

IN THE COURT OF COMMON PLEAS
MAHONING COUNTY

BOARDMAN MOLDED PRODUCTS)	CASE NO.
INC.)	
1110 Thalia Avenue)	
Youngstown, Ohio 44512)	JUDGE
)	
Plaintiff,)	
)	
v.)	<u>COMPLAINT</u>
)	
INVOLTA, LLC)	(Jury Demand Endorsed Hereon)
Care of: Randall Rings, registered agent)	
460 12 th Ave Southeast, Suite 100)	
Cedar Rapids, Iowa 52401)	
)	
Defendant.)	

Plaintiff, Boardman Molded Products, Inc. (“Plaintiff” or “Boardman), by and through undersigned counsel, for its complaint against Defendant Involta, LLC (“Defendant” or “Involta”) states as follows:

PARTIES

1. Plaintiff Boardman is an Ohio corporation with its principal place of business located in Mahoning County, Ohio. Boardman provides reliable turnkey solutions, assisting in the design/engineering of customer industrial, consumer and automotive products, rapid prototyping, mold design/tooling and the actual production of molded products.

2. Defendant Involta is a limited liability company with its principal place of business located in Cedar Rapids, Iowa. Involta conducts business in the State of Ohio including through a contract with Boardman. Involta holds itself out in the market place as an “award winning national [information technology] IT service provider and consulting firm. According to its website, Involta helps its clients plan, manage and execute hybrid IT strategies using a broad range of services

including colocation, cloud computing, managed IT, cybersecurity, and fiber and network connectivity.” Involta offers industry specific services including for manufacturing.

JURISDICITON AND VENUE

3. Jurisdiction is appropriate in the State of Ohio and venue is appropriate in the County of Mahoning as this is the State and County in which the Defendant’s conduct gave rise to the claim for relief and/or the county in which all or a part of the claim for relief arose. Mahoning County is also the county in which Plaintiff has its principal place of business.

UNDERLYING FACTS

4. On or about April 17, 2017, Boardman retained Involta to provide various information technology (“IT”) services including, but not necessarily limited to, private servers, managed servers, managed firewall, internet security, compliance, storage, backup, remote desktop, network, managed WAN, and other services, pursuant to a Service Order. A copy of the Service Order is attached hereto as Exh. A.

5. At the time of the Service Order, Involta sold Boardman on the fact that Involta would be Boardman’s one-stop-shop for all IT needs. According to Involta’s website terms and conditions, which terms and conditions were incorporated into the Service Order, there would be no need for any other service providers for any purpose.

6. In relevant part, Involta offered a “complete, round-the-clock solution to IT system management, with a higher level of system performance and stability and the support of a highly trained team. Imagine the competitive advantage your company would gain.”

7. With regard to Managed Security, Involta represented:

In today’s complex IT environment, data protection and security is just as critical as physical security. Organizations must ensure protection of not only their proprietary business data, but also sensitive customer information.

With increased governmental compliance regulations, specifically in the healthcare and financial services industries, including the Healthcare Information Portability and Accountability Act (HIPAA) and Gramm-Leach-Bliley Act (GLB), virtual security is as important as ever.

Involta has the expertise to handle your organization's security and compliance needs, such as:

- Virus and malware protection
- Patch level assurance
- Virus definition updates
- Firewalls
- Access controls
- Password policies
- Physical security
- Least privilege

Let your IT staff focus on innovation and business-oriented tasks, while Involta protects your bottom line with secure, highly-available services hosted in our enterprise-class facilities.

8. Boardman relied upon the representations of Involta and accepted Involta's offer to let Boardman's IT staff focus on innovation and business-oriented tasks, while Involta was to protect Boardman's bottom line with secure, highly-available services hosted in Involta's enterprise-class facilities.

9. Involta failed to protect Boardman's bottom line and failed to provide the secure, highly-available services hosted on Involta's facilities as represented.

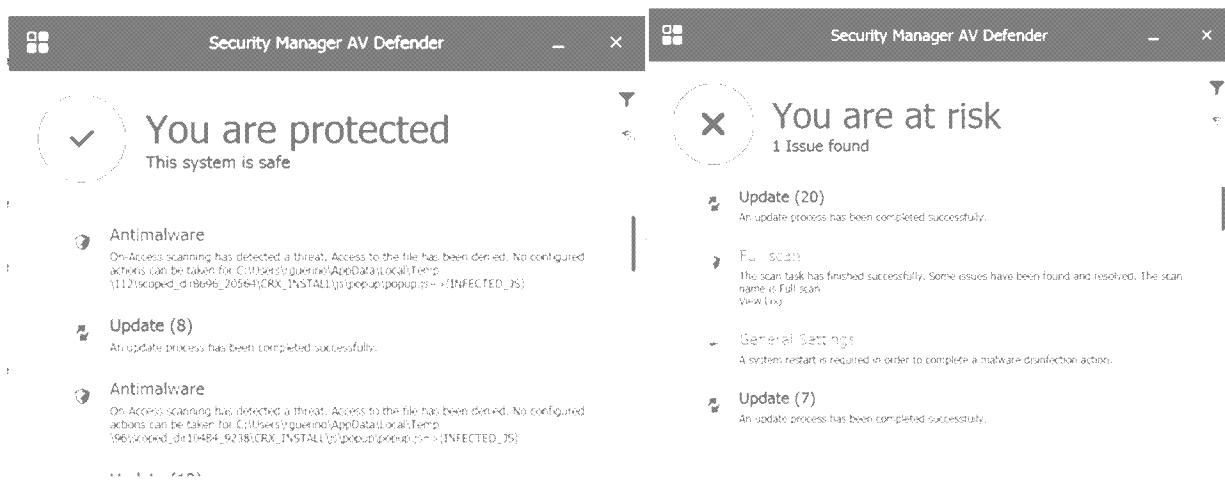
10. In or about late January 2018, Boardman suffered a catastrophic security breach (the "Security Breach") while operating on Involta's services hosted facilities.

11. In or about late January 2018, Boardman experienced the Security Breach of its Outlook email account by malicious external hackers with criminal intent. Internal emails to accounting staff, along with modified excel spreadsheets and files, were redirected by the malicious hackers. Multiple fake invoices were provided to Boardman's accounting staff by the malicious hackers with instructions to pay fake invoices. Those invoices were paid to fake sources

and, as a result, over \$1.7 million in Boardman’s funds were stolen.

12. When Boardman brought this hacking scheme to Involta’s attention, Involta failed to take appropriate action. When the incident was reported to Involta, the ticket received only a “Medium” priority rating. The day after the incident was first reported, Involta insisted that the breach had never taken place and accordingly closed the ticket.

13. In fact, Involta had shown an overall relaxed attitude regarding security issues. At various times, Boardman has provided feedback indicating that Boardman is considered to be “AT RISK”, according to AV Defender. This continued to be the case following the incident until at least April (3 months) after the incident took place. Examples are provided below:



14. Involta has suggested that Boardman’s rules related to security were too relaxed. However, Involta was in charge of maintaining a secure environment and was to set security rules accordingly. This was a task that Boardman’s internal IT person was not even permitted to perform, due to permissions that Involta set. At no time relevant hereto did Involta provide any pro-active advice, suggestions and/or recommendations regarding training, potential concerns or any other topics regarding security or protection.

15. Other examples of non-curable breaches of the Service Order include (but are not necessarily limited to):

- Boardman requested Guest Wi-Fi access in February 2018 but access had not been timely provided.
- Involta uses AV Defender as the first level security on individual machines and servers but it was discovered by Boardman that some of the machines did not have AV Defender installed, even though a remote session was requested and preformed to “set up the computer.” It was realized after the user had an issue that it was never set up properly.
- Involta was required to perform quarterly review meetings in order to provide an update on items such as: number of tickets processed, status of any ongoing project including agreements, switches, routers, migration, access points, etc. However, no quarterly updates had been performed in 2018 or 2019.
- Weeks after the incident, foreign data was found on a virtual server (within Involta’s data center). After a major incident such as the one experienced by Boardman, Involta should have made sure its system was clear. However, it was Boardman that alerted Involta that a scan found 114 PUP programs (viruses) on Boardman’s US virtual server (located inside of Involta’s data center), including a remotely installed clip board hi-jacking tool.
- An exchange/upgrade of the local switch at Boardman was requested in February 2017 but Involta did not even offer to install it until August 2018 (at which point Boardman was unable to provide access to do so due to the press of other business.)

16. Given the foregoing, Boardman considered the numerous breaches of the Service Order to be non-curable and Boardman failed to receive the material benefits of the bargain.

17. Since the Security Breach, Boardman provided notice to Involta that it was terminating the Service Order.

COUNT ONE
(Breach of Service Order)

18. Plaintiff restates each of the above paragraphs as if fully rewritten herein.

19. Pursuant to the Service Order, Involta was to protect Boardman’s bottom line with secure, highly-available services hosted in Involta’s enterprise-class facilities including by handling Boardman’s security and compliance needs, such as:

- Virus and malware protection
- Patch level assurance
- Virus definition updates
- Firewalls

- Access controls
- Password policies
- Physical security
- Least privilege

20. Involta failed to protect Boardman's bottom line with secure, highly-available services hosted on Involta's facilities.

21. As a result, in or about January 2018, Boardman suffered the Security Breach while operating on Involta's services hosted facilities.

22. As a direct and proximate result of Involta's breach of the Service Order, Boardman has suffered money damages in an amount to be determined at trial, but believed to be in excess of twenty-five thousand dollars (\$25,000).

COUNT TWO
(Professional Negligence and Malpractice)

23. Plaintiff restates each of the above paragraphs as if fully rewritten herein.

24. At all times relevant hereto, Boardman retained Involta to provide professional IT services including but not necessarily limited to protecting Boardman's bottom line with secure, highly-available services hosted in Involta's enterprise-class facilities including by handling Boardman's security and compliance needs, such as:

- Virus and malware protection
- Patch level assurance
- Virus definition updates
- Firewalls
- Access controls
- Password policies
- Physical security
- Least privilege

25. As a result of the retention by Boardman of Involta, Involta had a duty to exercise the knowledge, skill, and ability ordinarily exercised by members of the IT profession under

similar circumstances.

26. As set forth in herein, Involta breached the foregoing duties of care in the performance of IT services to Boardman with respect to the handling of Boardman's security and compliance needs.

27. As a direct and proximate result of the foregoing breaches, Boardman suffered damages in an amount to be proven at trial but believed to be in excess of \$25,000.00.

WHEREFORE, Plaintiff Boardman Molded Products, Inc. demands judgment against Defendant Involta, LLC in an amount to be proven at trial but believed to be in excess of \$25,000.00, court costs and litigation expenses, reasonable attorney fees, plus such other legal and equitable relief which this court deems just and appropriate.

Respectfully submitted,

/s/ David M. Cuppage

Robert T. Glickman (0059579)

David M. Cuppage (0047104)

Nicholas R. Oleski (0095808)

MCCARTHY, LEBIT, CRYSTAL
& LIFFMAN CO., LPA

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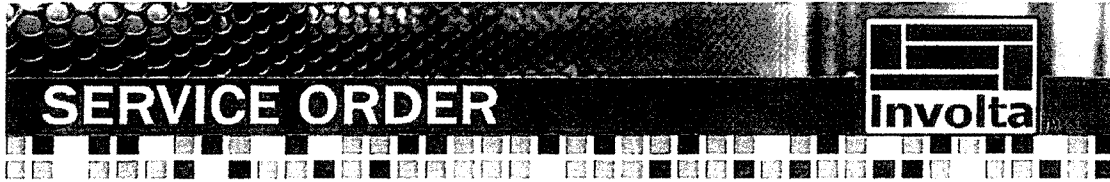
Attorneys for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury to the fullest extent permitted by law.

/s/ David M. Cuppage
David M. Cuppage (0047104)

**Exhibit A
Service Order**



PREPARED FOR:

Account Name Boardman Molded Products

Contact Name Linda Simmons
Billing Address 1110 Thalia Avenue,
Youngstown, Ohio 44512

MSA Number MSA201511086798
Contract Term 36 Months
Account Number 0000006456

SERVICE ORDER #

Q-00003375

Proposal Name Boardman M[R]Cloud
Renewal

Date 4/17/2017

Account Manager Ron Latessa
Phone
Email rlatessa@involta.com

SERVICES:

QTY	Product Name	Product Code	UNIT PRICE	EXT PRICE
	Agreement MSP			
1	PaaS Virtual Private Server (VPS) BMIQMSDEV	INV-VPS-SVR-1-4- Windows-Youngstown North	150.00	150.00
1	PaaS Virtual Private Server (VPS) Boardman Molded Products - BMTS1	INV-VPS-SVR-4-16- Windows-Youngstown North	275.00	275.00
1	PaaS Virtual Private Server (VPS) Boardman Molded Products - BMDC2	INV-VPS-SVR-1-4- Windows-Youngstown North	150.00	150.00
1	PaaS Virtual Private Server (VPS) Boardman Molded Products - BMSQL1	INV-VPS-SVR-2-8- Windows-Youngstown North	180.00	180.00
1	PaaS Virtual Private Server (VPS) Boardman Molded Products - BMDC1	INV-VPS-SVR-1-4- Windows-Youngstown North	110.00	110.00
1	PaaS Virtual Private Server (VPS) Boardman Molded Products - BMTS2	INV-VPS-SVR-2-8- Windows-Youngstown North	200.00	200.00
6	Managed Server	INV-MNG-SRV- Compliant-Full- Youngstown North	150.00	900.00
1,150	STaaS Multi-Tenant NL-SAS with Fast Cache Storage per GB	INV-SST-NLS- Youngstown North	0.15	172.50
640	STaaS Multi-Tenant SAS Storage per GB	INV-SST-SAS- Youngstown North	0.30	192.00
1,790	BaaS Avamar Backup per GB	INV-AVR-BKP-30- Youngstown North	0.45	805.50
28	PaaS VPS Additional GB RAM	INV-VPS-RAM- Youngstown North	11.00	308.00

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SERVICE ORDER



65	SPLA - Windows Remote Desktop (RDP) SAL	INV-SPLA-RDP-Youngstown North	4.50	292.50
5	10/100/1000 Ethernet Network Port	INV-PORT-ETH-Youngstown North	50.00	250.00
1	Managed WAN	INV-MNG-WAN-Youngstown North	20.00	20.00
1	Managed Firewall	INV-MNG-FW-Compliant-Outbound Traffic Only-Youngstown North	20.00	20.00
1	ION Shared Firewall	INV-INT-SFW-Youngstown North	55.00	55.00
1	Fiber Pair Cross Connect	INV-XCON-FP-Youngstown North	100.00	100.00
1	ION Circuits	INV-MTE-Type 2-Youngstown North	880.00	880.00
Agreement US				
35	Enhanced User Onsite Service Desk	INV-SPD-ENP-Youngstown North	40.00	1,400.00
1	ION Circuits	INV-MTE-Type 2-Youngstown North	885.00	885.00
10	ION High Availability Internet per Mbps	INV-INT-Youngstown North	15.00	150.00
1	ION Managed Telco Circuit	INV-MGC-MTCO-Youngstown North	50.00	50.00
2	Managed Switch/Router	INV-MNG-SW-Youngstown North	20.00	40.00
1	Managed Firewall	INV-MNG-FW-Compliant-Full-Youngstown North	50.00	50.00
Agreement Mexico				
1	ION Circuits	INV-MTE-Type 2-Youngstown North	2,400.00	2,400.00
10	ION High Availability Internet per Mbps	INV-INT-Youngstown North	10.00	100.00
1	ION Managed Telco Circuit	INV-MGC-MTCO-Youngstown North	50.00	50.00
2	Managed Switch/Router	INV-MNG-SW-Youngstown North	20.00	40.00
1	Managed Firewall	INV-MNG-FW-Compliant-Full-Youngstown North	50.00	50.00
40	Enhanced User Service Desk	INV-SPD-ENH-Youngstown North	18.00	720.00

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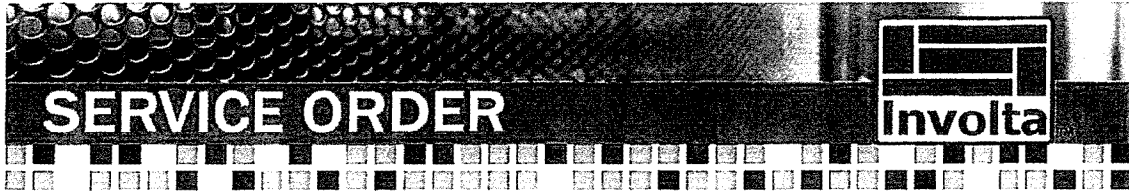
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Monthly
Recurring
Charges 10,995.50

QTY	Product Name	Product Code	UNIT PRICE	EXT PRICE
			Non- Recurring Charges	0.00

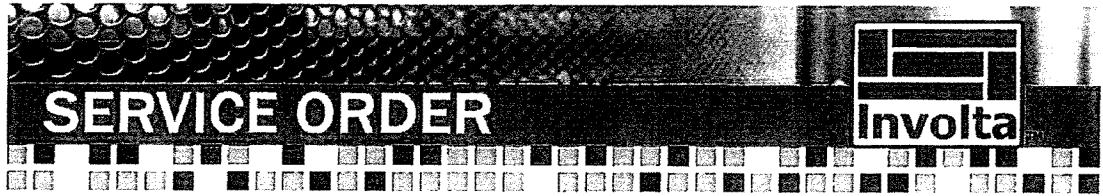
USAGE CHARGES ABOVE COMMITTED AMOUNT:

FURTHER DESCRIPTION OF SERVICES LISTED ABOVE:

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SUPPLEMENTAL SERVICES:

Involta will provide services outside the scope of this Service Order on a time plus materials and expenses basis, when requested and authorized by the Authorized Client Representative. For all work performed outside the scope of this Service Order, Involta shall prepare and submit invoices to Client on the 15th and last business day of each month. Fee schedule will be based on the then current Involta IT Services Rate Card ("Standard Rates") plus travel expenses (if services are provided other than inside the data center) and any applicable sales tax. Standard Rates are from 8:00AM to 5:00PM local time. Fee schedule for nights and weekends are 1.5 times Standard Rates and holidays are 2 times Standard Rates.

Travel expenses are billed at actual cost and mileage at the current IRS rate, portal to portal. Travel expenses include applicable lodging, meals, airfare, and car rental.

PAYMENT TERMS:

Client shall pay all Monthly Recurring Charges monthly in advance, within *fifteen (15)* days after the date on each invoice. Client shall pay all other fees and charges within *fifteen (15)* days after the date on each invoice. All taxes and governmental fees and charges, if applicable, are not included in the above referenced pricing.

TERM and TERMINATION POLICY:

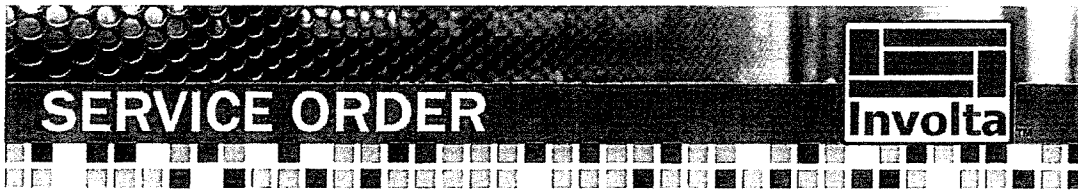
Start Date: When services are provisioned from Involta or no later than 6/1/2017

This Service Order is effective as of the Start Date and, unless terminated earlier as provided in this Service Order, will continue for an initial term of 36 months (the "Initial Term"). Thereafter, unless terminated earlier as provided herein, this Service Order will continue on a month-to-month basis at Involta's then current list price, rates and fees, available upon request (each a "Renewal Term," and each of Initial Term and Renewal Term is a "Term"). Either party may terminate this Service Order at the end of the Initial Term by providing written notice to the other at least ninety (90) days prior to the end of the Initial Term. Either party may terminate this Service Order at the end of any Renewal Term by providing written notice to the other at least thirty (30) days prior to the end of any Renewal Term. This Service Order may be terminated for Cause, but not for convenience, by either party upon giving notice of termination in writing to the other party at least ninety (90) days in advance of termination. "Cause" means any material breach which remains uncured for a period of thirty (30) days following written notice describing the material breach. In the event Client terminates this Service Order for any reason other than for Cause, Client is responsible for payment of fees for the duration of the term stated above. If Involta terminates this Service Order without Cause, Involta will refund any pre-paid monies on a pro-rated basis for services not rendered. If either party is in default of payment or breach of Agreement as provided in the MSA, then the provisions of the MSA will apply.

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TERMS & CONDITIONS:

This Service Order is incorporated into and made a part of the MSA referenced above and any TC Schedule applicable to the Services listed above.

The provisions of each of the Service Descriptions attached as an Exhibit or Exhibits to this Service Order or, in the event no such Exhibit, or Exhibits, is attached, then as found at <http://sd.involta.com> , which, in either case, are incorporated here by this reference.

CONFIDENTIALITY:

Client agrees that this Service Order, including without limitation the description of services and the pricing, is the sole and exclusive property of Involta, and shall treat them on a confidential basis and not disclose the same to any third party.

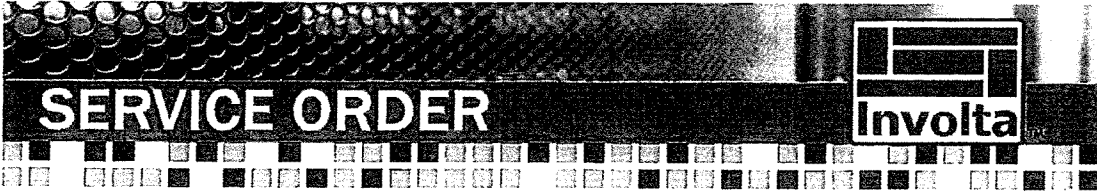
ACCEPTANCE:

Each of the undersigned represents that the undersigned has:

- read and understands this Service Order and has full power and authority to sign it;
- agrees and acknowledges that this Service Order is incorporated into the MSA; and,
- signed this Service Order effective as of 4/17/2017

Customer (legal name): Boardman Molded Products	Involta, LLC
Individual signing: <i>Daniel Kessick</i>	Individual signing:
Signature: <i>[Handwritten Signature]</i>	Signature:
Title: <i>VP</i>	Title:
Signing date: <i>5/11/17</i>	Signing date:

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Purchase Order #:	
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