



# Master Services Agreement and Scope of Work

Prepared for

Warren County School District

01/26/2018



## TABLE OF CONTENTS

<b>MASTER SERVICES AGREEMENT</b>	<b>3</b>
Recitals	4
Term of Agreement	4
Invoices and Payment	4
Personnel	4
Limitation of Liability	5
Taxes and other Governmental Charges	5
Insurance	5
Force Majeure	6
Notices	6
Counterparts/Prior Agreements/Entire agreement	6
Governing Law; Venue	7
Mutual Confidentiality Covenants	7
Severability	7
Termination	7
Survival	8
Disengagement Process	8
<b>Scope of work</b>	<b>9</b>
Fees	10
Additional Resources Fees	10
Termination Fees	11
Change Orders	11
Reporting	11
Staffing Resources	12
Backup and Restore Functionality	12
Asset Management and Help Desk	13
Optional Services	14
Signature Authorization	15

# MASTER SERVICES AGREEMENT

Warren County School District (“**Client**”) and VARtek Services, Inc. an Ohio corporation (“**VARtek**”) have entered into this Agreement as of the 8<sup>th</sup> day of January 2018 (the “**Effective Date**”).

## RECITALS

VARtek has developed an outsourced information technology solution for the Pre-K-12 educational environment (the “**VARtek Solution**”) that utilizes VARtek methodologies in combination with commercially available hardware, software, and third-party services. Client currently operates an IT environment composed of certain personnel, equipment, and software (the “**Client Environment**”). Client desires to engage VARtek to manage the Client Environment, and VARtek accepts that engagement, each as more specifically described in this Agreement and its exhibits.

## TERM OF AGREEMENT

The term of this Agreement (the “**Term**”) shall commence on the 1<sup>st</sup> day of April 2018, (the “**Effective Date**”) and shall expire on the sooner of: (a) June 30, 2021; or (b) “**Termination Date**”) in accordance with the termination clause of this agreement.

## INVOICES AND PAYMENT

As consideration for the Solution and Services provided, Client shall pay VARtek the fees set forth in the attached Exhibit. VARtek will invoice Client monthly. Payment will be due by Client within thirty (30) days. **If Client fails to pay in full any invoice within seventy (70) days**, VARtek may exercise its right to terminate this Agreement.

## PERSONNEL

All personnel employed by VARtek to provide Services under this Agreement shall be employed by VARtek, and VARtek will be solely responsible for paying said employees. VARtek assumes responsibility for all contributions and taxes with respect to its employees under all applicable federal, state, and local laws. VARtek further represents and warrants that it will comply with all federal, state, and local labor and employment laws applicable to employees of VARtek, including but not limited to laws prohibiting discrimination; laws relating to the payment of wages and compensation, including Fair Labor Standards Act. VARtek shall ensure that all VARtek employees and contractors providing Services to Client hereunder are subjected to the following: (i) all fingerprinting and criminal and child abuse background checks required by state or federal laws or by Client. VARtek further agrees that it will not assign any employee or contractor to provide Services to Client who, on the basis of information contained on such background checks and/or

clearances, would be prohibited from working in a public school. VARtek will provide proof of satisfactory background checks on demand. VARtek shall recruit, interview, hire, and train its employees who provide the Services hereunder, and shall have sole responsibility to counsel, discipline, review, set the pay rates of, and terminate its employees. In recognition of the investment VARtek has made in its employees, contractors, and agents, Client agrees that for a period of eighteen months (18) months after the termination of this contract or termination of employment, whether voluntarily or involuntarily, Client shall not knowingly employ, directly contract with, or allow to be assigned to the Client through another third-party vendor, any VARtek current or former employee who performed Services for Client under this Agreement. If Client breaches this section, Client shall pay VARtek liquidated damages in the sum of \$25,000 per individual. VARtek agrees to allow the district the opportunity to interview potential candidates and to provide input on individuals being recommended for hire. While in the performance of this Agreement, VARtek may have employees resign or be terminated that are assigned to this Agreement. If this occurs, VARtek will notify Client and immediately seek to retain a replacement employee or contractor. During this time, this Agreement shall not be abandoned in any material way, and such Loss of Employee shall not constitute a breach or default under this Agreement. After such a Loss of Employee, VARtek will continue to provide services required under this Agreement using a combination of remote, existing and per diem substitute staff.

## LIMITATION OF LIABILITY

Except for Client and VARtek's obligations of this agreement, the maximum liability of Client and VARtek for damages related such breach or its (non)performance, regardless of the form of action or theory of recovery, shall be limited to an amount equal to the total monthly fees paid to VARtek within the most recent **three (3) months**. Under no circumstances shall either party have any liability to the other party for any indirect, incidental, or consequential damages arising out of its performance or breach of this Agreement.

## TAXES AND OTHER GOVERNMENTAL CHARGES

If the use or acquisition of Equipment, Software, or the Services is found to be subject to taxation in any form including government charges or expenses, Client agrees to pay all such taxes, charges, and/or expenses as they come due.

## INSURANCE

VARtek shall maintain during the term of this Agreement the following insurance:

Commercial General Liability insurance with a combined minimum limit of at least One Million Dollars (\$1,000,000) per occurrence. Employers Liability Insurance with a liability limit of at least One Million Dollars (\$1,000,000). Workers Compensation Insurance to statutory limits. Commercial Automobile Liability insurance, with limits of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per accident. Umbrella Excess Liability Insurance, with minimum limits of at least One Million Dollars (\$1,000,000). VARtek will provide insurance certificates on demand.

## **FORCE MAJEURE**

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its control that could not be avoided by the exercise of due care.

## **NOTICES**

All notices, requests, and other communications hereunder shall be in writing and shall be deemed delivered on the date of actual delivery when hand delivered or three business days after mailing when sent by regular U.S. mail, and addressed to the applicable party at the address below:

Warren County School District  
Ms. Amy Stewart  
Superintendent  
6820 Market Street  
Russell, PA 16345

VARtek Services, Inc.  
Darlene Waite  
President  
4770 Hempstead Station Rd  
Dayton, Ohio 45429

## **COUNTERPARTS/PRIOR AGREEMENTS/ENTIRE AGREEMENT**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement, together with all Exhibits and attachments, constitutes the entire agreement between the parties and supersedes all prior agreements or understandings, oral and written, among the parties. In the event of any conflict between the terms of this Agreement and any exhibit incorporated or referenced herein, the terms of this Agreement shall control.

## GOVERNING LAW; VENUE

This Agreement will be governed and interpreted under and in accordance with the substantive law of the State of Pennsylvania. All claims, disputes related to this agreement, or any breach thereof shall likewise be determined by the courts of the State of Pennsylvania located in Warren County.

## MUTUAL CONFIDENTIALITY COVENANTS

Confidential Information shall be deemed to include the following: educational records and health information relating to Client's students, including without limitation such records as are protected from unauthorized disclosure under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232, and personnel records and other information relating to Client's employees. Except as required by the Freedom of Information Act and the public records laws, neither party may use any Confidential Information disclosed to it by the other party for its own use. VARtek will not use staff and student data it obtains in any way for its benefit which is not directly related to this Agreement. **VARtek may not use for its own purposes or in any way redisclose any such information to any other person or organization without the expressed written authorization by the district, unless required by law.**

## SEVERABILITY

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, other than the provision(s) that shall have been held invalid or unenforceable, shall not be affected thereby and shall continue to be valid and enforceable to the fullest extent permitted by law.

## TERMINATION

**In the event VARtek breaches its material obligation under this Agreement, Client may terminate this Agreement if client has provided VARtek with written notice of the breach and VARtek fails to cure such breach and VARtek fails to cure such breach within thirty (30) days after such notice.**

Notwithstanding any termination pursuant to this section, Client shall pay all compensation for Services performed by VARtek up to the effective date of termination. VARtek shall continue to provide all Services and work required under this Agreement through the date of termination and the applicable ("Termination Fee"). Client may terminate this Agreement for Convenience in Client's sole discretion by at least ninety (90) days written notice to VARtek. Following any termination pursuant to this section, Client shall pay the applicable Termination Fees set forth in the ("Termination Fee") section of this agreement.

## SURVIVAL

The provisions of the Agreement that by their nature extend beyond the Expiration Date or other termination of the Agreement will survive and remain in effect until all obligations are satisfied.

## DISENGAGEMENT PROCESS

Disengagement is the process by which the VARtek Solution services is transitioned to either a Client-provided support solution or other Solutions provider; and **termination fees** as applicable will be paid as outlined in the **Termination Fees section**. VARtek's responsibilities are to ensure the disengagement has an established set of actions. Client and VARtek will establish a Disengagement Date; VARtek will appoint a Disengagement Project Manager. VARtek will ensure that all network passwords, access codes and other information necessary to access and continue functionality of Client's operations are provided to Client as of the effective date of Disengagement.



# SCOPE OF WORK

## FEES

For the VARtek Solution outlined in this document, VARtek shall receive payments based on the following:

	School Year	Monthly Amount	Annual Amount
Phase II	2017-2018 (Apr.-Jun.)	\$34,889	\$104,668
Citrix Transition Services	2018-2019 (Sep.-Dec.)		\$78,082
Fiscal Year 1	July 2018-June 2019	\$35,029	\$420,343
Fiscal Year 2	July 2019-June 2020	\$41,751	\$501,009
Fiscal Year 3	July 2020-June 2021	Previous year plus CPI	

The initial term of this Agreement will be for 39 months from the Effective Date unless earlier terminated. Thereafter, the Agreement will automatically renew for an additional twelve (12) months unless Parties notify the other Party in writing ninety days (90) days prior to the last day of the current Term. The monthly rate for services provided during the agreement will increase each July from the rate for such services during the previous year by the Consumer Price Index (CPI) for Wage Earners in Warren County, Pennsylvania.

## ADDITIONAL RESOURCES FEES

Resource usage will be monitored, and the district will be notified if potential overage requirements are needed. No additional resources will be provided, and no additional charges will occur without the appropriate district approval process being completed. Some large-scale projects or an anomaly created by a volume of smaller projects with a constrained timeline for delivery could require the need for more resources than client has contracted. VARtek will collaborate with client to define these requirements. During the project charter development process, the district will gain a clear understanding if additional out-of-scope resources are needed prior to project approval. VARtek will work with the client to provide options that maximize the resources assigned within this agreement and work to limit any out of scope charges. Additional labor resources are available at the following rates, adjusted for annual increase and adjusted at a rate of 1.5x for overtime or 2x for weekend work. Standard work hours are Monday-Friday 7 am – 4 pm with 1-hour lunch break, exclusions for holidays, non-peak season training events, sick and bereavement leave.

Labor position	Additional resource rates
Network Engineer	\$75 hourly rate
Project Management	\$75 hourly rate

## TERMINATION FEES

### *Termination for Cause Fees*

If the Effective Date of termination occurs on or before June 30:	The amount due is:
2019	\$38,000
2020	\$27,000
2021	\$18,000

### *Termination for Convenience Fees\**

If the Effective Date of termination occurs on or before June 30:	The amount due is:
2019	\$89,247
2020	\$78,453
2021	\$67,246

## CHANGE ORDERS

If during the Term it is determined that a change order is required, Client shall request the same in writing (a “**Change Order Request**”). VARtek shall evaluate all Change Order Requests and respond in writing with the terms under which VARtek is willing to accommodate same. In the event the parties agree on the terms of a Change Order Request, the parties shall execute a written document “Change Order” and this Agreement shall be deemed amended.

## REPORTING

Document	Frequency	Objective
Weekly Status Updates	Weekly	Overview of key weekly activities and priorities
Monthly Technology Updates	Monthly	Overview of key monthly activities, priorities and backups
Quarterly Status Reports	Quarterly	Overview of key quarterly activities and priorities; reviews projects, asset refresh recommendations, status of issue management performance
Project Charters	As needed	Professional project timeline, milestones, project definitions, and sign-offs

## Staffing Resources

VARtek will provide experienced IT resources to manage the Client Environment. These resources consist of both on-site resources and remote shared services resources.

### Resources include:

<b>Fiscal year 1</b> <b>2018-2019</b>	<b>Fiscal year 2</b> <b>2019-2020</b>	<b>Fiscal year 3</b> <b>2020-2021</b>
IT Director	IT Director	IT Director
Network Engineer	Network Engineer	Network Engineer
Network/Sys Administrator	Network/Sys Administrator	Network/Sys Administrator
	IT Instructional Coach/Tech	IT Instructional Coach/Tech
Senior Engineering Services and Project Management Services-up to 208 hours annually	Senior Engineering Services and Project Management Services-up to 208 hours annually	Senior Engineering Services and Project Management Services-up to 208 hours annually
VARtek Senior Management - up to 208 hours annually	VARtek Senior Management - up to 208 hours annually	VARtek Senior Management - up to 208 hours annually

## BACKUP AND RESTORE FUNCTIONALITY

### Data Backup and File Retention

VARtek is responsible for the labor resources to maintain a disaster recovery structure. The district is responsible for funding the purchase of the SAN (Storage Area Network) hardware, tapes or digital media, software tools and ongoing maintenance agreements for these products. The district is responsible for funding an offsite cloud based backup and disaster recovery program. VARtek will work with the district to evaluate options and will make recommendations for an appropriate backup and disaster recovery strategy. VARtek will perform regular backup services for files stored on the district's data server drives. The district has been and will continue to migrate data to cloud based software applications through a variety of software tools such as Google, library systems, cafeteria systems, student records systems, transportation systems and other data and database intensive systems. These cloud based software companies might or might not have optional redundant backup and disaster recovery tools, pricing, and policies. These systems are currently

outside of the scope of the standard district data center disaster recovery process because the data is not stored locally. Further transparency into the existing district backup strategy will be required before further recommendations or agreement commitments can be established.

## **ASSET MANAGEMENT AND HELP DESK**

### **Asset Management**

Asset management covers the computers, infrastructure, and server platforms from acquisition through disposal. Our solution incorporates best practices, which include: request and approval processes, life cycle management and disposal management.

### **Asset Replacement and Disposal Solutions**

VARtek will work with the Client to define the most appropriate disposal process for the district. Client will bear the disposal costs or will reap the benefit of any income derived from the sale of items in the disposal process.

### **Summer Maintenance Project**

District Maintenance Staff, District IT technicians and VARtek IT staff will collaboratively work to disconnect workstations, printers, and other IT equipment and may remove it from rooms to be able to clean and wax all floors. After the cleaning and waxing, the District Maintenance Staff, District IT technicians and VARtek IT staff will jointly work to return the equipment to the rooms.

### **Audio/Visual Service and Support**

VARtek will be the initial point of contact on the following items: interactive whiteboards, LCD panels, document cameras, projectors (including bulbs), TV's, Apple TV, Chromecast devices, and digital signage. Where practical VARtek will provide the labor to make the repair or facilitate the repair under warranty or through a third party to have repair completed. All separate vendor related parts or labor charges are the responsibility of the district. Activities involving the installation of devices including drilling of holes and mounting equipment are outside of the scope of this agreement and typically handled by the district's maintenance department.

### **Third Party Coordination**

VARtek will be the initial point of contact on the following items and will facilitate the repair with the appropriate vendor: security cameras, door lock controls, badge systems, software, phones, fax machines, security systems, PA systems, sounds systems and stage lighting.

### **Service Desk**

VARtek will provide a service desk coordination to address needed repairs and provide the ability to have phone contact. For items not covered in the aforementioned services, VARtek will forward the repair request to the appropriate WCSD department.

### **Building Moves**

Annually recurring inter-building moves associated with changing student populations and changing school electives are handled within the normal parameters of the agreement without additional charges. Major building relocations or major staffing realignment typically associated with a large-scale project could potentially require additional resources outside of the scope of the agreement. Building relocation projects, including building consolidations, closures, and new construction will require a special project agreement and will likely result in additional charges.

### **VoIP Telephone Moves and Changes**

This service includes coordinating extension changes with VoIP provider, moving, installation and testing of existing or replacement handsets. VARtek will not be responsible for any reconfiguration or repairing of the phone system. VARtek will facilitate any needed repair of the VoIP phone system with the district's selected vendor. This facilitation will include initial vendor contact, progress tracking, and communicating updates to the district until the issue is resolved.

### **Best Practices**

VARtek team members or contractors providing services to the District will act with due diligence consistent with the Districts' best interests and best practices utilized in the K12 technology industry.

### **Security access codes**

At all times during this agreement all access codes including user IDs and passwords will belong to the district.

## **OPTIONAL SERVICES**

District has the option of requesting VARtek to handle future services that are outside of the scope of this agreement. These future requirements will be handled as an addendum to this agreement or as a separate purchase order.

## SIGNATURE AUTHORIZATION

The parties have caused this Agreement to be executed effective as of the date first above written, and represent that the persons whose signatures appear below are duly authorized to execute this Agreement.

Warren County School District

VARtek Services, Inc.

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

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

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

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

Name: Mrs. Donna L. Zariczny

Name: Darlene Waite

Title: Board President

Title: President

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

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

Name: Ms. Amy Stewart

Title: Superintendent

ATTEST:

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

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

Name: Mrs. Ruth A. Huck

Title: Board Secretary