

James Moore & Co., P.L. Outsourced IT Services Agreement

IT Services Agreement made by and between **Early Learning Coalition of Flagler and Volusia** (Client), and **James Moore & Co., P.L.** (JMCo) effective as of July 1, 2022.

Plan: Preventative Care

1. Term and Termination

- a. **Term.** The term of this Agreement shall commence on the effective date of this Agreement and continue through June 30, 2023. Thereafter, the Client will have the option to renew for one additional 12-month term. Fees and Rates are subject to renegotiation prior to the renewal of this Agreement.
- b. **Termination.** This Agreement may be terminated as follows:
 - i. Either party may terminate this Agreement at any time with or without cause upon thirty (30) days written notice to the other party.
 - ii. If JMCo fails to perform or observe any material term or condition of this Agreement and the failure is not corrected within thirty (30) days after receipt of written notice from Client of such failure, Client may terminate the services affected by such breach.
 - iii. If Client fails to pay any outstanding charges within thirty (30) days of receipt of written notice from JMCo, JMCo may terminate this Agreement immediately.
- c. **Effect of Termination.** Upon termination of this Agreement, Client will be liable for all charges incurred as of the date of the termination of services, and all charges for JMCo's assistance to Client in transferring services to another designated provider. Upon termination of this Agreement, JMCo shall be responsible for continuing to provide IT services to Client as provided in this Agreement under the terms of this Agreement during the transition period for so long as Client continues paying for such services.
- d. **Funding Clause.** The Client's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature (Statute 287.0582)

2. Fees and Payment Schedule

- a. **Fees.** Fees will be charged as listed in **Appendix D** and invoiced monthly and are due and payable upon receipt. The first month will include an additional one-time setup fee as listed in **Appendix D. Appendix G** lists services covered for the monthly fee under the terms of this Agreement. Any and all services requested by Client that fall outside the terms of this Agreement will be considered Projects, and will be quoted and billed as separate services.
- b. **Taxes.** It is understood that any Federal, State, or Local Taxes applicable shall be added to each invoice for services or materials rendered under this Agreement. Client shall pay any such taxes unless a valid exemption certificate is furnished to JMCo.
- c. **Failure to Pay.** Client acknowledges that its failure to pay timely any of the fees payable hereunder, or any portion thereof, is a material breach of this Agreement for which JMCo may, in addition to pursuing all other remedies, withhold services and or terminate this Agreement.

- d. **Failure to Provide Service.** JMCo acknowledges and agrees that its failure to provide IT services to Client as provided in this Agreement under the terms of this Agreement is a material breach of this Agreement for which Client may withhold payment or terminate this Agreement.
- e. **Semi-Annual Account Review.** Each six (6) month period an account review will be conducted. At the conclusion of that review the fees for services rendered may be increased or decreased as appropriate to maintain account health and value.
- f. **Invoice Disputes.** JMCo will not collect interest on late payments in the event Client provides JMCo notice that the Client disputes such charges, in good faith, and provides JMCo with written notice of such dispute prior to the due date and pays all undisputed charges on time and cooperates diligently to resolve the dispute.

3. Coverage

- a. **Normal Support Hours.** Remote help desk and vendor management of Client's computer network(s) will be provided to the Client by JMCo through remote means between the hours of 7:00 am – 6:00 pm Monday through Friday, excluding observed holidays (as indicated in **Appendix E**) (Normal Support Hours). However, JMCo shall not cease providing support to Client at 6:00 pm where such support was initiated prior to 6:00 pm, and is identified as critical in nature¹. Critical Event Alerting² will be provided 365/24/7.
- b. **Support and Escalation.** JMCo will respond to Client's helpdesk requests under the provisions of **Appendix B**, and utilizing its best efforts to support Client after hours and on holidays. Help desk requests must be opened by Client's designated contacts by email to our Help Desk or by phone if email is unavailable. Each call will be assigned a ticket number for tracking. Our service request escalation process is detailed in **Appendix C**.
- c. **Service Outside Normal Support Hours.** Guidelines for emergency services performed outside the hours of 7:00 am – 6:00 pm Monday through Friday (excluding observed holidays), are outlined in **Appendix B** and are subject to the Outside Normal Support Hours rate.

4. Additional Maintenance Services

- a. **Hardware/Software System Support.** JMCo shall provide support of all hardware and systems specified in **Appendix H**, provided that all hardware is covered under a currently active support contract with the manufacturer or distributor, or replaceable parts are readily available. All software should be currently licensed, genuine, and supported by the vendor. Should any hardware or system fail to meet these provisions they will be excluded from this Agreement. Should third party vendor support charges be required in order to resolve any issues, these will either be paid by or passed on to the Client after first receiving the Client's authorization to incur them.
- b. **Critical Event Alerting services.** JMCo will provide ongoing monitoring and critical event alerting of all covered devices as indicated in **Appendix H**. JMCo will provide monthly reports as well as document critical alerts and responses to Client. Should a problem be discovered during monitoring, JMCo will make every attempt to rectify the condition in a timely manner through remote means.

¹ Any service performed outside of Normal Support Hours is subject to additional fees as listed in Appendix D.

² Examples of Critical Event Alerts would include but are not limited to the following: hard drive failure in a server, server going offline, network device failure, etc.

5. Suitability of Existing Environment

- a. Hardware, software, and infrastructure components must meet minimum standards to support the delivery of services. Costs required to bring Client's environment up to these minimum standards are not included under this Agreement, however reasonable effort will be made to support such devices. A list of standards is included in **Appendix F**.

6. Excluded Services

a. Parts and Equipment.

- i. JMCo will make a good faith effort to support equipment or software not covered by vendor/manufacturer warranty or support, but will provide no promise or assurance as to the resolution of the problem,
- ii. The cost of any parts, equipment, or shipping charges of any kind,
- iii. The cost of any Software, Licensing, or Software Renewal or Upgrade Fees of any kind,
- iv. The cost of any 3rd Party Vendor or Manufacturer Support or Incident Fees of any kind,
- v. The cost to bring Client's environment up to the minimum standards required for Services,
- vi. Failure due to acts of God, building modifications, power failures or other adverse environmental conditions or factors,
- vii. Service and repair made necessary by the alteration or modification of equipment other than that authorized by JMCo, including alterations, software installations or modifications of equipment made by Client's employees or anyone other than JMCo,
- viii. Maintenance of non-business specific applications software packages, whether acquired from JMCo or any other source unless as specified in **Appendix H**,
- ix. Programming (modification of software code) and Line of Business program (software) maintenance.

- b. **Training.** Training Services of any kind other than what can be reasonably expected as part of the initial setup and periodic software version upgrades. All training is limited to software that is supported by JMCo as specified in **Appendix H**.

7. Confidentiality

JMCo shall not use information obtained by JMCo from Client for any purpose other than the performance of their obligations under this Agreement, and shall hold all information and data obtained through JMCo's performance of its obligations under this Agreement in the strictest of confidence. JMCo and Client agree not to divulge or communicate or use for their benefit or for the benefit of any other person or entity, any confidential information obtained from the other party in the course of performing its obligations under this Agreement. Each party acknowledges that all confidential information obtained from the other party pursuant to this Agreement is the sole and exclusive property of the other party. Upon termination of this Agreement each party agrees to return all material containing such confidential information so obtained, whether in printed, written or electronic form, to the

other party. The obligations hereunder with respect to maintaining in confidence and limited use of the confidential information shall continue during the term of the Agreement and thereafter. The party receiving confidential information shall not be liable for use or disclosure of the information if:

- i. The information is or becomes available in the public domain,
- ii. The information is subsequently lawfully obtained by the receiving party from a third party without the breach of any confidentiality restriction,
- iii. The information was previously known to the receiving party or in its possession, as evidenced by pre-existing written records,
- iv. The information is required to be disclosed by the receiving party at the request or order of any judicial or administrative body or governmental authority, provided the receiving party takes reasonable steps to give the disclosing party sufficient prior notice in order to contest the request or order.

8. Insurance

JMCo shall at all times during the term of this Agreement maintain at its cost, reasonable levels of the following types of insurance: general liability, workers compensation liability, and if appropriate to the services rendered, automobile liability (including bodily injury and property damage).

9. Indemnification and Warranties

JMCo and Client agree to hold harmless, defend and indemnify the other party from and against any liability, loss, demand, claim or cause of action for personal injury or property damage due to or arising from the other party's negligent acts.

In no event shall either party be liable for incidental, consequential, or indirect damages which were not the probable and reasonably foreseeable result of that party's performance or non-performance of its obligations under this Agreement. For purposes of clarity only, a party is liable for incidental, consequential, or indirect damages which were a reasonably foreseeable result of that party's performance or non-performance of its obligations under this Agreement.

JMCo warrants to Client that it will perform the services in a professional manner. JMCo also agrees to honor the manufacturer's warranty for equipment installed by JMCo under this Agreement.

Except for the foregoing, JMCo makes no warranties, express or implied, to Client or any other party with respect to the equipment or services that JMCo is furnishing under this Agreement

10. Force Majeure

Neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, act of government, labor strike, or any act that is beyond the reasonable control of either party provided that such party gives the other party written notice thereof promptly and in any event, within fifteen (15) days of discovery and

uses its best efforts to continue to so perform or cure. In the event of such force majeure, the time for performance of cure shall be extended to the duration of the force majeure.

11. No Hire

For the term of this Agreement and for a period of three (3) years following the term of this Agreement neither JMCo or Client will:

- i. Employ, solicit, interfere with, or endeavor to cause any person who has been employed by either JMCo or Client to leave his or her employment, or
- ii. Induce or attempt to induce any such employee to breach his or her employment agreement, regardless of whether such agreement is written or oral.

12. Miscellaneous

- a. **Entire Agreement.** This Agreement (together with the documents referred to in this Agreement) constitute(s) the entire agreement between JMCo and Client with respect to its subject matter and supersedes all prior agreements, representations and understandings of the parties, written or oral.
- b. **Severability.** The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
- c. **Remedies.** In the event either party breaches this Agreement requiring the other party to initiate legal proceedings to enforce its rights under the Agreement, the non-prevailing party agrees to pay the prevailing party's legal fees, expenses and costs.
- d. **Third Party Beneficiaries.** This Agreement is intended for the benefit of the parties hereto only. This Agreement shall not create any rights for third-party beneficiaries.
- e. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

13. Acceptance of Service Agreement

This Service Agreement covers only those services and equipment/software listed in **Appendix H**. The addition of equipment/software and/or services not listed in **Appendix H** (if acceptable to JMCo), may result in an adjustment to the Client's monthly charges.

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be signed by their duly authorized representatives as of the date set forth below.

Accepted by:
James Moore & Co., P.L.

Early Learning Coalition of Flagler and Volusia


Signature

Signature

Curtis H. McCallister Jr
Printed Name

Printed Name

Manager of Technology Solutions
Title

Title

Date

Date

This Agreement must include a signed **Statement of Management Responsibility**

Appendix A – Response Time Commitments

Response Time Commitments

All time intervals reference Normal Support Hours: 7:00am – 6:00pm Monday through Friday excluding observed holidays as reflected in **Appendix E**.

Times listed refer to JMCo’s initial attempt to contact Client and begin work on the help request/ticket. Time to resolve or repair a problem may be longer.

JMCo endeavors to respond to and resolve all issues in a timely manner. To achieve this we need the assistance of those submitting help requests to assign the correct priority to each request. (See **Appendix B**)

Following the proper procedure for submitting a help request (as explained in **Appendix B**) and assigning the correct Priority will help ensure that our technicians meet the prescribed Response Times. **JMCo will not be held responsible for failure to meet Response Times if help requests are incorrectly submitted or prioritized.**

Service Request	Impact Scope	Priority	Response Time	On-site ¹
High / Critical	All users and major functions are unavailable/inoperable or critical business processes are unavailable/inoperable	1	1 hour	2 hours
Medium	A moderate number of users are affected, general business processes are unavailable/inoperable, critical business processes are still operable	2	4 hours	8 hours
Low	A small number of users are affected, general business processes are available/operable	3	24 hours	72 hours
Scheduled	An event that is scheduled more than a week in advance. i.e. support for a webinar	4	special	special

¹ Plus travel time if distance is >10 miles or 30 minutes from the office from which the engineer is dispatched.

Appendix B – Getting Help

Getting Help

There are three (3) methods to get help:

1. Via Email: This **automatically** creates a help request ticket and sends you an email with the ticket number.
 - a. Send the email to **support@jmcoit.com**
 - b. **IMPORTANT!** To set the Priority Level, the Subject of your email must contain “High” for High level, “Medium” for Medium level, “Low” for Low level, and “Scheduled” for business events that have been scheduled and require support at a specific date/time. Ex: “High I Can’t access server” or “Medium the Finance department can’t print”
 - c. Fill in as many details as you can in the body of the email. Include attachments or screen captures if you think that will help illustrate the problem you are trying to describe.
 - d. You can reply to the email you get back from the JMCo Service Management System. Your email will be automatically added into the comments for that ticket.
2. Via Phone – JMCo Help Desk:
 - a. Call our dedicated Help Desk number 800-455-5676.
 - b. The Call Router (CR) will ask you for your contact information, a description of the problem, and the urgency of the problem.
 - c. The CR will create a service request for you and will contact the on-call technician.
3. Log into the JMCo Service Management System at <https://connect.jmcoit.com/support>
 - a. Enter your email address and password (this may be a different password than the one you use to login to your computer)
 - b. Click Submit
 - c. Complete the form and select your priority
 - d. Click Submit

After-Hours Getting Help

If Emergency assistance is required after hours, please call the JMCo Help Desk:

- a. Call our dedicated Help Desk number 800-455-5676.
- b. The Call Router (CR) will ask you for your contact information, a description of the problem, and the urgency¹ of the problem.
- c. The CR will create a service request for you and will contact the on-call technician.

¹ JMCo only responds to Emergency requests after hours.

Appendix C – Service Request Escalation

Service Request Process & Escalation

1. Support request is received by one of the three (3) methods identified in **Appendix B**
2. Ticket is created
3. Issue is identified and documented in the JMCo Service Management System

Tier 1 Support

- a. Issue is qualified to determine if it can be resolved through Tier 1 Support.
- b. If issue can be resolved through Tier 1 Support using remote access:
 - i. Tier 1 Resolution - issue is worked to successful resolution
 - ii. Quality Control - verification that issue has been resolved to Client's satisfaction
 - iii. Ticket is closed after complete problem resolution details have been updated in JMCo Service Management System
- c. If issue cannot be resolved through Tier 1 Support using remote access:
 - i. Technician contacts the user, if applicable, and schedules an on-site visit
 - ii. Issue is worked to successful resolution
 - iii. Quality Control - verification that issue has been resolved to Client's satisfaction
 - iv. Ticket is closed after complete problem resolution details have been updated in JMCo Service Management System
- d. If issue cannot be resolved through Tier 1 Support it is escalated to Tier 2

Tier 2 Support

- a. Issue is qualified to determine if it can be resolved through Tier 2 Support
- b. If issue can be resolved through Tier 2 Support using remote access:
 - i. Tier 2 Resolution - issue is worked to successful resolution
 - ii. Quality Control – verification that issue has been resolved to Client's satisfaction
 - iii. Ticket is closed, after complete problem resolution details have been updated in JMCo Service Management System
- c. If issue cannot be resolved through Tier 2 Support using remote access:
 - i. Technician contacts the user, if applicable, and schedules an on-site visit
 - ii. Issue is worked to successful resolution
 - iii. Quality Control – verification that issue has been resolved to Client's satisfaction
 - iv. Ticket is closed, after complete problem resolution details have been updated in JMCo Service Management System
- d. If issue cannot be resolved through Tier 2 Support it is escalated to Tier 3

Tier 3 Support

- a. Issue is qualified to determine if it can be resolved through Tier 3 Support
- b. If issue can be resolved through Tier 3 Support using remote access:
 - i. Tier 3 Resolution - issue is worked to successful resolution
 - ii. Quality Control – verification that issue has been resolved to Client’s satisfaction
 - iii. Ticket is closed, after complete problem resolution details have been updated in JMCo Service Management System
- c. If issue cannot be resolved through Tier 3 Support using remote access:
 - i. Technician contacts the user, if applicable, and schedules an on-site visit
 - ii. Issue is worked to successful resolution
 - iii. Quality Control – verification that issue has been resolved to Client’s satisfaction
 - iv. Ticket is closed, after complete problem resolution details have been updated in JMCo Service Management System
- d. If issue cannot be resolved through Tier 3 Support it is escalated to 3rd Party Support (if available)

3rd Party Support

- a. Issue is qualified to determine if it can be resolved through 3rd Party Support
- b. If issue can be resolved through 3rd Party Support:
 - i. At the clients discretion the JMCo will work with 3rd party support to work the issue until resolution
 - ii. Quality Control - verification that issue has been resolved to Client’s satisfaction
 - iii. Ticket is closed, after complete problem resolution details have been updated in JMCo Service Management System
- c. If issue cannot be resolved through 3rd Party Support...

Management Decision Point

- a. JMCo will request a meeting with Client to provide a recommended action as well as alternatives

Appendix D – Fees and Rates

Agreement Fee

Monthly Fee - Preventative Care (x50 WS's)	\$ 735 mo. ¹
Onboarding Fee.....	\$ waived

Standard Rates

Time and Materials rate.....	\$170/hr.
Outside Normal Support Hours rate.....	\$210/hr.
Storage for offsite backup	\$0.15/Gb.
Mileage rate.....	current IRS rate

¹ The monthly fee may be adjusted if there is a change in the number and/or complexity of the software and hardware items listed in **Appendix H** or after the six (6) month account review.

Appendix E- Observed Holidays

Observed Holidays:

- Christmas Day and New Year's Day — A total of three days for Christmas and New Year's Day
- Memorial Day
- July 4th or the Friday prior if the 4th falls on a Saturday or the following Monday if the 4th falls on a Sunday
- Labor Day
- Thanksgiving Day and the Friday after Thanksgiving Day

Appendix F – Minimum Standards for Service Coverage

Minimum Standards for Service Coverage

In order for Client's existing environment to qualify for JMCo's Complete Care Services, the following requirements must be met:

1. All Servers with Microsoft Windows Operating Systems must be running Windows Server 2012 or later, and have all of the latest Microsoft Critical Updates installed.
2. All Desktop PC's and Notebooks/Laptops with Microsoft Windows Operating Systems must be running Windows 8.1 or later, and have all of the latest Microsoft Critical Updates installed.
3. All Server and Desktop Software must be genuine, licensed, and vendor-supported.
4. The environment must have a currently licensed, up-to-date and vendor-supported Server- based antivirus solution protecting all Servers, Desktops, Notebooks/Laptops, and Email.
5. The environment must have a currently licensed, vendor-supported server-based backup solution that can be monitored, and send notifications on job failures and successes.
6. The environment must have a currently licensed, vendor-supported hardware firewall between the internal network and the Internet.
7. All wireless data traffic in the environment must be securely encrypted using WPA2 encryption.
8. All servers should be located in a climate and access controlled environment.

Costs required to bring Client's environment up to these Minimum Standards are not included in this Agreement.

Appendix G – Services Covered for Monthly Fee

Services Covered for Monthly Fee

Preventative Care

- Proactive maintenance and patching of covered workstations and servers
- Semi-annual Business Technology Review meeting
- 24 x 7 x 365 alerting for critical events on covered items
- Service logging and tracking
- Prioritized Help Desk event scheduling
- 5% off standard posted (hourly) rate for non-covered items

Services Excluded from Monthly Fee

- Any non-maintenance work or consulting performed by a JMCo technician
- Any work performed by a JMCo technician on a non-covered item
- Any work or non-scheduled maintenance, performed by a JMCo technician outside of normal support hours
- 3rd party support after the first 30 minutes per incident
- Project work (changing the 'foot print' or design of the network)
- Installing and configuring a new workstation (\$200 flat fee, waived if purchased from JMCo)
- Installing and configuring a new network print device (\$100 flat fee)
- Storage for offsite data backup is \$0.15 per GB per month
- Travel expenses for on-site support (mileage, etc.)
 - Mileage is billable at the "GSA mileage rates for CONUS" for any travel that exceeds 10 miles from the nearest James Moore office and will include all mileage from the start location to the return to the start location.

Appendix H – Software and Hardware Covered Under Agreement

Software and Hardware Covered Under Agreement

The following items are covered under this Agreement. Any items not specifically identified below are non-covered items and any service for those items will be billed as separate services in accordance with the standard rates listed in **Appendix D**.

Covered Software (genuine, licensed, and vendor-supported)

- Windows Server 2016 or above
- Windows 10 or above
- Microsoft Exchange Server 2019 or above
- Microsoft Exchange Online or Office 365, Microsoft 365
- Microsoft SQL Server 2016 SP2 or above
- Microsoft Office 2019 or above,
- Any software provided from JMCo as part of this Agreement (e.g. Anti-virus, Backup, Spam)

Covered hardware

James Moore does not provide warranty support for hardware, but will work with the hardware manufacturer to facilitate repairs for any hardware covered by their warranties.

Time for this activity for any hardware purchased from James Moore is billable under the guidelines of 3rd party support.

Time for this activity for any hardware purchased from other than James Moore is billable at your reduced hourly rate.

Appendix I: Service Descriptions

Appendix I: Service Descriptions

- **Remote Support:** Work performed to troubleshoot or repair an existing covered item, with the JMCo technician not being on-site at the client's place of business. Does not include routine maintenance, patching, upgrades, reconfiguration, etc.
- **On-Site Support:** Work performed to troubleshoot or repair an existing covered item while at the client's place of business. Does not include routine maintenance, patching, upgrades, reconfiguration, etc.
- **ProActive (Scheduled) Maintenance:** Strategies and processes to update, patch, clean, tune and otherwise support or "maintain" existing covered items (Appendix H). This does not include adding new hardware or software, redesigning, reinstalling, reconfiguring, etc. existing items or non-covered items (Appendix H).
- **Scheduled On-site Visit:** A visit to the client's place of business to review the technology environment, conduct proactive maintenance procedures that require an on-site presence, evaluate the performance of the core infrastructure and look for potential problems. At the discretion of JMCo, normal service items may be addressed during the on-site visit at no additional charge, regardless of service level, up to the defined time. Projects, third party support, and new installations may not be performed during this scheduled on-site. ** scheduled at the discretion of JMCo. Furthermore, JMCo reserves the right to reschedule these visits, and will provide as much notice as possible to client. We will attempt to reschedule the visit but if an on-site visit must be canceled the client will receive an hour for hour credit for the on-site visit to be used toward any on-site support charges that may have been accrued during that month.
- **Third Party Support:** Working with any software, hardware, solution, application, vendor, product, etc. that is not listed in Appendix H, as a covered item, or does not meet the minimum standards for service coverage (Appendix F), is considered third party support.
- **Project:** Any work done to add a new solution or product, change architecture, modify the network "foot print", change or modify 5% or more of the existing technology at one time, etc.
- **Non-Covered Item:** Any item, product, solution, etc. that is not defined in Appendix F or Appendix H as being a covered item.
- **Managed Endpoint Security:** JMCo will provide an endpoint security software solution to each covered Windows workstation or server. Installation, configuration and configuration adjustments will be performed as needed as covered work. Logs will be monitored to ensure updates are occurring and scans are clean or items found are cleaned. Cleaning of infections will be handled per the agreement level.
- **Managed Backup:** JMCo will provide data backup software to protect the on premise servers and critical workstations (the client is expected to provide a storage device) with a nightly backup. Installation, updates, initial configuration and configuration adjustments will be performed as needed and are covered items. Logs will be monitored to ensure backups are completing successfully, any backup failures occurring on two or more consecutive days, or more than three (3) times in a five (5) day period, will be addressed as a service item under the agreement level. Monthly test restores of random subset of data will be completed. Standard data restores (file and folder) requested by client will be completed as a covered service event.