



# Backup Service Agreement

## Clearview Local School District

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## BACKUP SERVICE AGREEMENT

This Backup Service Agreement ("Agreement") is entered into as of January 17<sup>th</sup> 2023 by and between the Clearview Local School District ("Client") and Vinson Group, LLC, an Ohio limited liability company with principal place of business at 260 S State Street, #932, Westerville, OH 43086 ("Vinson"). Client and Vinson are collectively referred to herein as the "Parties" and singularly as a "Party."

WHEREAS, Client desires to retain Vinson to provide certain technology management services and Vinson desires to provide such services as set forth in this Agreement.

NOW, therefore, in consideration for the promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## A. Scope and Deliverables.

Vinson will provide to Client the services described and the deliverables set forth in this Section A and are listed as “included” in Section B below. For the avoidance of doubt, Vinson is not responsible for providing any services and/or deliverables that are listed as “not included” in Section B below.

### Scope 1: Determine Client Needs

#### Deliverable 1.1: Identify Client Backup Requirements

Vinson will meet with Client technology staff to determine necessary requirements for server and data backups. This includes:

- o Number of servers
- o Virtualization strategy
- o Space requirements
- o Database instances

### Scope 2: Configure Backup Server and Backup Jobs

#### Deliverable 2.1: Setup and Configure Backup Server Appliance

The Client will be responsible for either purchasing or providing a virtual or physical server environment to install and manage the backup process. This appliance or virtual device will be configured with the necessary software for Veeam Backup and Replication.

#### Deliverable 2.2: Configure Backup Jobs and Policies

Once the backup environment is setup, Vinson will configure backup jobs and retention policies based on Deliverable 1.1.

#### Deliverable 2.3: Retention Policy

Vinson will provide a 30-day rolling retention policy. If the Client requires the backup jobs, the Client will need to request them immediately from Vinson. Vinson will not provide back-ups past 30 days.

### Scope 3: Reporting

#### Deliverable 3.1: Reports

Vinson will receive reports of successful backups. Reports are available per the Client’s request.

### Scope 4: Restore Data from Backups as Needed

#### Deliverable 4.1: Restore Data from Backups

In the event of an emergency or data loss situation, Vinson will provide recovery services to restore all processes (servers) and data to the Client’s environment that are outlined Section C.

### Scope 5: Backup Appliance Support

#### Deliverable 5.1: Set Up, Configuration & Maintain

Vinson will set up, configure and maintain a backup appliance. Client must purchase their own backup appliance or replace the appliance if it has reached its end-of-life.

## B. Services

Deliverables	Included	Not Included
<b>Scope 1: Determine Client Needs</b>	X	
<b>Scope 2: Configure Backup Server and Backup Jobs</b>	X	
<b>Scope 3: Deliver Reporting</b>	X	
<b>Scope 4: Restore Data from Backups</b>	X	
<b>Scope 5: Backup Appliance Support</b>	X	

## C. Payment Milestones.

Client will pay the following amounts to Vinson (the "Fees"):

Period	Description of Payment Services	Quantity	Cost Per Unit	Total
Monthly	License Fee at \$10 per server per month	9	\$10	\$90.00
One-Time	Setup & Configuration	1	\$2,000	\$2,000.00
Sub-Total				\$2090.00

### Price Per Back-up (Variable)

*Storage Fee at \$100.00 per terabyte; amount will vary per usage each month. \*minimum \$100 per month charge.*

#### Data Being Backed-Up:

- CLS-DC3
- CLS-DC4
- CLS-APP
- CLS-FILE
- CLS-ONBASE2
- CLS-PRINT2
- CLS-VOIP
- CLS-FSS
- CLS-CACSRV

Period	Description of Payment Services	Estimated Quantity	Cost Per Unit	Estimated Monthly Total
Monthly	Price Per Back-up (Variable)	2.5	\$100	\$250.00
Monthly	License Fee at \$10 per server per month	9	\$10	\$90.00
Sub-Total				\$340.00

**Client signature required for one option selected:**

Option	Client Signature	Monthly Billing
Price Per Back-up (Variable)		\$340.00

*\*Monthly billing does not include one-time Setup & Configuration charge.*

## D. Terms and Conditions.

The Terms and Conditions attached hereto as Exhibit A are incorporated herein by reference.

Signature Page Follows

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

For Clearview Local Schools:

<u>MARY ANN NOWAK</u>	<u>Mary Ann Nowak</u>
Printed Name	Signature
<u>Treasurer / CFO</u>	<u>3/14/2023, Res. 2023-33</u>
Title	Date

For Vinson Group, LLC:

_____	_____
Printed Name	Signature
_____	_____
Title	Date



## Exhibit A

### Terms & Conditions

**1) Services:** Vinson will provide to Client the services described, and the deliverables set forth, in Section A of the Agreement and are expressly identified as "included" in Section B of the Agreement (the "Services"). Any additional services and deliverables requested by Client will require an amendment of this Agreement to cover the increased work scope and cost.

a) **Equipment & Applications:** The Services will support only the Client's current inventory outlined in this agreement.

#### 2) Responsibility of Client:

- a) If applicable, Client and Vinson will discuss procedures to coordinate and/or manage Client's IT staff, including a formal reporting structure.
- b) Client will provide Vinson with physical and technical access to all systems including all necessary passwords to access necessary systems during the first week of the start of the Agreement. Additional hours necessary to unlock systems in which passwords are not provided are not included in this contract. Additional hours for this service will be billed at a rate of \$125 per hour and Client agrees that billings at this hourly rate for unlocking systems may be submitted and will be paid without any need to amend this Agreement.
- c) Client will inform Vinson senior management, in a timely manner, of any concern or dissatisfaction with Service delivery to provide Vinson an opportunity to address and/or remedy.
- d) Where Services are secondary in nature, the Client resources shall provide primary support. If Vinson Services exceed (or are anticipated to exceed) internal estimated resource allocation, Vinson reserves the right to meet with Client and provide a quote for additional resources or services.

**3) Independent Contractor:** With respect to all matters relating to this Agreement, Vinson is and shall be deemed to be an independent contractor, and its employees providing services hereunder are not public employees of the Client, but shall also be deemed to be independent contractors as contemplated by applicable Ohio law. The Client shall provide an acknowledgment of the independent contractor status of Vinson's employees in accordance with Ohio Revised Code Section 145.38, within a reasonable time after Services to the Client begin, but in any event within the time periods required by applicable law. The Parties further acknowledge that Vinson has the exclusive right to direct and control its employees and that the services provided by Vinson and its employees are unique. As an independent contractor, Vinson's employees shall not be deemed members of any public or state employee retirement system and Client shall not be required to make any contributions to any state employment retirement system for services rendered under this Agreement. If, however, a State Retirement Board makes a determination that Vinson's employees are "public employees" and should not be classified as independent contractors for purposes of the Services being provided, and a finding that retirement contributions must be made for Vinson's employees, Client shall be responsible for remitting any necessary contributions and satisfying any related reporting obligation to ensure that Vinson's employees receive any applicable retirement membership benefits and privileges. Vinson shall not represent itself or its organization as having any relationship to Client other than that of an independent contractor for the limited purpose described in this Agreement. Vinson reserves the right to make staffing changes in its discretion to provide the best IT solutions and to deliver its Services in an effective and efficient manner.

#### 4) Fees for the Services, Billing & Payment:

- a) The Fees are set forth in Section C of the Agreement.

- b) The Fees do not include equipment, parts or materials unless specifically set forth in Section C.
- c) The payment schedule is outlined in Section C of the Agreement.
- d) Client shall be responsible for all attorney fees, costs and related expenses, incurred by Vinson in any collection attempts on payment for Services rendered under this Agreement.
- e) Payments are due within 15 days of the date of the invoice. If invoices are not paid on time, in addition to any other remedies, Vinson shall have the right to suspend Services until bills are paid.
- f) Payments that are late will accrue interest at a rate of 1.5% per month or the highest rate permitted by applicable law, whichever is less.

**5) Term & Termination:** This Agreement commences on 01/17/2023 and will continue unless either Party provides thirty day written notice of termination of this Agreement.

In the event of a monetary default by Client, Vinson may terminate this Agreement upon seven (7) days' notice to Client and, if payment of any funds due and owing by Client is not made promptly after receipt of notice, Vinson may, in addition to any other right or remedy available to it, terminate the Agreement immediately.

**6) Governing Law:** This Agreement shall be governed by, and is constructed in accordance with, the laws of the State of Ohio.

**7) Warranty:** THE SERVICES VINSON PROVIDES ARE PROVIDED ON AN AS-IS BASIS, WITHOUT WARRANTY, AND VINSON HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, INCLUDING ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE AND ANY WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, VINSON DOES NOT GUARANTEE THAT ITS SERVICES WILL RESULT IN ANY SAVINGS TO CLIENT (OR ANY OTHER SPECIFIC RESULT), AND CLIENT ACKNOWLEDGES THAT VINSON'S SERVICES MAY RESULT IN INCREASED COMPLIANCE COSTS FOR CLIENT.

**8) Liability Exclusions and Limitations; Indemnification:** IN NO EVENT WILL VINSON BE LIABLE TO THE CLIENT OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, PROFIT, OR DATA OR OTHER PROPERTY, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE (INCLUDING ANY SUCH LOSS OR DAMAGES RELATED TO IMPLEMENTATION, INSTALLATION, CONFIGURATION, ERRORS OR OMISSIONS), REGARDLESS OF WHETHER SUCH LOSS OR DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

Vinson shall not be liable or responsible to Client, nor be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement, when and to the extent such failure or delay is caused by or results from acts beyond Vinson's reasonable control, including, without limitation: 1) Acts of God, including winds, fires, landslide, floods, droughts, famines; 2) acts of public enemies, insurrection, military action, sabotage, riots, or civil disturbances; and 3) failure of a utility or utility type service which is essential to Vinson's Services.

In no event shall Vinson's aggregate 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 65% of the aggregate amounts paid to Vinson pursuant to this Agreement in the one year period preceding the event giving rise to the claim.

Client agrees to indemnify, defend and hold Vinson, its officers, members, employees and/or agents, harmless from and against any claims, suits, liabilities, loss of data or tangible property, expenses and/or damages, including, but not limited to, alleged copyright, other intellectual property claims, arising out of or related to Client's acts or omissions, including, without limitation, Client's use of the services provided in any manner inconsistent with the Agreement, any violation of applicable law, or breach of the Agreement.

**9) Mutual Non-Disclosure:** It is understood that in rendering Services, both Vinson and the Client may be exposed to confidential or private information of the other, including the names of members, staff, administration or students. Client and Vinson agree to use such information solely in connection with the current or contemplated business relationship for rendering of Services and not for any purpose other than as authorized by this Agreement

or as authorized by prior written consent of the other Party or as mandated by court-order or other legally bound requirement by a third-party governing authority.

**10) Entire Understanding; Assignment:** This Agreement is binding when signed by both Parties. This Agreement constitutes the entire understanding of the Parties, and supersedes all prior and contemporaneous written and oral agreements, with respect to the subject matter, unless specifically incorporated into this Agreement. This Agreement may not be modified or amended except in writing signed by both Parties. The Client may not assign this Agreement without Vinson's prior written consent.

**11) Severability:** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, the court may modify this Agreement to effect the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**12) Notice to Parties:** All notices shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 14: Clearview Local School District, 840 West State Street, Columbus, OH 43222 and Vinson, 100 East Campus View Blvd., Suite 250, Columbus, OH 43235.