

POWERDMS, INC.
SOFTWARE AS A SERVICE AGREEMENT

THIS SOFTWARE AS A SERVICE AGREEMENT ("Agreement") is entered into by and between **POWERDMS, INC. ("Vendor")** and **Lexington Division of Police (KY) ("Customer")**. The term ("**Term**") of this Agreement shall begin on the date on which both parties have executed it ("**Effective Date**").

Recitals

WHEREAS, Vendor provides services ("**Vendor Services**") using Vendor's software ("**Vendor Software**") and access-controlled website ("**Vendor Site**") which Customer desires to use for the management of Customer's documents, records and data (collectively, "**Customer Content**"); and

WHEREAS, Customer desires to obtain a subscription ("**Customer Subscription**") for certain Vendor Services in accordance with the provisions of (a) this Agreement and (b) one or more quotation sheets (each a "**Quotation Sheet**") entered into by and between the parties, each of which shall specify the Vendor Services included in each Customer Subscription ("**Subscription Services**"), the term of the Customer Subscription (each a "**Subscription Term**") and the fees applicable to the Customer Subscription ("**Subscription Fees**").

NOW, THEREFORE, in consideration of the parties' mutual promises contained in this Agreement, the parties, intending to be legally bound, agree as follows:

1. Use of Subscription Services.

a) Subject to the terms and conditions of this Agreement, Vendor grants Customer and Customer's designated users ("**Users**") the nonexclusive right to use the Subscription Services during the Subscription Term.

b) Neither Customer nor any User will (i) modify, translate, or create derivative works of the Vendor Services, Vendor Software or Vendor Site (collectively, "**Vendor Technology**"); (ii) reverse engineer, decompile, disassemble, or otherwise attempt to derive any of the Vendor Software's source code or any other technology used by Vendor to provide the Vendor Service; (iii) sublicense, resell or distribute any Vendor Technology in any manner or form; (iv) share login credentials for the Subscription Services with other parties; (v) "frame" or "mirror" the Vendor Services or Vendor Site; or (vi) use or permit any User to use the Vendor Technology from any location outside of the United States.

c) Customer is responsible for maintaining the security and confidentiality of all User usernames and passwords and for all activities that occur under Customer's User accounts. Customer agrees to notify Vendor immediately of any unauthorized use of any username or password or account or other known or suspected breach of security.

d) Customer will have sole responsibility, and Vendor assumes no responsibility, for the Customer Content. Without limiting the foregoing, Customer will not submit, or permit any of its Users to submit, to the Vendor Services any Customer Content or other materials (collectively "Restricted Materials") that are

- Illegal or illegally created or obtained;
- false or misleading ;
- defamatory;
- indecent or obscene;
- threatening;
- infringing of any third party rights;
- invasive of personal privacy;
- subject to mandatory public disclosure by Vendor except in accordance with Customer's written instructions to Vendor;
- protected by the Health Insurance Portability Accountability Act (HIPAA);
- Restricted Data, as that term is defined in Title 28, Part 20, Code of Federal Regulations; or
- Personally Identifiable Information (PII), other than the PII respecting each User required for such User to be able to log into and utilize the Subscription Services.

e) Customer shall comply with all applicable laws in using the Vendor Services.

f) Vendor may, from time to time, adopt and update rules for permitted and appropriate use of the Vendor Services. Upon delivery to Customer, or publication on the Vendor Site, of any such rules or updates, any further use of the Subscription Services by Customer and Customer's Users shall be subject to such rules.

g) Vendor reserves the right, in addition to any other remedies available to it, to suspend any User account or User activity if Vendor believes such account or activity (i) is the source of disruption of the Vendor Services or harm to the systems or infrastructure of Vendor or any third party, (ii) is being used to conduct illegal activity or activity that could potentially expose Vendor to legal liability, or (iii) has been used to submit Restricted Materials to the Vendor Services, or (iv) otherwise violates the terms and conditions set forth in this Agreement or any rules adopted by Vendor with respect to the use of the Vendor Services.

h) The Vendor Services are subject to modification from time to time at Vendor's sole discretion; provided that any such modification will not degrade the functionality of the Subscription Services in any material manner, except as required by applicable law. Vendor will use reasonable efforts to give Customer prior written notice of any material modification.

2. **Fees.** Subscription Fees for each Customer Subscription shall be payable in the amounts and upon the terms specified in the Quotation Sheet. Vendor reserves the right to adjust Subscription Fees upon the expiration of any Subscription Term, with any such adjustment to be reflected in the Quotation Sheet issued by Vendor to Customer with respect to the following Subscription Term. Except as expressly provided in this Agreement, Subscription Fees are nonrefundable. Late payments shall be subject to a charge of 1.5% per month on any outstanding balance or the maximum permitted by law, whichever is lower, plus all reasonable expenses and fees of collection.

3. **Customer Content.**

a) As between Customer and Vendor, all Customer Content submitted to the Vendor Services by Customer or by Customer's Users will remain the sole property of Customer or such Users. Subject to the terms and conditions of this Agreement, Customer grants to Vendor a non-exclusive license to use, copy, store, transmit and display Customer Content to the extent reasonably necessary (i) to provide, maintain and improve the Vendor Services and (ii) to confirm compliance with the terms of this Agreement.

b) During the Term of this Agreement, Customer may extract Customer Content at any time through the Subscription Services. For a period of ninety (90) days after the end of the Term, Customer Content will be furnished to Customer upon written request. Thereafter, Vendor shall have no further obligation to retain any Customer Content.

c) Except as authorized by Customer (in this Agreement or otherwise) or required under applicable law, Vendor shall not disclose any Customer Content to anyone other than Vendor's employees or subcontractors who are bound by confidentiality obligations and who need to know the same to perform Vendor's obligations hereunder. The confidentiality obligations set forth in this paragraph (i) will survive for one (1) year after the termination or expiration of this Agreement, and (ii) do not apply to Customer Content which is (A) already in the possession of Vendor and not subject to a confidentiality obligation to Customer; (B) independently developed by Vendor; (C) publicly disclosed through no fault of Vendor; or (D) rightfully received by Vendor from a third party that is not under any obligation to keep such information confidential.

4. **Ownership of Vendor Technology.** Vendor retains all rights in the Vendor Technology, including, without limitation, any intellectual property developed by Vendor during the course

of its performance of any services for Customer. Except as expressly provided in this Agreement, no license or other right is granted to Customer or its Users in the Vendor Technology. The Vendor name, the Vendor logo, and the product names associated with the Vendor Technology are trademarks of Vendor or third parties, and they may not be used without Vendor's prior written consent.

5. Indemnification.

a) Vendor will defend, indemnify, and hold Customer (and its Users, officers, directors, employees and agents) harmless from and against all costs, liabilities, losses, and expenses (including reasonable attorneys' fees) (collectively, "**Losses**") incurred in connection with any third party claim, suit, action, or proceeding arising from the actual or alleged infringement of any United States copyright, patent, trademark, or misappropriation of a trade secret by the Subscription Services. In case of such a claim, Vendor may, in its sole discretion and at its sole cost, procure a license that will protect Customer against such claim, replace the Subscription Services with a comparable non-infringing service, or terminate the Subscription Service without fault, provided that in case of such a termination, Customer will receive a pro-rata refund of the applicable Subscription Fees. The obligations contained in this paragraph will not apply to the extent that the alleged infringement would not exist without: (i) modification of any Vendor Technology by Customer or any User, (ii) combination by Customer or any User of any Vendor Technology with any third party technology, (iii) continued use of any Vendor Technology by Customer or any User more than thirty (30) days after Customer is notified of the alleged infringement or modifications that would have avoided the alleged infringement, or (iv) used by Customer or any User of any Vendor Technology in breach of this Agreement.

b) To the extent allowable by law, Customer will defend, indemnify, and hold Vendor (and its officers, directors, employees and agents) harmless from and against all Losses incurred in connection with Customer's breach of Section 1 (Use of Site and Services). This shall not be deemed a waiver of sovereign immunity or any other third party defense available to Customer.

c) In case of any claim that is subject to indemnification under this Agreement, the party that is indemnified ("**Indemnitee**") will provide the indemnifying party ("**Indemnitor**") reasonably prompt notice of the relevant claim. Indemnitor will defend and/or settle, at its own expense, any demand, action, or suit on any claim subject to indemnification under this Agreement. Each party will cooperate in good faith with the other to facilitate the defense of any such claim and will tender the defense and settlement of any action or proceeding covered by this Section to the Indemnitor upon request. Claims may be settled without the consent of the Indemnitee, unless the settlement includes an admission of wrongdoing, fault or liability.

6. Disclaimers and Limitations.

a) THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY VENDOR. THERE ARE NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. THE VENDOR TECHNOLOGY IS PROVIDED TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS. CUSTOMER IS SOLELY RESPONSIBLE FOR DETERMINING WHETHER THE SUBSCRIPTION SERVICES ARE SUITABLE FOR CUSTOMER'S PURPOSES. VENDOR DOES NOT WARRANT THAT USE OF THE VENDOR TECHNOLOGY WILL BE ERROR-FREE OR UNINTERRUPTED. VENDOR MAKES NO WARRANTY THAT THE VENDOR TECHNOLOGY COMPLIES WITH THE LAWS OF ANY JURISDICTION OUTSIDE THE UNITED STATES.

b) Except with regard to liability for the indemnity obligations under Section 5 (Indemnification) or Customer's breach of Section 1 (Use of Site and Services), in no event will either party's aggregate liability exceed the Subscription Fees required to be paid by the Customer to Vendor during the twelve (12) month period ending on the date on which the relevant claim is submitted. In no event will either party be liable for any indirect, special, incidental, consequential damages of any type or kind (including, without limitation, loss of data, revenue, profits, use or other economic advantage). While physically on LFUCG property, PowerDMS will be liable for any property damage or personal injury caused by the negligence of their employee(s).

c) If the Subscription Services are impacted by any incident resulting in data loss, Vendor will take commercially reasonable steps to restore the Customer Content from the most recent existing, unaffected backup available. Vendor makes no representations or warranties regarding its ability to recover any Customer Content lost, and Customer acknowledges that it is responsible for conducting its own regular backups of Customer Content through the Subscription Services.

d) Third party services or content might be accessible through the Vendor Services. Vendor is not responsible for, and makes no warranty respecting, any such services or content.

7. Term and Termination

a) The Term of this Agreement shall begin on the Effective Date and end on the first anniversary of the Effective Date or, if later, after the Subscription Terms for all Customer Subscriptions have expired.

b) The Subscription Term of each Customer Subscription shall be as set forth in the Quotation Sheet for the Subscription. A Quotation Sheet issued by Vendor to Customer shall be

deemed to be effective if Customer (i) executes and returns it to Vendor or (ii) remits payment to Vendor of the Subscription Fees specified in it.

c) Either party may terminate this Agreement and any Quotation Sheet at any time in the event that the other party (i) breaches any material term of this Agreement or such Quotation Sheet and fails to cure such breach within thirty (30) days after written notice thereof; or (ii) becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law, or is wound up or liquidated, voluntarily or otherwise.

d) Upon termination of this Agreement for any reason, Customer and Users shall cease all use of Vendor Services and, except as provided in Section 8 (Survival of Provisions), all rights and obligations of the parties hereunder, apart from Customer's accrued financial obligations, shall automatically cease. Notwithstanding the foregoing, termination shall not affect or prejudice any right or remedy that a party possesses with respect to any breach of this Agreement occurring on or before the date of termination.

8. Survival of Provisions. The following Sections, and all defined terms used therein, shall survive termination: all definitions, 1(b)-(e) (Use of Subscription Services), 3 (Customer Content), 4 (Ownership of Vendor Technology), 5 (Indemnification), 6 (Disclaimers and Limitations), 7 (Term and Termination), 8 (Survival of Provisions), 9 (Notice), and 10 (Miscellaneous).

9. Notice. Vendor may give notice by means of electronic mail to Customer's email address on record in Customer's account or by written communication sent by first class mail or by courier service to Customer's address on record in Customer's account. Such notice will be deemed to have been given upon the expiration of 72 hours after mailing (if sent by first class mail) or sending by courier or 24 hours after sending (if sent by email), or, if earlier, when actually received. Customer may give notice to Vendor by email to accounting@powerdms.com. A party may, by giving notice, change its applicable address, email, or other contact information.

10. Miscellaneous

a) **Choice of Law.** This Agreement will be interpreted in accordance with the laws of the Commonwealth of Kentucky and applicable federal law, without regard to conflict of laws principles.

b) **Severability.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalid, illegal, or unenforceable

provision will not affect any other provisions, and this Agreement will be construed as if the invalid, illegal, or unenforceable provision is severed and deleted from this Agreement.

c) No Agency. No joint venture, partnership, employment, or agency relationship exists between Customer and Vendor as a result of this Agreement or use of any Vendor Services.

d) No Waiver. The failure of a party to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision.

e) Force Majeure. If the performance of this Agreement by either party (other than the payment of Subscription Fees by Customer) is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor disputes, act of God or any other causes beyond the control of such party, that party will be excused from such performance to the extent that it is prevented, hindered or delayed by such causes.

f) Authority. Each of the undersigned represents and warrants that he or she has full legal authority to bind the party for which he or she purports to execute this Agreement by signing below.

g) Assignment. This Agreement may not be assigned by Customer without the prior written approval of Vendor but may be assigned by Vendor to (i) a parent or subsidiary, (ii) an acquirer of all or substantially all of Vendor's assets involved in the operations relevant to this Agreement, or (iii) a successor by merger or other combination. Any purported assignment in violation of this Section will be void. This Agreement may be enforced by and is binding on permitted successors and assigns.

h) Third-Party Beneficiaries. There are no third-party beneficiaries under this Agreement.

i) Entire Agreement. This Agreement and any Quotation Sheets in effect between the parties comprise, together, the entire agreement between Customer and Vendor and supersede all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. No amendment or modification to this Agreement shall be binding unless in writing and signed by an authorized representative of each party. This Agreement supersedes, and shall not be modified or amended by, any standard terms and conditions contained or referenced in any Quotation Sheet, purchase order or other communication between Vendor and Customer.

IN WITNESS WHEREOF, the parties hereby execute this Agreement to be effective on the date on which both parties have signed it.

VENDOR

PowerDMS, Inc.

By: *[Signature]*
Title: VP of Sales and Marketing
Date: 12/22/15

CUSTOMER

By: *[Signature]*
Title: Manager
Date: 8 Feb 2016

Contract Details

Account Number: A-272
Customer: Lexington Division Of Police (KY)
Sales Rep: Jeff Saunders

Order Details

Order #: Q001123
Order Date: 01/29/2016
Valid Until: 08/31/2016
Subscription Start Date: 01/29/2016
Initial Term: 12

Customer Contact

Billing Contact: Lexington Division Of Police (KY)
 Doug Pape
Address: 150 East Main Street
 Lexington, KY 40507

Billing Contact Email: dpape@lexingtonpolice.ky.gov
Phone: 859-258-3615
Fax:

Payment Method, Terms, and Frequency

Billing Method: Email
Payment Method: Check
Payment Term: Net 30
PO Number:

Notes:

Subscription Service

<u>Product</u>	<u>Description</u>	<u>Type</u>	<u>Qty</u>	<u>UOM</u>	<u>Unit Price</u>	<u>Total Price</u>
SDMS-AS	Annual PowerDMS.com hosted subscription fee	Recurring	700	User	\$14.29	\$10,000.00
PREMIUM	400 documents loaded; Up to 24 hours of remote training; Two days of onsite training (16 hours); Project management assistance; Access to our self-paced learning portal, live training webinars, training tutorials, and quicksheets.	One-Time	1		\$5,000.00	\$5,000.00
Total						\$15,000.00

Additional Terms and Conditions

Payment Terms All invoices issued hereunder are due upon the invoice due date. The fees set forth in this Quotation Sheet are exclusive of all applicable taxes, levies, or duties imposed by taxing authorities and Customer shall be responsible for payment of any such applicable taxes, levies, or duties. All payment obligations are non-cancellable, and all fees paid are non-refundable.

Terms & Conditions Unless otherwise agreed in writing by PowerDMS and Licensee, this Quotation Sheet and the services to be furnished pursuant to this Quotation Sheet are subject to the terms and conditions set forth here: <http://www.powerdms.com/terms-and-conditions/>. The Effective Date (as defined in the online terms and conditions of this Software as a Service Agreement) shall be the date set forth below.

THE INFORMATION AND PRICING CONTAINED IN THIS QUOTATION SHEET IS STRICTLY CONFIDENTIAL