



Element 74, Inc.

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www.element74.com

Agreement Prepared for:

From:

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VELA Deployment & Hosting Agreement

Organization:				Agreement Term	Through ??
Name:					
Address:					
City:		State:		Zip:	
Phone:					
Email:					

This document (hereafter referred to as the “Agreement”) describes the details of the products and/or services that will be provided to **ORGANIZATION** (hereafter referred to as CLIENT) by ELEMENT 74, Inc. (hereafter referred to as Element 74).

Vela Deliverables

CLIENT will receive full access to all modules of the Vela software platform (hereinafter referred to as “Vela”), which includes

- Admin and System Configuration
- Dashboard
- Hotline Calls
- Time Tracker
- Client Management
- Staff Management
- Form Manager
- Reporting
- Donor Module

Note: Module accessibility and availability for each deployment are customizable and flexible based on CLIENT needs. For example, modules may be removed from the system at the CLIENT’S discretion for any reason.

Custom Development Scope of Work

- There is no additional custom software development at this time.

Data Migration

Should CLIENT decide to migrate their data from their current legacy system, Element 74 will provide data migration services for CLIENT. The Data migration process varies significantly from organization to organization. Some of these variables include:

- The ability of the legacy platform to provide the data in the format necessary for Vela
- The accuracy of the legacy data (i.e. are there duplicate records, etc.)

Element 74 offers the following parameters around data migration:

- We will import all client demographic data and service data from the last two years.
- Client demographic data will be imported before deployment and launch, but enrollments and historical services may be imported after launch.
- Client Demographic data is included in the start-up fees. If past service data is required, the data to be migrated will be reviewed. Data migration could take 35 to 60 hours to complete, depending on the type of migration. A quote will be provided after the review is completed.
The data migration rate is \$150 per hour.

Changes to Scope

Ongoing enhancements to Vela are included in the CLIENT'S monthly fee. In the event that CLIENT wishes to make any modifications to Vela specific to their organization only, CLIENT must provide a detailed request for such customizations (hereafter referred to as "Change Request") to ELEMENT 74 in writing specifying the desired changes. ELEMENT 74 will evaluate the Change Request and provide an estimate (at no charge to CLIENT) based on its standard rates of \$150 per hour. CLIENT can accept or reject this "Change Request" before starting work.

CLIENT Duties & Responsibilities

Assigned Tasks

CLIENT agrees to perform all tasks assigned to CLIENT as outlined in this Agreement and to provide assistance and cooperation to ELEMENT 74 so that ELEMENT 74 can deploy Vela efficiently. CLIENT shall be responsible for making, at its own expense, any changes or additions to CLIENT'S current systems, software, and hardware that may be required to support the operation of Vela.

System Requirements

Vela best suits PC (Windows 10 or above) and/or Mac (Mac OS) based systems. As a part of Browser Support, Vela is tested on current versions of major browsers such as Google Chrome, Mozilla Firefox, and Microsoft Edge. For optimal performance, ELEMENT 74 suggests using the latest version of the Chrome browser in conjunction with a reliable broadband connection such as Cable or DSL. Experiences with Vela may vary based on CLIENT'S system configuration, the applications installed on CLIENT'S PC/Mac, and CLIENT'S ISP and connection to the Internet. Please contact ELEMENT 74 if the CLIENT has any questions/concerns regarding the device and/or browser support.

ELEMENT 74 will complete a series of preliminary tests before deploying Vela in the CLIENT'S working environment. Because browsers are third-party software and out of ELEMENT 74's control, the CLIENT understands that advancements and changes to said browsers may cause system malfunctions or graphic defects in the future. If Vela fails to render properly or has functional defects in niche browsers or operating systems (less than 5% of currently observed usage trends at the time of deployment), CLIENT may be billed at ELEMENT 74's discretion at our standard billing rate of \$150 per hour (and executing fixes for these issues will be at CLIENT'S discretion.)

Acceptance Testing Obligations

CLIENT shall make available such personnel as necessary for adequate user testing of the Vela, as well as reasonable availability for staff training during the deployment phase.

Lawful Purpose

CLIENT understands and certifies that Vela will be used only for lawful purposes. CLIENT shall use Vela only for authorized purposes. Client shall not itself, or through any employee, agent, or contractor, sell, resell, distribute, host, lease, rent, license, or sublicense, in whole or in part, the Vela Products or Services, or decipher, decompile, reverse assemble, modify, engineer, reverse engineer, or attempt to derive any source code, algorithms, specifications, or other elements of Vela for any purposes, competitive or otherwise.

CLIENT shall not:

- (1) allow any unauthorized users to have access to Vela;
- (2) write or develop any derivative work based on Vela;
- (3) modify, change, or adapt Vela or any part thereof;
- (4) alter, change, or remove any proprietary information; or
- (5) use Vela to provide services to any third party.

CLIENT shall limit access to Vela to only authorized users and ensure that all authorized users associated with CLIENT (whether employees, agents, contractors, or otherwise) use Vela only for authorized purposes. CLIENT shall use Vela for legal purposes only and shall never post or upload any content or data which is

- (a) libelous, defamatory, obscene, pornographic, abusive, harassing, or threatening, or
- (b) violates the rights of others – including privacy rights and intellectual property rights, or
- (c) otherwise violate any applicable law.

Security

CLIENT and CLIENT's employees and agents will not:

- (a) breach or attempt to breach any security of Vela or the Vela services or any network, servers, or computers used in connection with Vela, or
- (b) use or distribute through the Vela services any software, files, or other tools or devices designed to interfere with or compromise the privacy, security, or use of the Vela services. CLIENT is solely responsible for monitoring its authorized user's access to and use of the Vela services. Vela has no obligation to verify the identity of any person who gains access to Vela through an ID or password. Vela and Element 74 shall not be liable for any damages incurred by Client or any third party arising from such breach.

Customer Data

The CLIENT, alone, is solely responsible for the accuracy, completeness, and reliability of the data provided by the CLIENT. Vela is not responsible for, nor liable for, any errors in data, the accuracy, completeness, or reliability of such data, or any issues caused by reporting inaccurate, incomplete, or unreliable data.

Support & Maintenance

This agreement and the CLIENT'S monthly fee include technical support and additional training for Vela.

ELEMENT 74's Vela Process

1. CLIENT Meeting

A member or multiple ELEMENT 74 team members will meet with the CLIENT to discuss the configuration setup.

2. Team-Based Project Management

Following the initial meeting, ELEMENT 74 will assign a team to the project to ensure a timely and efficient deployment (hereafter referred to as "Team."). To maintain the most efficient timeline, CLIENT agrees to correspond with the Team in a timely fashion. Neglecting to communicate in a timely fashion will ultimately delay the timeline of the entire project.

3. Development & Staging

Once Vela has been deployed, it will be posted to ELEMENT 74 's staging servers, containing a private URL provided to the CLIENT with login credentials to access the system. CLIENT will be encouraged to familiarize themselves with the system by entering test data before the live launch.

Training

With the introduction of Vela, CLIENT will receive **remote training and deployment via Zoom**. During the training process, the CLIENT will have the opportunity to interact with an ELEMENT 74 Vela Deployment Specialist to discuss questions or concerns regarding the functionality of program modules, features, and additional information.

Deployment Travel Expenses

If travel is required, CLIENT agrees to pay VELA's travel expenses. Such expenses include meals, lodging, transportation, and other relevant accommodations. Such expenses will be reimbursed or paid at the CLIENT's current state per diem rates.

Timeline & Costs

- The estimated start date for the project, which includes preliminary preparation, will be determined by **the CLIENT and VELA team.**
 - The deployment will consist of 8 hours of configuration and training conducted virtually via Zoom on a **mutually agreeable date between the CLIENT and the VELA team.**
 - Any required data import is to be quoted separately and completed upon receipt of data
- *This estimated deadline does not take into consideration any special circumstances that may occur by CLIENT. It is based on timelines of CLIENT deliverables to ELEMENT 74 and timely CLIENT correspondence, feedback, and design approvals.**

Implementation

Vela Initial License, Onboarding & Deployment Fee - Tier ?	\$00
Total One-Time Cost:	\$00

Hosting/Support

Hosting, Support & Future Software Updates - Tier ?	\$00
Total Monthly Cost:	\$00

*** The hosting and support fee will begin immediately on the billing date, either the 1st or 15th of the month following the deployment.**

*Upon the start of the second year, you will be required to complete a form to verify your current operating budget. If there is a change in your operating budget, the monthly hosting/support fee will be adjusted accordingly to the new pricing tier. If there is no change in your current pricing tier, there will be a nominal 3% inflationary increase to your current plan.

The monthly hosting fee includes a secure web server and SSL (Secure Socket Layer) certificate, which is required to encrypt data and secure information. Element 74 will purchase an SSL certificate from a reputable vendor.)

Payment Terms

Payment #	Payment Amount	Payment Due
1	\$00	Agreement Signature Date
2	\$00	Hosting invoice upon completion of deployment

Terms: Net 20 days

Note: The organization is not state sales tax-exempt. State sales tax may apply to the organization depending on its future exemption status and the sales threshold for Element 74 for STATE if SaaS products become taxable.

Invoice Recipient

Recipient Name	Recipient Email Address	Recipient Contact #

All payments will be made in U.S. dollars. ELEMENT 74 reserves the right to modify payment terms or require full payment before providing services and/or products if the CLIENT is not creditworthy. CLIENT's failure to pay any balance 90 days past due is a material breach of this agreement, which justifies the suspension of ELEMENT 74's performance hereunder. In such an event, Element 74 does not have to provide CLIENT with 30 additional days to cure the breach. Such suspension does not relieve the client from paying past-due amounts. In the event of collection enforcement, the client will be liable for all costs associated with collecting past-due amounts, including, without limitation, attorney's fees and court costs.

Payments can be made payable to:

Element 74, Inc
PO Box 819
Cape Girardeau MO 63702

This Agreement is subject to the Terms and Conditions set forth below. This Agreement shall prevail if a conflict or inconsistency exists between such Terms and Conditions and this Agreement. The Client agrees to pay all amounts according to this Agreement. The Client will be billed in advance for recurring monthly fixed expenses.

Definitions and Miscellaneous

1. Ownership

During the term of this Agreement, ELEMENT 74 grants CLIENT and its successors and assignees a non-exclusive license to use Vela in connection with the use and maintenance of the CLIENT'S programs and purposes.

CLIENT will retain all title to and ownership of their data in Vela. ELEMENT 74 retains all ownership of the Vela Source Code. Vela Intellectual Property is copyrighted and protected by worldwide copyright laws and treaty provisions. ELEMENT 74 does not grant any express or implied right to CLIENT under any patents, copyrights, trademarks, or trade secret information. In the event Element 74 is subpoenaed, since CLIENT retains all title and ownership of their data, it is not ours to be subpoenaed and will not be released. If a request is made, we will inform the CLIENT by email or phone call within 24 hours of the request. Vela will, however, produce data if a valid court order requires it.

ELEMENT 74 is not the CLIENT's agent, fiduciary, trustee, or other representative. Nothing expressed or mentioned in, or implied from this Agreement is intended or will be construed to give to any person (other than the parties to this Agreement) any legal or equitable right, remedy, or claim under or concerning this Agreement. This Agreement and all of its representations, warranties, covenants, conditions, and provisions are intended to be and are for the sole and exclusive benefit of the parties to this Agreement.

2. Term and Termination

The term of this Agreement shall be for one (1) year. After that, this agreement shall be automatically renewed for successive one (1) year terms unless either party gives the other party written notice of termination at least 60 days before the end of the then-current term. This Agreement and any renewal terms are subject to early termination for cause/breach as provided below.

Each Party may terminate this Agreement upon a material breach by the other Party of one or more of the terms and conditions of this Agreement, provided that the breaching party is notified in writing of the material breach and such breach is not cured within 30 days after receipt of such written notice. If ELEMENT 74 terminates this Agreement due to CLIENT's default:

(a) CLIENT shall, within 30 days of such termination, deliver to ELEMENT 74 all copies and portions of the Software and related materials and documentation in its possession, furnished by the Developer under this Agreement, excluding the data, which CLIENT owns; and

(b) all amounts payable or accrued to ELEMENT 74 under this Agreement shall become immediately due, and payable. Termination for breach will not alter or affect the terminating Party's right to exercise any other remedy for breach. In the event of termination without cause, CLIENT agrees to pay ELEMENT 74 for all work performed up to the termination date. If CLIENT breaches this agreement, CLIENT agrees to pay Element 74's reasonable attorneys' fees and costs incurred by Element 74 related to enforcing this agreement.

3. Confidentiality

ELEMENT 74 will keep all CLIENT identifiable information in the Vela platform confidential through best-in-class data encryption at rest and in transit. All data is encrypted in the database and can only be decrypted and viewed by users who have been given express permission by the CLIENT. In case of an external or internal breach, ELEMENT 74 will notify the CLIENT within 24 hours.

4. Disclaimer of warranty and limitation of liability

ELEMENT 74 exercises no control over and accepts no responsibility for the content of the information that has been entered into Vela and passed through ELEMENT 74's host computers, network hubs, points of presence, or the Internet. THE SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR TITLE, WHICH ELEMENT 74 DISCLAIMS. ELEMENT 74 DISCLAIMS ALL LIABILITY AND WARRANTIES TO THE MAXIMUM EXTENT ALLOWED BY LAW.

ELEMENT 74 IS NOT LIABLE FOR:

- (1) ANY LOSS OF USE, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR
- (2) ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, LOST PROFITS) REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF ELEMENT 74 HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES.

WITHOUT LIMITING THE FOREGOING, ELEMENT 74 MAKES NO PROMISES OR WARRANTIES:

- (A) AS TO THE RELIABILITY, TIMELINESS, QUALITY, TRUTH, ACCURACY, COMPLETENESS, OR AVAILABILITY OF THE SERVICES OR CONTENT OF VELA, ALL OF WHICH ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS;
- (B) AS TO ANY THIRD PARTY PROVIDER OR ANY OF ITS PRODUCTS OR SERVICES, WHETHER OR NOT ELEMENT 74 MAY HAVE DESIGNATED IT OR ITS PRODUCTS OR SERVICES AS "CERTIFIED";
- (C) THAT THE USE OF THE VELA PRODUCTS OR SERVICES SHALL BE SECURE, UNINTERRUPTED, OR ERROR-FREE;
- (D) THAT THE VELA PRODUCTS OR SERVICES WILL MEET THE CLIENT'S EXPECTATIONS, NEEDS, OR REQUIREMENTS;
- (E) THAT DATA WILL BE ACCURATELY OR RELIABLY STORED;
- (F) THAT ALL ERRORS OR DEFECTS WILL BE CORRECTED;
- (G) THE SERVICE AND PRODUCTS SHALL BE FREE FROM ANY VIRUS OR HARMFUL COMPONENT.

WITHOUT LIMITING THE FOREGOING, THE CLIENT UNDERSTANDS AND AGREES THAT ELEMENT 74'S REPORTS, FORMULAS, METHODS, AND LOGIC ADHERE TO AND ARE CONSISTENT WITH FEDERAL GOVERNMENT REQUIREMENTS AND GUIDELINES AS WE SUBJECTIVELY UNDERSTAND THEM. HOWEVER, ELEMENT 74 CANNOT AND DOES NOT MAKE ANY PROMISES OR GUARANTEES REGARDING SUCH ADHERENCE TO OR CONSISTENCY WITH FEDERAL REQUIREMENTS AND GUIDELINES. ELEMENT 74 SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY LACK OF ADHERENCE OR CONSISTENCY WITH SUCH GUIDELINES AND REQUIREMENTS AND IS NOT RESPONSIBLE FOR ANY ERRORS, INCONSISTENCIES, DISCREPANCIES, LOSSES, OR DAMAGES ARISING OUT OF OR RELATED TO ANY LACK OF ADHERENCE TO FEDERAL GUIDELINES, FEDERAL LAW, REGULATIONS, OR REQUIREMENTS. IN ADDITION, CLIENT UNDERSTANDS THAT ELEMENT 74'S REPORTS, FORMULAS, METHODS, AND LOGIC LIKELY DO NOT ADHERE TO ANY PARTICULAR STATE GUIDELINES OR RULES AND AGREES THAT ELEMENT 74 HAS NO LIABILITY OR RESPONSIBILITY REGARDING ANY LACK OF ADHERENCE TO ANY STATE GUIDELINES OR RULES.

THE CLIENT AGREES THAT THE CLIENT IS ULTIMATELY RESPONSIBLE FOR ITS REPORTS, APPLICATIONS AND/OR ANY AND ALL OF THE CLIENT'S USE OF THE VELA PRODUCT OR SERVICE. THE CLIENT IS RESPONSIBLE FOR THE DATA THAT IS TRANSMITTED BY THE CLIENT, THE CLIENT'S AGENTS, OR REPRESENTATIVES TO VELA AND IS ALSO RESPONSIBLE FOR REVIEWING, EDITING, AND PROOFING ANY DATA, REPORTS, OR DATA SETS THAT ARE SENT TO VELA TO THE CLIENT, OR USED ANY REPORT, APPLICATION, OR FOR ANY OTHER PURPOSE.

CLIENT MUST CHECK AND VERIFY THE ACCURACY OF ANY AND ALL WORK PRODUCTS, DOCUMENTS, APPLICATIONS AND REPORTS IN ADVANCE OF SUBMISSION. ELEMENT 74 DOES NOT HAVE ANY LIABILITY FOR OR RESPONSIBILITY FOR THE ACCURACY OF THE CLIENT'S FINAL WORK PRODUCT, APPLICATION, AND/OR REPORTS.

ELEMENT 74's LIABILITY WILL NOT EXCEED THE AMOUNT CLIENT PAID TO ELEMENT 74 DURING THE INITIAL TERM BEFORE THE ACTION AROSE. CLIENT ACKNOWLEDGES THAT THESE LIMITATIONS ARE ESSENTIAL ELEMENT OF THIS AGREEMENT AND ABSENT SUCH LIMITATIONS, ELEMENT 74 WOULD NOT ENTER INTO THIS AGREEMENT.

5. Infringement

ELEMENT 74 warrants that Vela will not infringe on any copyright, patent, trade secret, or other intellectual property interest of any third party. Following any bona fide infringement claim, ELEMENT 74 shall promptly correct the product so as not to infringe or secure the right of the CLIENT to use the product without infringement.

6. Authority of Client

CLIENT represents and warrants that CLIENT has the power and authority to enter into and perform its obligations under this Agreement.

7. Jurisdiction, Venue, and Choice of Law

This Agreement will be governed solely by the laws of the State of Missouri. Any dispute shall be litigated in the state or federal courts located in Cape Girardeau County, Missouri (the Circuit Court of the 32nd Judicial Circuit, State of Missouri, in Cape Girardeau County, or the Southeast Division of the U.S. District Court of the Eastern District of Missouri, as the case may be). The parties hereby consent to jurisdiction and venue in such courts and waive any and all claims and arguments that a different venue, court, or jurisdiction is appropriate, proper, or permissible.

Each party's performance under this Agreement will conform to all applicable laws, rules, and regulations of the United States governs the export of technical information. Parties may not assign this Agreement without the prior written permission of the other party. Any purported assignment will be void and without any effect. This Agreement may not be modified or amended except in writing, signed by both parties. Any purported oral modification or amendment of this Agreement will not be effective. Neither party may waive any right under this Agreement except in writing. Any oral waiver of any right will not be effective.

8. Entire Agreement

This Agreement, along with any Vela Terms and Conditions posted on Vela's app, and/or program, constitutes the entire agreement between the parties concerning this subject matter and supersedes all prior and contemporaneous discussions and negotiations, communications, and agreements concerning this subject matter.

9. Indemnity

CLIENT shall defend, indemnify, and hold harmless Element 74, its officers, directors, and parent companies, subsidiaries, affiliates, employees, agents, successors, and assigns, from and against any and all losses, claims, damages, or suits, arising out of or in connection with any claim, suit, or argument concerning:

(a) the CLIENT's use or provision of any data;

- (b) the data or the combination of the data with other applications, content, or processes, including any claim involving the alleged infringement of any data or information, or the misappropriation or misuse of any data, or any losses or damages arising out of CLIENT's errors, negligence, acts, or omissions;
- (c) the violation of this agreement or the Terms and Conditions (as described in the paragraph below and accessible on the VELA website, app, and/or program) by CLIENT or any of CLIENT's employees, agents, or authorized users; or
- (d) any dispute between CLIENT and CLIENT's employees, agents, or authorized users.

Terms and Conditions

CLIENT agrees to the terms and conditions outlined in this agreement and further agrees that CLIENT will ensure that all USERS associated with CLIENT will also abide by the terms and conditions. CLIENT acknowledges and agrees that CLIENT will be bound by the indemnity agreement in the paragraph above if CLIENT and/or CLIENT's associated or affiliated USERS violate the Terms and Conditions. To the extent that the terms of this Agreement will control the terms and Conditions that contradict the terms of this Agreement.

Signatures

ORGANIZATION		ELEMENT 74, INC.	
Signature		Signature	
Signed By		Signed By	
Title		Title	
Date		Date	