, parking or storing of vehicles, then the following insurance coverage shall also be required:

Garagekeepers Legal Liability Insurance with a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident.

2. **Additional Insurance Coverage**

Each of the following eight items is optional unless otherwise required by the terms of this specification.

(a) **Umbrella/Excess Liability Insurance** with limits of liability not less than:

\$5,000,000 each occurrence  
\$5,000,000 general aggregate  
\$5,000,000 products/completed operations aggregate

Such insurance shall be written on an occurrence basis and shall sit in excess of the limits and terms set forth in the preceding items (a)-(c).

(b) **All Risk Equipment Insurance** covering all risk of physical damage to equipment provided for use by Contractor.

(c) **Errors & Omissions Liability Insurance** providing coverage for claims arising out of the provision of design, architectural, engineering and/or other professional services with a limit of liability not less than:

\$5,000,000 per claim;  
\$5,000,000 aggregate.

Such insurance may be written on either an occurrence or claims-made basis. However, if written on a claims-made basis, the claims-made retroactive date on the policy shall be prior to the commencement of any design, architectural, engineering or other professional activity related to this Contract.

### **Insurance Coverage Terms and Conditions**

1. The insurance policies of the Contractor required for this contract, with the exception of the All Risk Equipment Insurance and Errors & Omissions Insurance, shall each name the "County of Cuyahoga, Ohio and its employees" as an Additional Insured and shall contain the following provisions:

- (i) Thirty (30) days prior notice of cancellation or material change;
- (ii) A waiver of subrogation wherein the insurer(s) waives all rights of recovery against the County.

2. The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A VII or above.

3. These insurance provisions shall not affect or limit the liability of the Contractor stated elsewhere in this Contract or as provided by law.

4. The Contractor shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

5. The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.

6. If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.

7. The Contractor shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

### **ARTICLE VIII – MISCELLANEOUS**

8.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Department of Information Technology  
1255 Euclid Avenue, 4<sup>th</sup> Floor  
Cleveland, Ohio 44115

In the case of Paragrid, Inc.:

Paragrid, Inc.  
Attn: Roger Fling  
7100 E. Pleasant Valley Rd., STE 150  
Independence, Ohio 44131

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

8.2 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

8.3 Record Audit Retention. Paragrid, Inc. agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should Paragrid, Inc. be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.

8.4 Governing Law. This Contract shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Contract, and each party consents to the exclusive jurisdiction of such courts. Contractor hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Cuyahoga County for any reason.

8.5 Social Security Act. Paragrid, Inc. shall be and remain an independent Paragrid, Inc. with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by Paragrid, Inc. for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said Paragrid, Inc. also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.

8.6 Assignment. Paragrid, Inc. shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the County Executive.

8.7 Contract Processing. Paragrid, Inc. shall submit one (1) original contractual agreement with original signature to the following:

Cuyahoga County Department of Information Technology  
ATTN: Business Department  
1255 Euclid Avenue, 4th Floor  
Cleveland, Ohio 44115

8.8 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before compensation for the services or products set forth in this contract can be provided. In the event that services are provided by Paragrid, Inc. prior to the execution of this agreement by the County Executive, the same will be provided at Paragrid, Inc.'s risk, and payment therefore cannot, and will not, be made unless and until this agreement is approved by the County Executive. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

8.9 Applicable County Ordinances. All contracts with the County, including this Contract, are subject to all applicable laws, ordinances, resolutions, regulations, rules and policies of the County, including but not limited to the Cuyahoga County Ethics Ordinance, the Cuyahoga County Inspector General Ordinance, the Cuyahoga County Contracting and Purchasing Procedures Ordinance, and the Cuyahoga County Debarment Law, Procedures and Review Board Ordinance. Copies of all County ordinances are available on the County Council website at <http://council.cuyahogacounty.us/>.

8.10 Ethics Requirements. The Provider agrees to remain in compliance with all County Ethics requirements including, as applicable, Vendor Ethics Registration, Vendor Ethics Training, and Registration of all Lobbyists retained by the Contractor. The Contractor shall consult the Cuyahoga County Office of Inspector General to ensure it is in full compliance with all County Ethics requirements. The Inspect General's website may be found at: <http://inspectorgeneral.cuyahogacounty.us/>.

8.11 Schedules Incorporated by Reference. The following Schedules are attached hereto and are incorporated herein:

Schedule A

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the Cuyahoga County Department of Law as to legal form and correctness.

IN WITNESS WHEREOF, the County and Paragrid, Inc. have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

**PARAGRID**

BY: \_\_\_\_\_

**John Headlee**  
**Director of Hosting Services**

**CUYAHOGA COUNTY, OHIO**

Edward FitzGerald, County Executive

BY: \_\_\_\_\_

**Edward FitzGerald, County Executive**



## Statement of Work

For Cuyahoga County Division of Public Safety

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9/18/2013



Top 100 Cloud Services Providers



HONORING 99 GREAT WORKPLACES  
FOR TOP TALENT IN NORTHEAST OHIO



This Statement of Work is entered into as of: \_\_\_\_\_, 20\_\_\_\_ (or, if left blank, on the date that this Statement of Work is signed by the last of the parties below) between Paragrid, Inc. ("Paragrid") and \_\_\_\_\_ ("Buyer").

## Description/Scope of Services

Paragrid will perform system health check to existing HP P4000 cluster and report to CCPS any necessary findings. Once the check is completed, PG will perform updates / patches to existing system to prepare for additional node. Once the health check is cleared, PG will install additional node and bring node into existing stripe of nodes.

Additional adjustments to the cluster will be made as necessary. CCPS has asked about cluster striping and RAID configuration. After the installation of the node is complete, PG will advise CCPS on the use and design of the existing volumes and will report if any volume striping maintenance should be completed.

Next, PG will perform any necessary updates on the VMware environment (if needed). PG will perform a basic health check on the production VMware cluster and report any findings to CCPS staff.

- P4000 SAN Health Check
- P4000 Patches / updates
- P4000 new node patches
- Stripe new node into cluster
  - o Adjust volumes as necessary
- Add additional volumes to ESX (if needed)
- VMware basic health check
  - o VMware updates / patches as necessary

### Requirements:

CCPS will need the license certificate for the new node. Also, an additional IP address will be needed before the installation of the new node.

Buyer Initials \_\_\_\_\_

Buyer Completed Initials \_\_\_\_\_

## Buyer's Responsibilities

Together with Paragrid, schedule the performance of the services. Communicate all material project matters to Paragrid's contact person. Arrange for a technical contact to be available to Paragrid. Arrange for Paragrid's personnel to have appropriate levels of access and privilege to systems and information necessary for the performance of the services.

**Buyer Initials** \_\_\_\_\_

## Paragrid Assumptions

Buyer has acquired all necessary hardware and software required to complete this project. When services are performed at Buyer's location (or another location designated by Buyer), they will be performed during normal business hours (8:00a.m. to 5:00p.m. local time Monday through Friday, excluding the holidays). When services are performed at the Buyer's location (or another location designated by Buyer), Buyer will provide adequate, co-located workspace for the engagement personnel with appropriate system access. Buyer will allow Paragrid to perform several interviews of stakeholders, sponsors, team members, technical staff and managers, who will be reasonably available for the time it takes to gather information. This engagement will be jointly managed by Buyer and Paragrid. Once the business and technical specifications desired for this project have been approved by Buyer's contact person and Paragrid's contact person, no changes to it will be made without a valid Change Order.

**Buyer Initials** \_\_\_\_\_

## Professional Services Fees

Paragrid will invoice Buyer for the services specified in this SOW at the following hourly rates (plus the travel time and expenses described in the "Travel Time and Expenses" section below).

**Table 1 - Project Rates**

Role	Hourly Rate	Hourly Rate
	(Business Hours)	(After Hours)
Senior Engineer	\$150	\$275

Based on what is known at this time, Paragrid estimates that this project will take 40 hours to complete for an approximate total of \$6,000.00 (plus the travel time and expenses described in the "Travel Time and Expenses" section below). Also, this estimate does not represent a fixed fee, nor is it intended to limit the number of hours Buyer may like Paragrid to perform under this SOW. For purposes of the rates above business hours are designated as 8:00 a.m. to 5:00 p.m. local time Monday through Friday, excluding holidays and after hours refers to any scheduled hours outside of the designated business hours and would include holidays and weekends. Project time specifically scheduled outside of designated business hours will be billed at the after-hours rate and therefore may result in the Buyer incurring additional charges. Time will be calculated in one-hour increments with a four-hour minimum each day. The rates above do not apply to services not specified in this SOW (as this SOW may be amended by one or more Change Orders). Paragrid would be pleased to consider addressing any additional services Buyer may like under a separate SOW.

**Buyer Initials** \_\_\_\_\_

## Travel Time and Expenses

If Buyer's location is greater than fifty (50) miles from Paragrid's offices, Paragrid will invoice Buyer for all reasonable, direct costs incurred by Paragrid in providing the services described in this SOW. Examples of these expenses may include, but may not be limited to airfare, lodging, mileage, meals, tolls and parking. Upon Buyer's request, Paragrid will provide Buyer with itemization and documentation of all expenses over \$25. Paragrid will not add any markup to any of these expenses. Any projected expenses discussed or set forth in this SOW are estimates only.

**Buyer Initials** \_\_\_\_\_

## Miscellaneous and Signatures

This SOW is effective as of: \_\_\_\_\_, 20\_\_\_\_ (or, if left blank, on the date that this SOW is signed by the last of the parties below to do so) (the "Effective Date").

**Paragrid Warranties.** Paragrid represents and warrants that Paragrid has the right, power and authority to enter into and perform its obligations under this Agreement and Services under this Agreement shall be performed in a workmanlike manner

### **Indemnification and Limitations on Liability.**

**By Paragrid.** Paragrid shall indemnify, defend and hold harmless Customer against all liabilities, damages, claims, losses, costs and expenses (including reasonable legal fees) incurred by Customer relating to tangible property damage, death and/or bodily injury and arising from (a) the material breach of this Agreement by Paragrid, or (b) Paragrid's gross negligence or intentional misconduct in the performance of its obligations under this Agreement.

**By Customer.** Customer shall indemnify, defend and hold harmless Paragrid against all liabilities, damages, claims, losses, costs and expenses (including reasonable legal fees) incurred by Paragrid arising from (a) the material breach of this Agreement by Customer, (b) the infringement of any Customer Content of the intellectual property or other proprietary rights of any third party, or (c) Customer's gross negligence or intentional misconduct in the performance of its obligations under this Agreement.

**Limitations.** Neither party shall be liable for costs of procurement of substitute goods or services, property damage, personal injury, loss of profits, interruption of business, or any other special consequential, or incidental damages, based on failure to perform the Services or other breach of this Agreement, or any other theory of liability. No action, regardless of form, arising from this Agreement may be brought by either party more than one year after the cause of action has accrued, except that an action for non-payment may be brought at any time.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Assignment.** This Agreement is not assignable or transferable by Customer without the prior written consent of Paragrid. Paragrid may assign this Agreement (whether by operation of law or otherwise) to any of its successors or to any lending institution as collateral security.

**Confidentiality.** Paragrid and Customer shall hold all business or technical information of the other obtained during the conduct of this Agreement in strict confidence and shall not disclose such information to any person, firm or entity without the prior written consent of the other party unless required for (a) the performance of services under this Agreement, (b) compliance with professional standards of conduct for preserving the health and welfare of the public, and/or (c) compliance with any laws, regulations, ordinances, court orders, or directives. Notwithstanding the foregoing, or anything to the contrary contained in this Agreement, the foregoing confidentiality obligations shall not apply to information that is in the public domain at the time of its disclosure or information that is lawfully acquired on a non-confidential basis from other.

**Force Majeure.** Any delay or failure by either party to perform its obligations under this Agreement will be excused without liability if, and to the extent that, such delay or failure is caused by an event or occurrence beyond the reasonable control of such party and without its fault or negligence, such as, by way of example, acts of nature or the public enemy, fire, flood, earthquake, or governmental actions regardless of legal validity; provided, however, that written notice of such delay (including the anticipated duration of such

delay) is reasonably given by the affected party to the other party after the onset of such event or occurrence.

**Notice.** Any notice or other communication to a party required or permitted hereunder shall be made in writing and shall be delivered in person, or sent by first-class mail, overnight courier, fax or electronic mail, addressed to the address of the party set forth in the introductory paragraph hereof or to such other address as such party shall have communicated in writing to the other. Any such notice shall be considered to have been given when personally delivered, or given one day (excluding weekends or public holidays at the point of receipt) after the date of transmission if sent by fax or electronic mail, or after the date sent by a nationally recognized overnight courier, or given three (3) days (with similar exclusions) after the date of forwarding by first-class mail.

**Miscellaneous.** This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior oral and written agreements and understandings relating thereto. Paragrid shall perform the Services as an independent contractor, and nothing contained in this Agreement shall be construed to create or imply a joint venture, partnership, principal-agent or employment relationship between the parties. Neither party shall be bound by or be liable for any alleged representation, promise, inducement or statement of intention not set forth herein and no waiver, alteration, modification, or cancellation of any of the provisions of this Agreement shall be binding unless made in writing and signed by the parties and no amendment to this Agreement shall be considered effective if made by electronic mail. The failure of either party to require performance of any provision hereof shall not affect the right at a later time to enforce such provision. No remedy referred to in this agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available at law or in equity. Paragrid shall not be liable for any delays in the performance of any of its obligations hereunder due to causes beyond its reasonable control. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, no other provisions contained in the Agreement shall be affected. This Agreement shall be governed by the substantive laws of the State of Ohio. Any suit to enforce this Agreement shall be brought in the federal or State Courts of Ohio. The parties submit to personal jurisdiction and venue in the State of Ohio, County of Cuyahoga. Each party to this Agreement represents, agrees and warrants that it will perform all other acts and execute and deliver all other documents that may be necessary or appropriate to carry out the intent and purposes of this Agreement. This Agreement may be executed in any number of counterparts, including by signatures transmitted electronically or by fax transmission, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. Neither Party shall advertise that it is engaged with the other Party nor to use promotional material referencing or referring to the other Party without the prior consent of the other Party.

**Paragrid**

**Buyer**

By: \_\_\_\_\_

By (signature): \_\_\_\_\_

Name: Jason Church

Name (printed): \_\_\_\_\_

Title: Director of Operations

Title (printed): \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_