



VMWARE UPGRADE STATEMENT OF WORK

PREPARED FOR:
CARROLL COUNTY SCHOOLS

VERSION [0.0]

May 8, 2018

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1 Term

This Statement of Work ("SOW") titled "(Project Name) Statement of Work" is entered into this [REDACTED] day of [REDACTED], 2016 ("Effective Date"), by and between **Pomeroy IT Solutions Sales Company, Inc.**, a Delaware corporation with its principal place of business located at **1020 Petersburg Road, Hebron, Kentucky, 41048** (hereafter "Pomeroy" or "PMRY") and **Carroll County Schools** ("Client") with its principal place of business located at **813 Hawkins Street, Carrollton, KY 41008**. Pomeroy and Client are hereinafter referred to collectively as the ("Parties") or individually as a ("Party").

This SOW is governed by the General Terms and Conditions for Projects attached hereto as Section 6.1, which is deemed a part of this SOW and incorporated herein by reference.

Pomeroy will perform in accordance with this SOW which will be effective from **May15, 2018** ("Effective Date") through **July 31, 2018** ("End Date"). Any changes to the term of this SOW will be mutually agreed upon through the Contract Change Management Process as further detailed in Appendix 6.2.

2 Client Scope of Services

2.1 Objective

Client's objective is for the Design, Planning and Implementation of upgrading their existing VMware vSphere environment from the current running version to the latest version that supports the existing hardware. The School District is running on a soon to be un-supported version of VMware, and a storage refresh is also appropriate due to the age of the current solution.

Currently the Client has a 3-host environment and the current resource capacity to support N-1 hosts. The upgrade will be accomplished via VMware Best Practices, upgrading the vCenter to an Appliance, followed by the upgrade of each host.

2.2 Scope of Services

Phase 1: Discovery, Design, Design Acceptance & Planning

- Technical Environment Discovery
- Customer Interview Discovery
- Design Creation & Design Acceptance Meeting with the client (signature required)
 - Delivery Strategy
- Delivery Planning and Communication
- Meeting with the client to Obtain their Post Service Success Criteria for the creation and finalization of a Post Phase/Service Testing Plan, to be completed with the client

Phase 2: Upgrade vSphere to HW supported version vSphere

- Install & Migrate to new vCenter Server Appliance
- Create Host Upgrade BaseLine in VUM

- Remediate Hosts one at a time
- Create Host Patch Base line and remediate

Phase 3: Testing Plan Execution

- Execute the finalized Testing Plan created inPhase 1 with the client
- Remediate issues as/if found, retest
- Confirm the client's success criteria has been met, and obtain signed approval from the client of the successful testing completion

Phase 4: Deliverables Creation and Knowledge Share

- Create and Provide an "As Implemented" Documentation
- Provide the Executed Testing Plan with client signature
- Provide Knowledge Share (Final Q&A) Session with the client and Pomeroy personnel
- Obtain Services Approval for project completion

2.3 Timeline and Project Milestones

Pomeroy will work in conjunction with Client to establish a schedule that includes completion of the project services in the project timeline.

The estimated duration of this project is 1-2 weeks from project start to completion. Project start is contingent on Pomeroy and Emerge Engineering Availability, Product Procurement, Client Availability, Client Responsiveness, and Site Readiness.

2.4 Client Locations and Facilities

The location(s) at which the in scope services will be provided to Client:

Carroll County Schools, 813 Hawkins Street, Carrollton, KY 41008

2.5 Deliverables

Client will receive the following deliverables as a part of this project

- Upgrade vSphere to latest Code
- Updated Compute / Storage Infrastructure Documentation (Visio)

3 General Project Provisions

Roles and Responsibilities:

- Pomeroy holds the responsibility to provide Design, Planning, & Implementation services for the requested changes based on Best Practice standards, and Client requirements.
- Client holds the responsibility of providing a single point of contact for the communication of project issues, concerns, and questions.

- Client is responsible for providing a Testing Plan for Post Service Testing. A testing plan should be created and validated prior to the start of any changes or cutovers within the environment. This plan should encompass all functionality needed for business operation. If no testing plan is provided, the Client will still be liable for testing all operation at the completion of any service prior to dismissing the engineer. Engineer dismissal will be considered acceptance of services completion.
- If applicable, Client is responsible for the scheduling and employee communication regarding any needed Maintenance
- Windows, Outages, Training, or any other Client facing communications pertaining to this service.
- If applicable, Client is responsible for ensuring Backup and Disaster Recovery Procedures are updated and verified prior to work beginning.
- If applicable, Client is responsible for ensuring that Onsite and/or Remote Access will be available to the end Clients environment for this support. The Physical Safety of the Service engineer, and Cooperation of employees and managers at the location to allow work to progress as described is also the responsibility of Client.
- If applicable, Client stakeholders hold the responsibility to be in attendance and responsive as needed for the project to proceed as planned through the duration of this engagement. Extended delays caused by Client unavailability, lack of response, or lack of site readiness will be considered Out of Scope of the engagement.
- If applicable, Client is responsible for providing an operation knowledgeable resource to be available for post cutover testing during the maintenance windows established in the planning portion of this engagement. This resource should understand the needed functionality of the network and its applications for imperative business functionality and detailed testing.
- If applicable, Client holds the responsibility for adequate rack space, power, power distribution, appropriate cooling, patch and structured cabling within the environment for services to proceed as expected.
- If applicable, Client holds the responsibility to provide all required Hardware, Licensing, and Vendor Support
- Maintenance Agreements as they pertain to the project or services provided.

Assumptions:

- Upon signed receipt of the presented quote, this document will act as the Project Statement of Work for the duration of the engagement.
- Travel Expenses have been included in the presented pricing.
- A Project Manager is not included in the presented pricing.
- Once Client has accepted the final design, all requested changes will be processed through the change management process prior to any changes of the design being made. This could result in Out of Scope Services of the presented pricing
- Loss of prescheduled work time caused by construction, outside vendors, or the Client will be billed T&M Directly to the
- Client as Out of Scope and will be billed separately.
- This Quote/Scope of Work is hereby authorized as the governing document detailing the services to be performed by Pomeroy for the Client, and is accepted as such by the

Client. Any work not detailed in the above documentation is subject to authorization by Pomeroy and Client through written confirmation.

4 Fees

The following fees (the "Fees") are for the in scope services as provided within this SOW and to which are payable by Client to Pomeroy within 30 days of the date of invoice:

Table 4-1 Fee Schedule

Element	Price
Price	\$5,300.00

Payment Schedule			
Milestone	Expected Date	% of Price	Amount Payable
Completion of Project Kick Off	TBD	30%	\$1,590.00
Project Completion	TBD	70%	\$3,710.00

Unless noted above, services are to be provided within the normal business hours of 8:00AM-5:00PM EST, Mon-Fri. Any services performed Afterhours or during Sunday/Holiday hours will be billed at their corresponding rates below.

- Afterhours (Defined as after 5:00pm on weekdays, or Saturdays) = \$250 p/h (1.5* hourly rate). Afterhours time is billed in One (1) Hours minimum, and Thirty (30) minute intervals after the initial hour.
- Sunday/Holidays (Holidays Defined by National Holiday, or Office Closure in recognition of a Holiday) = \$300 p/h (2* hourly rate). Sundays/Holidays time is billed in Two (2) Hours minimum, and in Thirty (30) minute intervals after the initial 2 hours.

4.1 Invoicing and Payment

Pomeroy will invoice based on the Payment Schedule Milestones. Invoices must be paid by Customer via Automated Clearing House (ACH) credit within net thirty (30) days from the date of invoice, unless other payment methods or terms have been provided through Pomeroy's credit application process. Any sum due Pomeroy pursuant to this SOW for which a time of payment is not otherwise specified will be due and payable 30 days from the invoice date. Any undisputed amounts on an invoice that are unpaid when due will be subject to a late payment charge equal to the lesser of 1.5% per month or the highest rate allowed by law. Pomeroy will be entitled to recover reasonable attorneys' fees and costs associated with any collection action. Client is required to obtain Pomeroy banking information in order to initiate Automated Clearing House (ACH) credit payment before any Product is sold an/or Services are rendered under this SOW or any applicable purchase order hereunder in order to ensure payment is made by the due date. Invoices will separately state the total amount of applicable taxes. Unless Client is tax exempt and a valid exemption certificate is submitted to Pomeroy, Client is responsible for

all applicable sales, excise, use and/or other taxes resulting from any transaction under this SOW.

Invoices will be sent to the address provided in Section 5 of this SOW, unless otherwise indicated per Pomeroy's company standard Client set up process.

5 Signatures of Acceptance

This SOW and any addenda attached hereto constitute the entire agreement of the Parties and supersede all prior or contemporaneous oral or written communications, proposals and representation with respect to the subject matter provided herein and will prevail over any conflicting or additional terms of any quote, invoice, acknowledgement, pre-printed purchase order terms, or similar communication between the Parties relative to this subject matter.

No modification to this SOW will be binding unless in writing and signed by an authorized representative of each Party in accordance with the Pomeroy Contract Change Management Process.

Authorized signatures on this SOW signify acceptance of both the price and the standard terms and conditions stated herein.

This SOW may be executed in counterparts, each of which will be deemed an original and of equal force and effect. Facsimile signatures or signatures received as a pdf attachment to electronic mail will be treated as original signature.

By signing this SOW, both Parties acknowledge they have read, and understood and agreed to all terms of this SOW and addenda attached hereto.

Accepted by and on behalf of:

Livingston County Schools

Pomeroy IT Solutions Sales Company, Inc.

Authorized Signature

Authorized Signature

Printed Name

Printed Name

Title

Title

Date

Date

Addresses / Remit To

Pomeroy and Client provide the following information on contacts, company addresses and remit to information. This information should be reviewed and updated quarterly.

General Contact Information

	Client Contact	Pomeroy Contact
Name	_____	_____
Address	_____	_____
City State Zip	_____	_____
Telephone	_____	_____
Email	_____	_____

Corporate Addresses

	Client Corporate	Pomeroy Corporate
Name	_____	Pomeroy IT Solutions, Inc.
Address	_____	1020 Petersburg Road
City State Zip	_____	Hebron KY 41048
Telephone	_____	859.586.1515
Website	_____	www.pomeroy.com

Remit to Address

	Client Remit To	Pomeroy Remit To
Name	_____	Pomeroy IT Solutions, Inc.
Address	_____	PO Box 631049
City State Zip	_____	Cincinnati OH 45263-1049
Telephone	_____	859.586.1515

6 Appendices

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6.1 General Terms and Conditions for Projects

The following terms and conditions apply to this SOW only. In the event Client desires to engage Pomeroy for future engagements or for additional services not contemplated under this SOW, the Parties will enter into a master services agreement which will govern all future statements of work.

Excused Performance. No delay or failure of a Party to perform any of its obligations, other than payment obligations, under this SOW due to causes beyond its reasonable control, will constitute a breach or render that Party liable for the delay or failure to perform. Causes beyond a Party's reasonable control include but are not limited to: labor disputes, strikes, or other similar disturbances; acts of God; utilities or communications failures; acts of the public enemy; commercial infeasibility; and riots, insurrections, sabotage, terrorism, or vandalism.

No Solicitation of Employees. Client will not hire or solicit for employment (or as an independent contractor) any of Pomeroy's employed or independent personnel or the individual(s) directly involved in providing the services to the Client during the term of this SOW and for a period of one (1) year after the latter of the date the person's engagement with Pomeroy is terminated or the termination of this SOW.

Survival of Obligations. The termination of this SOW will not discharge or relieve either Party of any obligations and provisions that are intended to survive the termination of this SOW.

Confidentiality. For a period of five (5) years after disclosure, each Party to this SOW (each, a "Recipient") will protect and keep strictly confidential all non-public information disclosed by the other Party (each, a "Discloser") and identified as confidential by the Discloser ("Confidential Information"), and Recipient will not, except as may be authorized by Discloser in writing, use or disclose any such Confidential Information during and after the term of this SOW. These obligations of confidentiality will not apply to any information that: (i) was previously known to Recipient, (ii) is or becomes publicly available through no fault of Recipient; (iii) is disclosed to Recipient by a third party having no obligation of confidentiality to Discloser; (iv) is independently developed by Recipient; or (v) is required to be disclosed as a matter of law. Both Parties are free to develop products independently without the use of the other's Confidential Information. Neither Party is obligated to restrict the future work assignments of people who have had access to Confidential Information. In addition, these people are free to use the information that they remember related to information technology, including ideas, concepts, know-how or techniques, so long as they do not disclose Confidential Information in violation of this SOW.

Waivers. No term or provision hereof will be deemed waived and no breach excused unless the waiver or consent is in writing and signed by an authorized representative of the Party claimed to have waived or consented. No consent by either Party to, or waiver of, a breach by the other, whether express or implied, will constitute consent to, waiver of, or excuse for any different or subsequent breach.

Notices. All notices given in connection with this SOW will be in writing and transmitted by (i) overnight express courier delivery with proof of reception; or (ii) U.S. certified mail, return receipt requested, postage prepaid. Delivery of notices will be deemed given upon the date of receipt from a courier; the date certified mail return receipt is signed or delivery is rejected. All notices will be sent to the address set forth in the preamble of this SOW, or to such other address as will be advised by any Party to the other in writing.

Governing Law, Jurisdiction, and Venue. This SOW will be construed in accordance with and governed by the laws of the Commonwealth of Kentucky, without regard to its conflict of laws principles. The Parties consent to jurisdiction and venue in the state courts of Boone County, Kentucky, or if there is federal jurisdiction, the U.S. District Court for the Eastern District of Kentucky. Jury trials are waived.

Client Data Back-up. Client is solely responsible for executing proper data backup and recovery procedures before or after any Services are rendered under this SOW.

Intellectual Property Rights. All intellectual property rights and other proprietary rights in and to the Services and deliverables, information, know-how, and processes related to this SOW, or developed outside the SOW(s) for Client's projects, will be Pomeroy's sole and exclusive property and will not be claimed to be a work made for hire.

Client acknowledges and agrees: (i) that Pomeroy has the right to re-use any of their know-how, ideas, concepts, methods, processes, or similar information, however characterized, whether in tangible or intangible form, and whether used by Pomeroy in the performance of Services or not, at any time and without limitation, (ii) that Pomeroy retains ownership of any and all of Pomeroy's intellectual property rights including, but not limited to, all methods, concepts, designs, reports, programs, and templates and (iii) that any third-party which has provided software products to Client retains all right, title, and interest in its software products. Pomeroy grants Client a non-exclusive right to use and display any deliverables as necessary in the conduct of business. This license is perpetual, provided that Client is not otherwise in default under this SOW.

Indemnification. Each Party indemnifies and holds the other harmless from any third-party claim, suit, action, liability, and cost of any kind, including attorneys' fees and costs of litigation, for death or bodily injury caused by its willful misconduct or negligence. To receive the benefit of indemnification under this Section, the indemnified Party must promptly notify the indemnitor in writing of a claim or suit and provide reasonable cooperation (at indemnitor's expense) and tender to indemnitor (and its insurer) full authority to defend or settle the claim or suit. Indemnitor has no obligation to indemnify for any settlement made without its consent or for any claim to the extent lack of prompt notice will have prejudiced indemnitor. Except as provided herein, the remedies provided in this section are the sole and exclusive remedies available for any claim covered under this SOW.

Limitation of Liability. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY OR RESPONSIBILITY UNDER ANY THEORY OF LIABILITY OR CAUSE OF ACTION FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO, DAMAGES ARISING FROM BUSINESS INTERRUPTION OR LOSS OF PROFITS OR DATA), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, POMEROY'S LIABILITY FOR DAMAGES WILL NOT EXCEED THE AMOUNT PAID BY CLIENT FOR SERVICES UNDER THIS SOW DURING THE TWELVE (12) MONTHS PRECEDING THE OCCURRENCE GIVING RISE TO THE CLAIM(S). NO ACTION, REGARDLESS OF FORM, ARISING IN CONNECTION WITH THIS SOW, MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE (1) YEAR AFTER THE OCCURRENCE GIVING RISE TO THE CAUSE OF ACTION OR BE BARRED FOREVER.

Successors and Assigns. This SOW will be binding upon, and will inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. This SOW may not be assigned by either Party without the prior written consent of the other; except that Pomeroy may make an assignment to its parent company and any of its subsidiaries or affiliates without obtaining Client's prior written consent.

Authority. Each Party represents and warrants to the other that as of the Effective Date of this SOW (i) it is an entity duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) it has all requisite power and authority to enter into and perform its obligations; and (iii) the signor is an authorized representative and has the capacity to bind the entity.

Severability. If any provision of this SOW is found by competent judicial authority to be invalid or unenforceable, such invalidity or unenforceability will not invalidate or render unenforceable the entire SOW, but rather the entire SOW will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of each Party will be construed and enforced accordingly so long as such invalid or unenforceable provision does not materially affect the Parties' rights under this SOW.

Interpretation. Captions of the Sections of this agreement are for reference purpose only and do not constitute terms or conditions. Each Party acknowledges that each have thoroughly reviewed this SOW and bargained over its terms. Accordingly, neither Party will be considered responsible for the preparation of this SOW, which will be deemed to have been prepared jointly. The provisions of the SOW allocate the risks between the Parties. These terms and conditions reflect this allocation of risk, and each provision is part of the bargained-for consideration of this SOW.

6.2 Contract Change Management Process

Changes to this SOW may be initiated by providing a written request to the other Party. Both Parties will review any Contract Change Requests and advise each other if the request can be accepted and if so, the price schedule impacts. Changes will be added as an amendment to this SOW only when both Parties agree and an authorized signatory of each Party have signed the amendment.

The following provides a detailed process to follow if a change to this SOW is required.

- A Contract Change Request Form will be the vehicle for effecting and communicating change. The Contract Change Request Form must describe the change, the rationale for the change, and the effect the change will have on the SOW.
- Either Parties authorized representative may request a change to the SOW.
- The Party requesting the change will review the proposed change and determine whether to submit the request to the other party.
- Both Parties will review the Contract Change Request and approve it for further investigation or reject it. Pomeroy will specify any charges for such investigation. If the investigation is authorized, both Parties will sign the Contract Change Request, which will constitute approval for investigation charges. Pomeroy will invoice Client for any such charges. The investigation will determine the effect that the implementation of the Contract Change Request will have on price, schedule, and other terms and conditions. This effect may be an addition or reduction in scope.
- The written Contract Change Request must be signed by both Parties applicable authorized signatory to authorize implementation of the investigated changes and a contract amendment will be put in place
- Any changes to the SOW must have written approval from the Client's authorized representative and will be binding upon signature.

The Contract Change Request/Order Form to submit for each requested change is included below.

Contract Change Request/Order Form

Section I: Contract Change Request Description

Tracking ID Number: _____
Date Prepared: _____
Prepared By: _____ Phone: _____
Requested By: _____ Phone: _____

Proposed change – Description of change (include all affected tasks & deliverables):

Insert description/ row will break across pages and expand to be as large as needed.

Benefits of the change – Description of quantitative and qualitative benefits:

Insert description/ row will break across pages and expand to be as large as needed.

Schedule Revision:

Insert any change to the project schedule as part of this Contract Change Request. At a minimum, be sure to state the effective date of the Change here.
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Cost Revision:

Cost:\$ Additional / Reduction	Party Responsible for Charge: Insert Client
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Section II: Change Approvals

By signing this Change Order below, the Parties acknowledge and agree to the changes set forth hereinabove and that he/she has the capacity and authority to represent their respective company as an authorized signatory:

Client	Pomeroy IT Solutions Sales Company, Inc.
_____	_____
Authorized Signature	Authorized Signature
_____	_____
Title	Title
_____	_____
Date	Date
_____	_____