

South Bay Cities Council of Governments

November 21, 2019

TO: SBCCOG Board of Directors

FROM: Jacki Bacharach, SBCCOG Executive Director
Chandler Shields, SBCCOG Staff

SUBJECT: I.T. Managed Service Provider for SBCCOG

Adherence to Strategic Plan:

Goal D: Organizational Stability. Be a high performing organization with a clear path to long-term financial health, staffing continuity, and sustained board commitment.

BACKGROUND

SBCCOG's contract with its current I.T. managed services provider, SugarShot, concludes on January 31, 2020. These services maintain an operational and secure office I.T. environment while troubleshooting software and device issues for staff. The term of the agreement was three years, at a monthly rate of \$2,445.00. Prior to this agreement, SugarShot (then CSG) transitioned SBCCOG's I.T. system databases into the cloud (Microsoft Office 365) in 2016.

SBCCOG staff has also identified two enhancements needed in addition to the current suite of services provided by SugarShot: 1) reinforced email security in consideration of recent fraudulent emails in our system, and 2) file back-up in the cloud beyond the existing Microsoft servers to ensure the safety of the organization's digital assets and records.

ANALYSIS

SBCCOG staff researched vendors for a new contract term that supports the Microsoft Office 365 environment with the additional needed enhancements. SugarShot, along with 2 other vendors submitted the attached proposals—Prosum (current client list and references include cities of Hermosa Beach, El Segundo, Palos Verdes Estates, and Rancho Palos Verdes, Beach Cities Health Districts, and West Basin MWD) and SHARP (current client list and references include Kola 99.9, JVS SoCal (non-profit), PKL Services, Inc., and Pauma Band of Mission Indians (government agency)). It is important to note that the SBCCOG's I.T. service needs are on par with those of a small business or non-profit.

To provide comparative proposals, SBCCOG staff requested costs that cover current staffing needs and devices in the following categories: managed user and device support (Help Desk); security/performance monitoring and I.T. network support; and file back-up. Rates are based on the number of users and devices. Below is a summary of the total costs by vendor:

Firm	Monthly Rate	One-Time Costs
SugarShot*	\$ 3,158.00	\$ 499.00
Prosum	\$ 2,890.00	\$ 5,000.00
SHARP	\$ 1,001.00**	\$ 2,640.00

**Note: SugarShot's proposal includes three separate month costs which have been totaled. Since SugarShot is SBCCOG's current vendor, they will not charge for on-boarding/transition but require a one-time cost to set up file back-up.*

*** Note: SHARP's monthly rate in the quote is listed at \$1,319.75 which allows for future staff growth. In conjunction with SHARP the amount has been reduced by \$318.75 for comparisons with other vendors.*

There are additional taxes and fees for each vendor based on various as needed services such as onboarding new employees, on-site trouble shooting, and implementation of new software solution. These costs are not included in the table above as they are potential future services and the specifics are unknown at this time. SBCCOG staff is proposing a cushion of \$4,000.00 for these services.

SHARP's service package is comparable and related costs are significantly less. SHARP was purchased by Foxconn (company that assembles iPhones) in 2016. In 2018, after the acquisition of Pink Hat, they enhanced their managed I.T. services within their industry portfolio (in addition to making screens, displays, printer/copiers, etc.). Leveraging the resources from Foxconn, they have become a serious cost competitor in the I.T. managed services market. SBCCOG checked all of SHARP's references and they provided positive feedback regarding customer service, software/hardware expertise, and problem solving. JVS SoCal, a workforce development non-profit that collaborates with SBWIB, has contracted with SHARP's I.T. managed services and originally worked with Pink Hat for several years before its 2018 acquisition. JVS is currently expanding the scope of SHARP's services to more than 125 employees.

SBCCOG staff is recommending SHARP because the vendor is capable of supporting the organization's modest operation as well as potential for growth. Their cost proposal is within the approved 2019-2020 SBCCOG Budget. With their competency being comparable to the other vendors at a significantly lesser cost, staff believes that SHARP is the best solution for SBCCOG's I.T. managed service.

RECOMMENDATION

Recommend Board approval the following in a total amount not to exceed \$42,676:

- 3-year agreement with SHARP not to exceed a monthly rate of \$1,001.00
- Budget for on-boarding/transition with SHARP in an amount not to exceed \$2,640.00
- Contingency for potential needed services through 2023 in an amount not to exceed \$4,000.00
- Future years' staff growth will be handled through the annual budget process



South Bay Environmental Services Center Managed Network Services Proposal

Prepared By:
Derbie Anton, Sharp Business Systems of Southern California

Proposal Date: 11/5/2019
Contract Effective Date: 12/1/2019

Prepared For

Chandler Shields
 South Bay Environmental Services Center
 20285 S Western Ave Ste 100
 Torrance, California 90501
 (714) 540-9737

Effective Date:
12/1/2019

Contract Length
3 Year

Prepared By

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 4 Hutton Centre, Suite 590
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Schedule #1

#	Item Type	Item #	Description	Qty.	Billing	Price	Extended Price
1	Desktop Services	MNS-DMSD-BH	Desktop Management with Business Hour Help Desk (Business Hour Helpdesk, Microsoft Patching, Endpoint Protection License and Management, Monthly Report)	12	Monthly	\$ 45.00	\$ 540.00
2	Desktop Services	MNS-DM	Desktop Management (Microsoft Patching, Endpoint Protection License and Management, Monthly Report)	7	Monthly	\$ 13.00	\$ 91.00
3	Other Monthly Services	O365BE	Office 365 Business Essentials	14	Monthly	\$ 5.00	\$ 70.00
4	Other Monthly Services	O365BP	Office 365 Business Premium	14	Monthly	\$ 12.50	\$ 175.00
5	Other Monthly Services	BEC	Barracuda Essentials Complete	20	Monthly	\$ 6.25	\$ 125.00
6	Project Labor	Labor	Professional Services	16	One Time	\$ 165.00	\$ 2,640.00
7							
8							
9							
10							
						Total Per Hour Price	\$ -
						Total Monthly Price	\$ 1,001.00
						Total Annual Price	\$ -
						Total One Time Price	\$ 2,640.00

Comments

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Customer Authorizing Signature

Date

Sharp Authorizing Signature

Date

We offer onsite technical support between 8:00AM and 5:00PM on standard work days at a rate of \$165 per hour plus a travel fee of \$50 will apply for each incident.

Statement of Work

Desktop Management with Business Hour Help Desk

1. Microsoft Patch Management

Research and test patches released from Microsoft. Each patch is installed in a test environment to see if there are any performance problems. The patches that are approved are then whitelisted.

2. 3rd Party Patching

In addition to Microsoft patches, management of the patches for the software below is included.

Adobe Acrobat, AIR, Flash, Reader, Shockwave, Apple iTunes, QuickTime, Mozilla Firefox, Java Development Kit, Runtime Environment

3. Endpoint Protection (Anti-Virus and Anti-malware) Software Management

Anti-Virus/anti-malware software is included, which protects machines against viruses and attacks, as well as malware, rootkits and unwanted spyware.

The maintenance of this application is included, including correcting corrupted installations and identification of endpoints with disabled protection.

4. Endpoint Protection (Anti-Virus and Anti-malware) Definitions

The endpoint protection is kept up to date with definitions to keep the software up to date and catch infections.

5. Executive Reports

Reports for (3) months at a time are provided on a quarterly basis during the Quarterly Business Review.

6. Asset & Inventory Reports

Track desktop hardware and software to easily identify what machines are out of warranty. Also provides ability to track software changes if users install rogue software. This is provided quarterly during the Quarterly Business Review.

7. Remote Problem Resolution/ Remote Control Access

Remote access is available for a technician to remote in to work on the issue at the billable rate.

Remote Access can be given to specified users.

8. Desktop Performance Monitoring

Monitoring of the hard drive, CPU, and RAM

9. Help Desk for Business Hour (8am-6pm)

Service Desk will take calls from end users on issues with their desktops and most popular desktop and software applications.

Support Windows and MAC OS, as well as do limited mobile Support. Mobile Support from the Service Desk will be for e-mail applications, troubleshoot or help configure to device. Basic administrative tasks such as add/delete/modify users.

(See the detail of coverage in the section of Service Desk Service Level)

Statement of Work (Continued)

Desktop Management - No Help Desk support included

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Statement of Work (Continued)

BARRACUDA ESSENTIALS COMPLETE DESCRIPTION

- * Cloud-to-cloud Office 365 backups, including Exchange, OneDrive, SharePoint, and Groups
- * Email filtering and Advance Email Threat Protection, including content filtering, virus scanning, spam scoring, real-time intent analysis, URL link protection, reputation checks, and Barracuda Central 24x7 threat operations center
- * Email archiving & encryption

Statement of Work (Continued)

- Remove current Agents from all covered PC's and Servers
- Remove Anti-Virus from all covered PC's and Servers
- Install all Agents to all covered PC's and Servers
- Install Webroot Anti-Virus to all covered PC's and Servers
- Install Malwarebytes to all covered PC's and Servers
- Install LogMeIn Pro to all covered PC's and Servers
- Setup Windows Patch and Update Schedule According to clients' needs
- Move management of O365 portal from previous provider to Sharp
- Deploy Barracuda solution
- Address security policies
- Perform any additional changes required to provide support
- Train users in support procedures

Statement of Work (Continued)

Scope of Services for Service Desk

- Supported Software and Hardware
- Supported Services
- Additional Services
- Scope Limitations
- Processing Client Requests

Service Level Options

Service Desk offers 24 x 7 support 365 days per year including holidays. Service Desk support hours will vary based on the service level you choose. All service levels are offered on a per Customer basis.

Service Level	Hours
Business Hours	8:00 am to 6:00 pm
After Hours Only	5:00 pm to 9:00 pm
24 x 7 Coverage	24 Hours

1. Service Desk is available for sites that are using Elite Server Care.
2. All hours are based on your client's local time zone.
3. Business Hours are available to North American-based partners only. All other international partners may only select 24 x 7 Coverage.
4. 24 x 7 Coverage is for single shift workers who need extra support during off hours such as nights, weekends, and holidays. 24 x 7 Coverage is per end-client and does not apply to use of a single machine shared by multiple shifts.

Contacting the Service Desk

Chat: Icon in the System Tray by the time

Client Toll-Free Telephone Number: 1-866-520-6414

Email: MNSSupport@SharpUSA.com

Statement of Work (Continued)

Supported Software and Hardware

Service Desk supports numerous commonly used desktop software products, many of which are listed below. As discussed later, Service Desk also offers more limited support for line of business and proprietary applications. Service Desk fully supports desktops, laptops, thin clients, and printers, and provides more limited support for tablets, smart phones, and local networks.

Desktop Operating Systems

- Microsoft Windows 7
- Microsoft Windows 8 & 8.1
- Microsoft Windows 10
- Mac OS X 10.8 (Mountain Lion)
- Mac OS X 10.9 (Mavericks)
- Mac OS X 10.10 (Yosemite)
- Mac OS X 10.11 (El Capitan)
- MacOS 10.12 (Sierra)

Desktop Applications

- Microsoft Office 2010
 - Microsoft Office 2013
 - Microsoft Office 2016
 - *Includes Word, Excel, Powerpoint, Access
 - Microsoft Outlook 2010/2013
 - Microsoft Windows Mail App
 - Microsoft Office 365
 - Google Apps
- 0

Browsers

- Internet Explorer 7 and above
- Mozilla Firefox
- Google Chrome
- Safari

Thin Client and Virtual Desktop Interface (VDI) Support

- Citrix
- Microsoft Terminal Server

Statement of Work (Continued)

Supported Services

Service Desk responds to a wide range of end-user requests. Although our Service Desk supports new user and equipment set-ups as well as other desktop projects, our first priority is to resolve high priority incidents that impede an existing client's ability to work. Therefore, we divide our services into two primary categories – Real-Time and Desktop Project Requests.

Real-Time Requests

Real-time requests include high priority problem resolution as well as common administrative tasks and client inquiries. These requests are handled immediately by Service Desk technicians and worked to resolution. Because there are so many types of Real-Time Requests, it is useful to organize them into three categories: (1) High Priority Problems, (2) Administrative Tasks, and (3) Application Support.

(1) High Priority Problems

High priority problems severely impede a client's ability to work. In some cases, multiple users may be affected. Examples include:

- **Email or application crashed or not functioning properly**
- **Printing issues**
- **Database connectivity issues**
- **File and folder access problems**
- **General hardware failures**
- **Computer performance problems**
- **Virus and malware infections***
- **Network connectivity failures****

In certain cases, we may recommend performing the work at night so that the client and their workstation is not tied up during business hours. For example, if the client is experiencing moderate performance problems or has a minor virus or malware problem, we will coordinate with the client to schedule the diagnosis and remediation after working hours. When difficult server-related problems are identified, the Service Desk will engage with NOC which specializes in server troubleshooting and remediation.

* The Service Desk will scan and remove viruses/malware from individual workstations. Where a more widespread infection exists, the Field Technician may need to visit to resolve the problem. Note that sites with network infections often require workstations to be physically disconnected from the network to prevent re-infection during clean-up, in which case the NOC's ability to assist is constrained.

** The Service Desk is prepared to resolve limited network problems. The Service Desk will attempt to isolate a network problem and direct the client to power-cycle attached devices such as a local router as necessary. The Service Desk does not change network configurations, nor does it provide support for troubleshooting or power-cycling network gear found in server rooms or data centers.

Statement of Work (Continued)

(2) Administrative Tasks

The Service Desk responds immediately to Administrative Tasks such as those listed below. As described under Project Requests, more complex administrative tasks such as new workstation setups are not performed real time. Administrative tasks include:

- Single user account and group creation
- Mailbox and distribution list creation
- Password resets and unlocking of domain accounts
- File/folder permission changes
- Microsoft Outlook profile set-ups
- Mobile device email setup and configuration, and email, contact and calendar sync troubleshooting
- File and Folder Restores - Microsoft Shadow Copy and VERITAS/Symantec Backup Exec 8.0 and above only

(3) Application Support

Application Support includes Common Desktop Applications and Line of Business and Proprietary Applications. All Service Desk technicians are fully trained in Common Desktop Applications, however, they are generally not familiar with Line of Business and Proprietary Applications. Therefore, we approach support for each of these differently.

(3.1) Common Desktop Applications

Common Desktop Applications are listed in Supported Software and Hardware. The Service Desk provides in-depth troubleshooting and assistance for these applications and draws on a wide range of resources to ensure comprehensive support including use of our Knowledgebase, partner Notes, and web searches. Although the Service Desk does not provide end-user training, technicians will assist users with simple application questions such as how to print from a specific application or add a signature block to an email.

(3.2) Line of Business and Proprietary Applications

Line of Business and proprietary applications are supported using our Knowledge Base as well as partner Notes. Our Knowledge Base contains an extensive repository of knowledge articles for Level 1 and limited Level 2 support for numerous third-party applications such as QuickBooks. Technicians do not search the web or call or ticket third-party vendors.

Statement of Work (Continued)

Desktop Project Request

Desktop Project Requests are those requests which can be anticipated and thus scheduled in advance and require extended time, generally 20 minutes or more, to address. Project requests will be performed after hours when the client is not using their workstation. We will make best efforts to complete project requests no later than 6:00 a.m. of the client's local time zone on the day following the request, but in any event, no more than 24 hours from the time of request. Examples of project requests include:

- New computer set-ups and configurations
- Network printer set-ups requiring configuration of the printer and multiple end-user workstations
- New user set-ups involving multiple application installations
- User terminations involving more than two password disables and/or multiple software removals or any email archiving or transfers
- Complex desktop software installations
- Any request involving 3 – 5 workstations, e.g., installing software across multiple workstations, configuring multiple workstations for a new network printer*

* Requests involving more than 5 workstations are beyond the Service Desk scope and it requires additional project work and fee to fulfill these requests as desired.

When a client calls the Service Desk for a Project Request, the Service Desk will collect the necessary information, create a ticket and assign it to the NOC. To complete the project, the workstations must remain on and connected to the client's network throughout the night. Additionally, the necessary credentials need to be informed before the work.

Scope Limitations

Service Desk delivers a wide range of service to your clients and is committed to delivering superior service at all times. To ensure that our technicians are able to provide fast, effective service, there are a few services that we do not provide which are important to keep in mind.

- Support for PCs without an agent (other than thin client and VDI environments)
 - If a client calling from home has a work workstation with an agent, the Service Desk will assist with work connectivity problems (for example, a VPN connection), but does not support any other home PC issues.
- Network Device Management/Configuration (Firewalls, Routers, Switches, etc.)
- Hardware-related issues (Hard Disk, Memory, Power Supply, etc.); all hardware and/or equipment failures or related issues are not covered by Service Desk. It may be covered by manufacture warranty or require additional cost.
- For all hardware that is covered by a manufacturer's warranty, it will be the sole responsibility of the customer to contact the provider for break/fix resolution. In the event that a technician is dispatched for onsite service and the hardware is found to be covered by a manufacturer's warranty, appropriate fees for the technician's travel and service will apply. Regardless of warranty status, there will be no additional charge if the problem can be fixed remotely by the Helpdesk.
- ISP outages
- Hardware/Software/ISP vendor ticketing and management
- Application "How To" training
- Any request involving more than 5 workstations

Statement of Work (Continued)

Processing Client Requests

Chat & Telephone

Chats and calls are answered in the order in which they are received. If all technicians are busy the caller will be placed on hold in the call queue and will be transferred to a technician as soon as one becomes available.

The Service Desk will create or update a ticket for each call received, whether the issue is in or out of scope. For requests in scope, the Service Desk technician will attempt to work the issue to resolution. If there is a need for further investigation, the Service Desk will follow up with the caller once the investigation has been completed. When additional support is needed or the call is for a Project Request, the Service Desk will assign the ticket to the appropriate resource.

Emails

The Service Desk can receive service requests via email and will create tickets for new requests. Emails are processed in the order received, however, they should be limited to low priority issues as there can be up to a twenty-four hour response time.

For those requests requiring client interaction, a technician will contact the client within six hours of email receipt. For Desktop Project Requests and other requests that can be completed without client interaction, the email will be acknowledged within six hours. Desktop Project Requests will be completed by the next morning or within 24 hours as discussed above.

For email requests to be processed, the following information must be included in the body of the email:

- Requester's full name
- Client company name
- Call-back number(s)
- Detailed description of the issue

If this information is not in the email request such that the client cannot be determined from the return address, the Service Desk will be unable to create a ticket or contact the client so no further action can be taken.

Tickets

For Tickets created by Client, it is important to understand that no matter what priority is set, all tickets are handled in the order received.

Incoming tickets will be placed in the Service Desk ticket queue and the client will be contacted within six hours.

Statement of Work (Continued)

Client Call-Backs and Other Service Desk Outreach

The Client Contact Table describes when and how the Service Desk will proactively reach out to your clients and how no-contact situations will be handled. Outbound calls placed from the Service Desk will have a Caller ID of 866-520-6414 and will display “Technical Support”. If there is no answer, the technician will leave a voicemail asking for the client to call the Service Desk at 866-520-6414.

Client Contact Table	
Scenario	Service Desk Actions
<p>Service Desk needs to reach client to initiate work on an email or ticket, or</p> <p>Service Desk began work on a call, but needed to conduct further research offline and is now ready to re-start work</p>	<ul style="list-style-type: none"> • Make 2 call attempts within 3 days using up to 2 available numbers per attempt (office, mobile) – voice messages are left • If client doesn’t respond, Service Desk sends an email to client "We tried to reach you" and will not call back client further
<p>Service Desk completes work without client on phone (e.g., an email or Project Request)</p>	<ul style="list-style-type: none"> • Service Desk emails the client indicating the work is complete and invites reply or call back if the client is not fully satisfied • If no further client contact within 2 – 3 days, Service Desk will not contact the client further
<p>Service Desk is unable to complete scheduled work (e.g., AV scan scheduled after hours, Desktop Project Requests)</p> <p>NOTE: Occurs, for example, when workstations are not online and connected to the network or credentials are missing or invalid</p>	<ul style="list-style-type: none"> • Service Desk emails the client informing them of the problem and indicating they will try again the following night • If the second attempt is unsuccessful, Service Desk will not contact the client further
<p>Client stops work during a call with a Service Desk Technician (e.g., they must go to a meeting)</p>	<ul style="list-style-type: none"> • If the technician can continue to work the ticket without the client on the phone, they will do so • Otherwise, no further action will be taken unless the client calls back • If no call-back is received within 3 days, Service Desk will not contact the client further

Master Client Services Agreement

Sharp Business Systems

This Master Client Services Agreement (this "Agreement") is between Sharp Electronics Corporation, a New York corporation, doing business as Sharp Business Systems, that maintains an office at 4 Hutton Centre, Suite 590 Santa Ana, CA 92707 ("Company"), and South Bay Environmental Services Center, a JPIA that maintains an office for business at 20285 S Western Ave Ste 100 Torrance, California 90501 ("Client"). The Agreement shall be effective as of the latest date of the signatures of the parties below ("Effective Date"). The parties agree as follows:

- 1) **SCOPE OF SERVICES.** Company agrees to assist Client with information technology and hosting services as set forth in Schedule 1, and as set forth in one or more applicable statements of work (each, a "Statement of Work") that may be executed from time-to-time by both parties under this Agreement (collectively, the "Services"). To be effective, each Statement of Work (if any) shall reference this Agreement and, when executed by both parties, shall automatically be deemed a part of, and governed by the terms of, this Agreement. Each Statement of Work is enforceable according to the terms and conditions contained therein, and in the event of a direct conflict between the language of this Agreement and any Statement of Work, the language of the Statement of Work shall control, but only with respect to that particular Statement of Work. Company shall perform all Services in accordance with the relevant standard practices for the managed service provider industry, as well as those service levels explicitly described in any relevant Statement of Work.
- 2) **PAYMENT.** Unless otherwise stated in a statement of work, Payment is due within ten (10) calendar days from the date Client receives an invoice for Services from Company. For prepaid fees or fees paid pursuant to a service plan, payment must be made in advance of work performed, unless other arrangements are agreed upon in Schedule 1 or a relevant Statement of Work. Late payments shall be subject to interest on the unpaid invoice amount(s) until and including the date payment is received, at the lower of either 1.5% per month or the maximum allowable rate of interest permitted by applicable law. Client shall be liable for all reasonable attorneys' fees as well as costs incurred in collection of past due balances including but not limited to collection fees, filing fees and court costs. TIME IS OF THE ESSENCE IN THE PERFORMANCE OF ALL PAYMENT OBLIGATIONS BY CLIENT.
- 3) **AUTHORIZED CONTACT PERSON.** Client shall designate one or more authorized contact person(s) (each, an Authorized Contact") with whom Company will conduct Service-related communications. Client's initial Authorized Contact(s) is/are: Chandler, Brooke Likewise, Client may designate one or more Authorized Contact(s) with respect to individual Statements of Work. Each Authorized Contact shall be a point of contact for Company, and shall be authorized to provide, modify and approve on Client's behalf, work direction, Statements of Work, and Change Orders. Client understands and agrees that Company shall be permitted to act upon the direction and apparent authority of each Authorized Contact, unless and until Company receives written notice from Client (as described below) that an Authorized Contact is no longer authorized to act on Client's behalf. If during the Term of this Agreement, Client wishes to add or remove an Authorized Contact, or modify an Authorized Contact's information or authority, Client must notify Company in writing of the change(s) including (in the event of the addition of an Authorized Contact) the Authorized Contact's name, address, email address and telephone number.
- 4) **ACCESS TO PREMISES:** To the extent that Services are performed on Client's premises ("Premises"), Client hereby grants to Company the right of ingress and egress over the Premises and further grants Company a license to provide the Services described in any Statement of Work within the Premises. To the extent that Services are provided to Client on property other than the Premises, it shall be Client's responsibility to secure, at Client's own cost, prior to the commencement of any Services, any necessary rights of entry, licenses, permits or other permission necessary for Company to provide Services at such location(s). Client shall provide Company with any passwords or keys (virtual or otherwise) that Company requires in order to provide the Services to Client. Company shall not be liable for delay in performance or nonperformance of any term or condition of this Agreement directly or indirectly resulting from Client's denial to Company of full and free access to Client's systems and components thereof, or Client's denial to Company of full and free access to Client's personnel or Premises pursuant to this Agreement.
- 5) **WARRANTIES; LIMITATIONS OF LIABILITY**
 - a) Any third party products provided to Client pursuant to this Agreement, including but not limited to third party hardware, software, peripherals and accessories (collectively, "Third Party Products") shall be provided to Client "as is". Company shall use reasonable efforts to assign all warranties (if any) for the Third Party Products to Client, but will have no liability whatsoever for such third party products. All Third Party Products are provided WITHOUT ANY WARRANTY WHATSOEVER as between Company and Client, and Company shall not be held liable as an insurer or guarantor of the
 - b) Company assumes no liability for failure of equipment or software or any losses resulting from such failure.
 - c) Client warrants and represents that it shall not use any systems or processes made available by Company to Client for any purposes or activities that violate the laws of any jurisdiction, including the sending of unsolicited, bulk commercial email (i.e., SPAM).
 - d) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR LOST REVENUE, LOSS OF PROFITS, SAVINGS, OR OTHER ECONOMIC LOSS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ANY STATEMENT OF WORK(S) OR ANY SERVICES PERFORMED OR PARTS SUPPLIED HEREUNDER, ANY LOSS OR INTERRUPTION OF DATA, TECHNOLOGY OR SERVICES, OR FOR ANY BREACH HEREOF OR FOR ANY DAMAGES CAUSED BY DELAY IN FURNISHING SERVICES UNDER THIS AGREEMENT OR ANY STATEMENT(S) OF WORK EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER FOR DAMAGES FROM ANY AND ALL CAUSES WHATSOEVER AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR NEGLIGENCE, SHALL BE LIMITED TO THE AMOUNT OF THE AGGRIEVED PARTY'S ACTUAL DIRECT DAMAGES NOT TO EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO COMPANY FOR THE SERVICES DURING THE THREE (3) MONTHS IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CAUSE OF ACTION ACCRUED. IT IS UNDERSTOOD AND AGREED THAT THE COSTS OF HARDWARE OR SOFTWARE (IF ANY) PROVIDED TO CLIENT UNDER THIS AGREEMENT SHALL NOT BE INCLUDED IN THE CALCULATION OF THE
- 6) **INDEMNIFICATION.** Each party (an "Indemnifying Party") hereby agrees to indemnify, defend and hold the other party (an "Indemnified Party") harmless from and against any and all loss, damage, cost, expense or liability, including reasonable attorneys' fees, (collectively, "Damages") that arise from, or are related to the grossly negligent acts or omissions, or intentional wrongful misconduct, of the Indemnifying Party and/or the Indemnifying Party's employees or subcontractors, and from any Damages arising from or related to the Indemnifying Party's uncured, material breach of this Agreement. The Indemnifying Party further agrees to indemnify, defend, save and hold harmless the Indemnified Party, its offices, agents and employees, from all Damages arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property or other work in connection with the performance of the Services; provided however, that such Damages are the direct result of the Indemnifying Party's actions and not due to the Indemnified Party's fault, in whole
- 7) **COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY.** Each party (a "Creating Party") owns and retains all intellectual property rights in and to all of the Creating Party's works of authorship, including but not limited to all plans, software or software modifications developed by the Creating Party, and all modules derived or created from such materials (collectively, "Creating Party's IP"). The Creating Party's IP may not be distributed or sold in any form or manner without the express written consent of the Creating Party. During the term of this Agreement, Client may use and modify any intellectual property provided to Client by Company pursuant to this Agreement, provided that such modifications (i) do not result in or cause the infringement of any intellectual property rights of any third party, (ii) do not require Client to reverse engineer Company's intellectual property, and (iii) do not negatively impact the security or integrity of any of Company's equipment, or the integrity or implementation of the Services. Each party's limited right to use the other party's intellectual property as described herein automatically terminates upon the termination of this Agreement.
- 8) **TERM AND TERMINATION**
 - a) **Term.** This Agreement shall remain in effect for a period thirty six (36) months beginning on the Effective Date, and shall at its expiration and the expiration of any renewal term, automatically renew for an additional twelve (12) months at then current rates unless either party gives written notice to terminate not less than sixty (60) but not more than one hundred and eighty (180) days prior to the expiration of any term then in effect.
 - b) **Consent.** The parties may mutually consent, in writing, to terminate this Agreement or any Statement of Work at any time.
 - c) **Default.** In the event that one party (a "Defaulting Party") commits a material breach of this Agreement or a Statement of Work, the non-Defaulting Party shall have the right, but not the obligation, to terminate immediately this Agreement or the relevant Statement of Work provided that (i) the non-Defaulting Party has notified the Defaulting Party of the specific details of the breach in writing, and (ii) the Defaulting Party has not cured the default within fifteen (15) days following receipt of written notice from the non-Defaulting Party.
 - d) **Equipment Removal.** Upon termination of this Agreement for any reason, Client shall provide Company with access, during normal business hours, to Client's premises (or any other locations at which Company-owned equipment is located) to enable Company to remove all Company-owned equipment from such premises (if any).
 - e) **Transition.** In the event this Agreement is terminated for any reason whatsoever, all Client data held by Company shall be returned to the Client in a commercially reasonable manner and time frame, not to exceed thirty (30) calendar days following the date of request of the return of such data by Client. In the event that Client requests Company's assistance to transition to a new service provider, Company shall do so provided that (i) all fees due and owing to Company under this Agreement are paid to Company in full prior to Company providing its assistance to Client, and (ii) Client agrees to pay Company its then-current hourly rate for such assistance, with upfront amounts to be paid to Company as agreed upon between the parties. Company shall have no obligation to store or maintain any Client data in Company's possession or control beyond thirty (30) calendar days following the termination of this Agreement. Company shall be held harmless for and indemnified by Client against any and all claims, costs, fees, or expenses incurred by either party that arise from, or are related to, Company's deletion of Client data beyond the time frames described in this Section.
 - f) **Impact.** Termination of a Statement of Work shall not act as a termination of any other Statement of Work or as a termination of this Agreement as a whole. Termination of this Agreement, however, shall act as a termination of all Statements of Work then pending, unless the parties agree otherwise in writing.
 - g) **No Liability:** Unless expressly stated in this Agreement, neither party shall be liable to the other party or any third party for any compensation, reimbursement, losses, expenses, costs or damages (collectively, "Damages") arising from or related to, directly or indirectly, the termination of this Agreement for any reason, or for Damages arising from or relating to Company's disclosure of information pursuant to any valid legal request to which Company is required to comply. This waiver of liability shall include, but shall not be limited to, the loss of actual or anticipated profits, anticipated or actual sales, and of expenditures, investments, or commitments in connection with such party's or any third party's goodwill or business.

Master Client Services Agreement

Sharp Business Systems

9) UPTIME; REMEDIES

- a) **Uptime** . Company shall use commercially reasonable efforts to ensure that the Services are available to Client on a 99% monthly average basis ("Uptime"), except during Scheduled Downtime (defined below), or due to client-side downtime (described below) or when outages or issues occur due to a force majeure event.
- b) **Scheduled Downtime** . For the purposes of this Agreement, Scheduled Downtime shall mean those hours, as determined by Company but which shall not occur between the hours of 8 AM and 6 PM Monday through Friday without Client's authorization or unless exigent circumstances exist, during which time Company shall perform scheduled maintenance or adjustments to its network. Company shall use commercially reasonable efforts to provide Client with at least forty-eight (48) hours of notice prior to scheduling Scheduled Downtime.
- c) **Client-Side Downtime** . Notwithstanding any provision to the contrary, Company shall not be responsible for any delays or deficiencies in the Services to the extent that such delays or deficiencies are caused by Client's action or omissions. In the event that such delays or deficiencies occur, Company shall be permitted to extend any relevant deadline as Company deems necessary to accommodate
- d) **Remedies; Limitations** . If Company fails to meet its Uptime commitment on ten (10) or more occasions over the course of a three (3) contiguous month period, Client shall have the right to terminate this Agreement for cause by providing Company with thirty (30) days written notice of termination, with no further liability to Company whatsoever. The remedies contained in this paragraph and those in Section 8(c) above, are in lieu of (and are to the exclusion of) any and all other remedies that might otherwise be available to Client for Company's failure to meet any service level during the
- e) **Exemption** . The parties acknowledge and agree that for the first thirty (30) days following the Effective Date, the Uptime commitment described in this Section shall not apply to Company, it being understood that there may be unanticipated downtime or delays due to Company's initial startup activities with Client.

10) MISCELLANEOUS

- a) **Assignment** . This Agreement or any Statement of Work may not be assigned or transferred by Company without the prior written consent of the Client, which shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, and permitted successors and assigns. Notwithstanding the foregoing, Company may assign its rights and obligations hereunder to a successor in ownership in connection with any merger, consolidation, or sale of substantially all of the assets of the business of a party, or any other transaction in which ownership of more than fifty percent (50%) of either party's voting securities is transferred; provided such assignee expressly assumes the assignor's obligations hereunder.
- b) **Amendment** . No amendment or modification of this Agreement or any Statement of Work (including any schedules or exhibits) shall be valid or binding upon the parties unless such amendment or modification specifically refers to this Agreement, is in writing, and is signed by one of the Designated Contacts of each party.
- c) **Time Limitations** . The parties mutually agree that any action for breach of or upon a matter arising out of this Agreement or any Statement of Work must be commenced within one (1) year after the cause of action accrues or the action is forever barred.
- d) **Severability** . If any provision hereof or any Statement of Work is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, illegibility or unenforceability so that the remainder of that provision and all remaining provisions of this Agreement or any Statement of Work shall be valid and enforceable to the fullest extent permitted by applicable law.
- e) **Other Terms** . Company shall not be bound by any terms or conditions printed on any purchase order, invoice, memorandum, or other written communication between the parties unless such terms or conditions are incorporated into a duly executed Statement of Work. In the event any provision contained in this Agreement is held to be unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement, and the Agreement shall be construed as if such an unenforceable provision or provisions had never been included in this Agreement.
- f) **No Waiver** . The failure of either party to enforce or insist upon compliance with any of the terms and conditions of this Agreement, the temporary or recurring waiver of any term or condition of this Agreement, or the granting of an extension of the time for performance, shall not constitute an Agreement to waive such terms with respect to any other occurrences.
- g) **Merger** . This Agreement, together with any Statement(s) of Work, sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings related to the Services, and no representation, promise, inducement or statement of intention has been made by either party which is not embodied herein. Any document that is not expressly and specifically incorporated into this Agreement or Statement of Work shall act only to provide illustrations or descriptions of Services to be provided, and shall not act to modify this Agreement or provide binding contractual language between the parties. Company shall not be bound by any agents' or employees' representations, promises or inducements not explicitly set forth herein.
- h) **Force Majeure** . Company shall not be liable to Client for delays or failures to perform its obligations under this Agreement or any Statement of Work because of circumstances beyond its reasonable control. Such circumstances include, but shall not be limited to, any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, disputes or differences with workmen, power failure, communications delays/outages, delays in transportation or deliveries of supplies or materials, acts of God, or any other events beyond the reasonable
- i) **Non-Solicitation** . Client acknowledges and agrees that during the term of this Agreement and for a period of one (1) year following the termination of this Agreement, Client will not, individually or in conjunction with others, directly or indirectly solicit, induce or influence any of Company's employees or subcontractors to discontinue or reduce the scope of their business relationship with Company, or recruit, solicit or otherwise influence any employee or agent of Company to discontinue such employment or agency relationship with Company. In the event that Client violates the terms of the restrictive covenants in this Section 10(i), the parties acknowledge and agree that the damages to Company would be difficult or impracticable to determine, and agree that in such event, as Company's sole and exclusive remedy therefore, Client shall pay Company as liquidated damages and not as a penalty an amount equal to fifty percent (50%) percent of that employee or
- j) **Insurance** . Company and Client shall each maintain, at their own expense, all insurance reasonably required in connection with this Agreement or any Statement of Work, including but not limited to, workers compensation and general liability with a limit not less than \$1,000,000 per occurrence. The required insurance coverage shall be issued by an insurance company duly authorized and licensed with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability B+ to A+.
- k) **Governing Law; Venue** . This Agreement and any Statement of Work shall be governed by, and construed according to, the laws of the State of New Jersey. Client hereby irrevocably consents to the exclusive jurisdiction and venue of the federal and state courts in Essex and Bergen Counties, in the State of New Jersey, for any and all claims and causes of action arising from or related to this Agreement. THE PARTIES AGREE THAT THEY WAIVE ANY RIGHT TO A TRIAL BY JURY for any and all claims and causes of action arising from or related to this Agreement.
- l) **No Third Party Beneficiaries** . The Parties have entered into this Agreement solely for their own benefit. They intend no third party to be able to rely upon or enforce this Agreement or any part of this Agreement.
- m) **Usage in Trade** . It is understood and agreed that no usage of trade or other regular practice or method of dealing between the Parties to this Agreement shall be used to modify, interpret, supplement, or alter in any manner the terms of this Agreement.
- n) **Business Day** . If any time period set forth in this Agreement expires on a day other than a business day in Bergen County, New Jersey, such period shall be extended to and through the next succeeding business day in Bergen County, New Jersey.
- o) **Notices** . Where notice is required to be provided to a party under this Agreement, such notice shall be deemed delivered upon receipt by the receiving party, or refusal of delivery, when deposited in the United States Mail, first class mail, certified or return receipt requested, postage prepaid, or one (1) day following delivery when sent by FedEx to the addresses set forth in the opening paragraph of this Agreement, or to such other address as the parties may designate from time to time.
- p) **Independent Contractor** . Each party is an independent contractor of the other, and neither is an employee, partner or joint venturer of the other.
- q) **Subcontractors** . Company may subcontract or delegate part or all of the Services to one or more third parties.
- r) **Counterparts** . The parties may execute and deliver this Agreement and any Statement of Work in any number of counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one agreement. Each party acknowledges and agrees that this Agreement is intended to be executed and transmitted to the other party via electronic means. Accordingly, a party may execute and deliver this Agreement (or any Statement of Work) electronically (e.g., by digital signature and/or electronic reproduction of a handwritten signature), and the receiving party shall be entitled to rely upon the apparent integrity and authenticity of such signature for all purposes.
- s) **Export** . Client will comply with applicable import, export control and economic sanction laws and regulations, including those of the United States, that prohibit or restrict the export, re-export, or transfer of products, technology, services or data, directly or indirectly, to certain sanctioned countries and users, and for certain prohibited end uses, including, but not limited to, nuclear facilities, space or missile systems, and weapons systems (whether chemical, biological, or otherwise). Client agrees to comply with all such laws, regulations, orders, and policies.

The terms and conditions of the **Master Client Services** apply in full to the services and products provided under the Statement of Work. **IN WITNESS THEREOF**, the parties hereto each acting with proper authority have executed this Statement of Work, under seal.

AGREED AND ACCEPTED

Date: _____
Sharp Business Systems
 By: _____
 Name: _____
 Position: _____

Date: _____
 Client: _____
 By: _____
 Name: _____
 Position: _____