

CLARITY ELECTION SUITE HOSTING AND SUPPORT AGREEMENT

This Clarity Election Suite Hosting Agreement ("Agreement") is made and entered by and between **Williamson County, Texas with offices located at 710 Main Street, Suite 101, Georgetown, TX 78626** (hereinafter "Customer") and **SOE Software Corporation**, a Florida corporation, having its principal place of business located at 5426 Bay Center Drive, Ste. 525, Tampa, Florida, 33609 (hereinafter "Licensor").

WHEREAS, Licensor grants Customer a nonexclusive license to use its Asset/Warehouse Management solution known as Clarity TRACKING, Online Help Desk and Issue Tracker known as SUPPORT (hereinafter the "Software") and the associated documentation. Licensor shall also absorb the continuing annual maintenance for the current implemented solution known as ONLINE TRAINING. The ongoing assurance listed in Exhibit A will cover all three solutions Tracking, Support and Online Training moving forward.

WHEREAS, Customer's use of the Software will be restricted to Licensor's hosted computer environment.

WHEREAS, Licensor will provide and maintain the hosted computer environment for Customer's use of the Software (the "Service").

WHEREAS, in addition to the maintenance and support services that are included in certain fees paid by Customer to Licensor, Customer may opt to acquire additional maintenance services for the Software and documentation in accordance with the terms and on the conditions set forth in this Agreement.

WHEREAS, Customer desires to receive a license for the Software and engage Licensor to provide the Service.

NOW, THEREFORE, in consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties, by their authorized signatures below, hereby agree as follows:

1. Definitions

- 1.1. The term "Agreement" shall mean this Agreement and all Exhibits, Schedules and Attachments attached hereto now or in the future.
- 1.2. The term "Customer Data" shall mean the content and characteristics within the service that are modified through the use of the Service features by the authorized Account users of the Service.
- 1.3. The term "Documentation" shall mean all documentation and/or other materials (including manuals, instructions, training materials, specifications, flow charts, logic diagrams, and other support materials) relating to the use, operation and functionality of the Service.
- 1.4. The term "Effective Date" shall be shown at the end of this Agreement and is the date when the parties intend the Service to commence.
- 1.5. The term "Service" shall have the meaning set forth in the Recitals above, and further described in Section 2. When the term "Service" is used alone herein, it shall also be deemed to include the term "Hosting Services" as that term is further described in Section 2.
- 1.6. The term "Service Level Agreement" shall mean Exhibit D, which sets forth the service levels at which identified portions of the Service are to be provided by Licensor and sets forth certain remedies for Customer in the event that Licensor does not attain such service levels.
- 1.7. The term "Term" shall mean the period of time this Agreement is in effect (absent any earlier termination as provided herein) and is a period of one (1) year commencing on the Effective Date subject to renewal as provided herein.
- 1.8. The term "day" shall mean a calendar day unless otherwise set forth herein.

2. Services

- 2.1. Services Scope - Licensor agrees to provide to Customer services for hosting the Software and for hosting other software required for the operation of the Software (the "Clarity Election Suite software,"). Licensor will permit Customer to, on a 24 x 7 basis, remotely access and use the Software referred to as the "Hosting Services". Licensor's performance of the Service shall be pursuant to the terms and conditions set forth herein and also must conform to Customer's standard technical support requirements set forth in Sec. 2.2 hereto. Customer will be given an account allowing it to access the Licensor's site. Licensor shall serve as the single point of contact for all Service and Hosting Services issues and shall be solely responsible for coordinating and ensuring the resolution of any problems involving the Service and Hosting Services in a prompt and timely fashion.
- 2.2. Technical Support - As part of the Hosting Services, Licensor will provide the support set forth in Exhibit B, the Hosting Environment Agreement, attached to and incorporated in this Agreement by reference, and understands and agrees that Customer will be entitled to the remedies stated therein.

3. Grant of License

- 3.1 Licensor grants Customer and its operating divisions a non-exclusive, perpetual license to use the Hosted Software in machine readable form as long as Customer maintains its status in good standing as a Customer of Licensor's Annual Software Assurance and Support Agreement and has purchased all requisite licensing fees. Licensor also grants Customer a non-exclusive perpetual license to use the Documentation.
- 3.2 Software upgrades are full version releases (e.g. version 4.x to version 5.0) and are included as part of the Annual Software Assurance and Support Agreement provided by Licensor to Customer.
- 3.3 Software updates (e.g. version 4.1 to version 4.2), including bug fix builds, are included as part of the Service provided by Licensor to Customer provided that Customer is current on all monies due to Licensor.

4. Obligations

- 4.1. Implementation - As a condition to Licensor's obligation to provide the Hosting Services, both parties shall be responsible for fulfillment of all of their obligations under the Agreement and completion of the project implementation plan. The project implementation plan will be jointly developed by Licensor and Customer subsequent to execution of this Agreement by both parties and payment of fee(s) as outlined in Exhibit A.
- 4.2. Technical Environment - Licensor will provide the services and other products, as set forth on Exhibit B, (or similar services and products that provide a similar level of service), and will also provide any and all equipment, to provide the Hosting Services (the "Hosting Environment") pursuant to Exhibit B. Licensor shall be responsible for the costs associated with obtaining and maintaining the Hosting Environment, unless otherwise indicated on Exhibit A. Licensor also shall pay the costs of the services or other products necessary to permit Customer to transmit data to and receive data from the Hosting Environment; however Customer is responsible for the costs of its own communication lines. Licensor shall maintain and insure the server and shall indemnify Customer for any damage, loss or injury to the equipment (other than normal wear and tear).
- 4.3. Data Transmission - Should Customer require a special data transmission format to the Software, such as SSL, the format and any additional costs and implementation timeline effects will be agreed upon, in writing, between Licensor and Customer.
- 4.4. Coordination - Each party shall designate a contact to coordinate day-to-day communication with the other party.

5. Term, Termination, and Transition Assistance

- 5.1. The initial term of this Agreement will be for one (1) year commencing on the Effective Date (the "Initial Term").
- 5.2. Renewal Term - Customer may exercise its option to renew this Agreement, for three (3) additional twelve (12) month terms beyond the Initial Term (the "Renewal Term"), at any time prior to the end of the Initial Term by giving notice thereof in writing to the Licensor. In the absence of notification, the Customer will be deemed not to have agreed to the renewal of this Agreement.
- 5.3. Termination for Material Breach - A party may terminate this Agreement if the other party commits a material breach or default (including nonpayment of fees) and fails to remedy such breach or default within thirty (30) days after receiving written notice of the same from the other party. In the event of termination due solely to a breach or default by Customer, no refunds or credits will be due to Customer. In the event of termination due to a breach or default by Licensor, Customer shall not be obligated to pay any additional amounts of the applicable Yearly Payments following termination; Licensor shall promptly reimburse to Customer all amounts of unused prepaid fees paid by Customer, if any; and, at Customer's sole discretion, Licensor shall either return all Customer's Data within thirty (30) days of the date of termination or expiration, or shall commence implementation of the Transition Services described below at no cost to Customer.
- 5.4. **Termination of Agreement Upon Bankruptcy** - **Either party may terminate this Agreement upon written notice to the other party if the other party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.** If either party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise and the other party terminates due to such action(s), Customer shall not be obligated to pay any additional amounts of the applicable Yearly Payments following termination; Licensor shall promptly reimburse to Customer all amounts of unused prepaid fees paid by Customer, if any; and, at Customer's sole discretion, Licensor shall either return all Customer's Data within thirty (30) days of the date of termination or expiration, or shall commence implementation of the Transition Services described below.
- 5.5. Termination of Agreement Upon Service Level Failures - Customer may terminate this Agreement upon thirty (30) days' written notice to Licensor upon the failure of Licensor to provide technical and customer support constituting a material breach of this Agreement in accordance with the service levels outlined in the Service Level Agreement (Exhibit "D"). In the event of termination of this Agreement due to a material breach of this Agreement pursuant to this Section 5.5, Customer shall not be obligated to pay any additional amounts of the applicable Yearly Payments following termination; Licensor shall promptly reimburse to Customer all amounts of unused prepaid fees paid by Customer, if any; and, at Customer's sole discretion, Licensor shall either return all Customer's Data within thirty (30) days of the date of termination or expiration, or shall commence implementation of the Transition Services described below at no cost to Customer.
- 5.6. Termination for Convenience – Customer may terminate this Agreement for convenience and without cause or further liability upon ninety (90) days written notice to Licensor. In the event of such termination, no penalty will be assessed for Customer's termination of this Agreement for convenience. Furthermore, in the event of Customer's termination of this Agreement for convenience pursuant to this Section 5.6, Customer shall not be obligated to pay any additional amounts of the applicable Yearly Payments following termination. Licensor shall promptly reimburse to Customer all amounts of unused prepaid fees paid by Customer, if any, and, at Customer's sole discretion, Licensor shall either return all Customer's Data within ninety (90) days of the date of termination or expiration, or shall commence implementation of the Transition Services described below.

5.7 Transition Services - The parties acknowledge that, prior to the termination or expiration of this Agreement, Customer may engage a successor vendor to perform such services or bring such services in-house. From the time that Customer notifies Licensor to whom Customer plans to migrate the services, Licensor agrees to cooperate with Customer (and, if applicable, the successor vendor) to effect an orderly and efficient transition. Within sixty (60) calendar days after termination or expiration of this Agreement by either party, Customer shall pay Licensor all undisputed amounts due and owing as of the termination of the Agreement, and, except to the extent reasonably necessary for the transition services described in this Section 5.7, shall immediately cease any and all use of the Service and materials or services provided by Licensor pursuant to this Agreement. At such time as Customer reasonably determines necessary to effect the transition, Licensor shall provide in electronic format a copy of all Customer, data without limitation, residing on Licensor's systems that is necessary for an effective transition. Cooperation by Licensor may include, without limitation, continuing to host Customer images, making qualified service personnel available for questions and consultations, transferring contact numbers or URL addresses, and providing any required technical assistance and cooperation to Customer as Customer may from time to time reasonably request. Such transition period will not extend past six (6) months from the termination or expiration of this Agreement, unless otherwise negotiated. Customer and Licensor agree to act in good faith in complying with these obligations. Customer will pay the reasonable expenses of Licensor in providing services during the transition period. Licensor shall bill Customer for transition expenses on a monthly basis, and shall submit complete, fully documented and accurate itemized monthly invoices, which shall include dates of service, a brief description of the services provided, and respective time (in hours) charged per date for services. Licensor shall bill customer the standard rate of \$150 per hour for services rendered. Within thirty (30) days after the transition period ends, upon written request, each party shall deliver to the other party all copies of the Confidential Information of the other party in every form that such party continues to hold. Upon a party's written request, the other party shall certify, in writing, to the requesting party that the other party has performed the foregoing delivery or destruction.

6. Fees Price - Payment

- 6.1. **Fees** - Customer shall pay the fees as set forth in Exhibit A.
- 6.2. **Service Fees** - Customer shall pay to Licensor the fees set forth in Exhibit A, to the extent applicable. All fees shall remain the same during the original Term and the initial 12-month Renewal Term, if Customer opts for such renewal. If Customer and Licensor agree in writing to further extend the Agreement beyond the initial 12-month Renewal Term, such writing shall set forth the fees that shall be applicable during the extension of the Renewal Term(s) following the initial 12-month Renewal Term.
- 6.3. **Payment Terms** - Licensor shall submit invoices to Customer on an annual basis. Customer's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date Customer receives the goods under this Agreement; (2) the date the performance of the service under this Agreement is completed or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by Customer in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a later payment is the rate in effect on September 1 of Customer's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

In the event that an error appears in an invoice submitted by Licensor, Customer shall notify Licensor of the error not later than the twenty first (21st) day after the date Customer receives the invoice. If the error is resolved in favor of Licensor, Licensor shall be entitled to receive interest on the unpaid balance of the invoice submitted by Licensor beginning on the date that the payment for the invoice became overdue. If the error is resolved in favor of the Customer, Licensor shall submit a corrected invoice that must be paid in accordance within the time set forth above. The unpaid balance accrues interest as provided by Chapter 2251 of the Texas Government Code if the corrected invoice is not paid by the appropriate date.

Customer shall have no obligation to pay amounts not invoiced within ninety (90) days of the final date the services being invoiced were delivered, unless Licensor had notified Customer in writing within such ninety (90) day period, that the invoices will be delayed and has indicated in writing when the invoice will be delivered to Customer.

Licensor understands and agrees that a temporary delay in making payments to Licensor because of or due to Customer's accounting and disbursement procedures shall not place Customer in default of this Agreement and shall not render Customer liable for interest or penalties, provided such delay shall not exceed 31 days after the due date.

- 6.4. **Taxes - Customer** is exempted from the payment of Texas state and local sales, excise, and use taxes pursuant to Local Government Code 151.309, and shall therefore not be liable or responsible to Licensor for the payment of such taxes under this Agreement.
- 6.5. **Customer's Right to Audit.** Licensor agrees that Customer or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Customer which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Licensor agrees that Customer shall have access during normal working hours to all necessary Licensor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Customer shall give Licensor reasonable advance notice of intended audits.

7. Licensor Representations and Warranties.

In addition to the representations and warranties in the Agreement:

- 7.1. **General Licensor Warranties** - Licensor warrants that (a) the Service provided hereunder and the underlying technology used by Licensor in performing the Service is owned free and clear of any encumbrances or is in the public domain; (b) Licensor has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement; (c) there are no outstanding assignments, grants, licenses, encumbrances, obligations or agreements (whether written, oral or implied) that are inconsistent with this Agreement; (d) Licensor's compliance with the terms and conditions of this Agreement shall not violate any federal, state or local laws, regulations or ordinances nor shall it violate any third party agreements; (e) there is no claim, litigation or proceeding pending or threatened against Licensor with respect to the Service or its underlying technology or any component thereof alleging infringement or misappropriation of any patent, trademark, copyright or any trade secret or other proprietary right of any person; and (f) the Service does not infringe or misappropriate in any respect upon any patent, trademark, copyright or any trade secret or other proprietary right of any person or entity.
- 7.2. **Authority and Performance** - Licensor represents and warrants that it has the legal right and authority to enter into this Agreement and perform its obligations hereunder, and the performance of its obligations hereunder will not cause a breach of any agreements between Licensor and any third parties, including all vendors critical to its performance obligations hereunder.
- 7.3. **Service Level Commitment** - Licensor warrants that it will perform its services in accordance with Licensor's service level commitment as set forth in Exhibit D. Customer's remedy for Licensor's failure to meet the service level commitment is the remedy set forth in Exhibit D; provided, however, Customer may also exercise any rights available under the law and/or any rights set out herein, including but not limited to the termination rights set out herein due to Licensor's failure to meet the service level commitment is the remedy set forth in Exhibit D.
- 7.4. **NO OTHER WARRANTY** - EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT THE HOSTING SERVICES ARE PROVIDED AS IS AND LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES

OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY THAT THE HOSTING SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

- 7.5. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND NOT WAIVING ANY APPLICABLE LOCAL, STATE, AND FEDERAL RULES AND LAWS, INCLUDING CUSTOMER'S SOVEREIGN IMMUNITY AND ARTICLE XI, SECTION 7 OF THE TEXAS CONSTITUTION, LICENSOR AND ITS THIRD PARTY VENDORS SHALL NOT BE RESPONSIBLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR OTHER INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES) WHICH CUSTOMER MAY INCUR OR EXPERIENCE ARISING FROM THE SOFTWARE OR ON ACCOUNT OF ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Customer Representations and Warranties.

In addition to the representations and warranties in the Agreement:

- 8.1. **Authority and Performance.** Customer represents and warrants that it has the legal right and authority to enter into this Agreement and perform its obligations hereunder, and the performance of its obligations hereunder will not cause a breach of any agreements between Customer and any third parties.

9. Intellectual Property

- 9.1. Customer Data - Customer will own all Customer Data. Licensor will not sell, license or in any way distribute the Customer Data to any person or entity, and shall not permit the Customer Data to be used in any way (including any aggregation or summarized results of Customer Data) by any person or entity other than Customer without Customer's express written permission.
- 9.2. Aggregated Data - Notwithstanding the preceding section 9.1, Licensor may include in its benchmark/comparison studies performance data about the Services provided hereunder such as total number of users, overall customer count, average amount of disk usage, etc., so long as such performance data is aggregated with the performance data of Licensor's other customers so that Customer's information cannot be separately identified.
- 9.3. Licensor Technology - The Service and any technology, computer programs or computer codes developed, created or produced by or on behalf of Licensor existing as of the Effective Date of this Agreement, and any Licensor documentation relating thereto, are, as between Licensor and Customer, the sole property of Licensor. To the extent that, during the term of this Agreement, Customer pays in whole or in part for, or provides development personnel to work on, technical or functional developments related to the Service, Licensor agrees to incorporate such developments into the Service provided for Customer. Licensor shall have full right, title and interest in the developments and may incorporate the developments into the services made available to Licensor's other customers.
- 9.4. No Rights in Other Party's Intellectual Property - Neither party will have any rights in or with respect to the other party's property described in the preceding Section 9.1 and 9.2, except as expressly set forth in this Agreement and the exhibits hereto.

10. Indemnification

- 10.1. LICENSOR SHALL FOREVER WAIVE, RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS CUSTOMER, ITS RESPECTIVE EMPLOYEES, DIRECTORS, SHAREHOLDERS AND AGENTS, FROM AND AGAINST ANY EXPENSE, COST, DAMAGE, LOSS, FINE, PENALTY, CAUSE OF ACTION, SUIT, DEMAND, LIABILITY OR JUDGMENT (INCLUDING, WITHOUT LIMITATION, LEGAL AND RELATED LEGAL FEES AND EXPENSES) ARISING OUT OF OR ON ACCOUNT OF OR RESULTING FROM (1) ANY ACTUAL OR ALLEGED INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF, OR DEFAULT IN THE PERFORMANCE OF ITS OBLIGATIONS PURSUANT TO THIS AGREEMENT BY LICENSOR, ITS

ASSIGNS, OR ITS SUBCONTRACTORS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES (REFERRED TO COLLECTIVELY AS "LICENSOR"), (2) LICENSOR'S ACTUAL OR ALLEGED INFRINGEMENT OF A PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY AND/OR (3) ANY TERMS OR CONDITIONS OR PROVISIONS OR UNDERLYING PROVISIONS OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY PREMISES DEFECT OR SPECIAL DEFECT KNOWN OR UNKNOWN TO CUSTOMER, AND ANY INJURY TO INDIVIDUALS PRESENT DURING LICENSOR'S INVOLVEMENT UNDER THE TERMS AND CONDITIONS OF THE SERVICES AND AGREEMENT, INCLUDING WILLFUL ACTS SUCH AS ASSAULT.

10.2 Licensor's indemnification obligation under 10.1 (2) above is subject to: (i) Customer providing Licensor with prompt written notice of any Claim, (ii) Licensor having sole control of the defense and all negotiations for settlement or compromise thereof (provided, however, that any settlement or compromise that imposes any current or future obligation on Customer or directly or indirectly, explicitly or implicitly, acknowledges guilt or responsibility of Customer shall require the advance review and approval of Customer, which approval may be withheld in Customer's sole discretion) and (iii) Customer reasonably cooperating, at Licensor's expense, in the defense of such Claim. Failure to provide prompt written notice shall not abrogate or diminish Licensor's obligations under this Section if Licensor has or receives knowledge of the existence of such Claim by any other means or if such failure does not materially prejudice Licensor's ability to defend the same. Licensor agrees to pay all settlements entered into by Licensor, judgments finally awarded against Customer, and all attorneys' fees and expenses for counsel hired by Licensor. Customer may elect to participate in any such action with counsel of its own choice and at its own expense. In the event Customer is precluded by a court of competent jurisdiction from using the Service as a result of Licensor's infringement of any such patent, copyright, trade secret or other proprietary right of such third party, Licensor shall do one of the following (the election of which option to pursue being in Licensor's reasonable discretion):

- a. obtain the right for Customer to use the Service; or
- b. replace or modify the Service so that it no longer infringes but maintains substantially the same functionality and performance; or
- c. if neither of the foregoing is, in Licensor's reasonable opinion, commercially reasonable: terminate this Agreement with respect to the Service and promptly reimburse to Customer all amounts of unused prepaid fees paid by Customer and provide to Customer Transition Services as described in Section 5.7 at no cost to Customer.

10.3 Approval of Licensor's services by Customer shall not constitute nor be deemed a release of the responsibility and liability of Licensor, its subcontractors, employees, officers, agents, invitees, licensees, or assigns for the accuracy and competency of their services; nor shall such approval and acceptance be deemed an assumption of such responsibility by the County for any defect, error or omission in the services performed by Licensor, its subcontractors, employees, officers, agents, invitees, licensees, or assigns. In this regard, Licensor shall defend, hold harmless and indemnify Customer for damages resulting from such defects, errors or omissions.

10.4 These provisions shall survive termination, expiration or cancellation of this Agreement or any determination that this Agreement or any portion thereof is void, voidable, invalid or unenforceable.

11. Limitation of Liability

LICENSOR'S AND ITS THIRD PARTY VENDORS' AGGREGATE LIABILITY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE LICENSE FEE PAID BY CUSTOMER TO LICENSOR FOR USE OF THE SERVICE.

12. Sovereign Immunity. This Agreement is expressly made subject to Customer Sovereign Immunity, Title 5 of the Texas Civil Practice and Remedies Code, and all applicable state and federal law. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that the Customer has by operation of law. Nothing in this Agreement is intended to benefit any third party beneficiary.

13. Fiscal Funding. Notwithstanding any provisions contained herein, the obligations of Customer under this Agreement are expressly contingent upon the availability of funding for each item and obligation contained herein for the term of the Agreement and any extensions/renewals thereto. Licensor shall have no right of action against Customer in the event Customer is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event Customer is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, Customer, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to Licensor at the earliest possible time prior to the end of its fiscal year. Upon Customer's termination for lack of sufficient funding, each party shall return all products, documentation, and other information disclosed or otherwise delivered to the other party prior to such termination. Customer shall pay Licensor for all services performed up through and including the date of termination, and all revocable licenses granted hereunder shall terminate.

14. Insurance

14.1. Throughout the entire Term of this Agreement Licensor shall keep in full force and effect, policies of insurance meeting or exceeding the following specifications:

- a) Commercial General Liability insurance, with coverage including premises/operations, contractual (including without limitation coverage for all indemnities herein), personal and advertising injury, and products/completed operations, with aggregate coverage limits of not less than one million dollars (\$1,000,000).
- b) Workers' Compensation insurance, as required by law, and Employer's Liability insurance with limits of liability of not less than one hundred thousand dollars (\$100,000) per accident or disease and five hundred thousand dollars (\$500,000) aggregate by disease.
- c) Professional Liability Policy in the amount of five hundred thousand dollars (\$500,000).

Such insurance shall be purchased from companies having a rating of A-VII or better in the current Best's Insurance Reports published by A. M. Best Company. Policies of insurance shall provide that they will not be canceled or materially changed without at least thirty (30) days' prior written notice to Customer.

14.2 Before commencing work, Licensor shall provide the Williamson County Director of Purchasing, within ten (10) days of execution of this Agreement, with certificates of insurance reflecting the coverage required herein. Each policy furnished shall include, by endorsement to the policy, a statement that a notice shall be given to Williamson County by certified mail thirty (30) days prior to cancellation or upon any material change in coverage.

15. Other Provisions

15.1 Notice - All notices, consents and other communications under or regarding this Agreement shall be in writing and shall be deemed to have been received on the earlier of the date of actual receipt, the third business day after being mailed by first class, certified mail return receipt requested, or the first business day after being sent by a reputable overnight delivery service. Customer's address for notices is Williamson County, Office of the County Judge 710 Main **Street, Georgetown, Texas 78626**. Licensor's address for notices is the address shown at the beginning of this Agreement. Either party may change its address for notices by giving written notice of the new address to the other party in accordance with this Section 15.1.

15.2 Benefit of Successors and Assignees - This Agreement and all of the terms and conditions hereof shall be binding upon and inure to the benefit of Licensor and Customer and their respective successors, transferees, or assignees. Any terms of this Agreement containing a reference to Customer, Licensor, or a party hereto shall apply with equal effect to any such successor, assignee, or transferee of the party in question.

- 15.3 Assignment - Neither this Agreement nor any rights or obligations herein may be assigned by either party, by operation of law or otherwise, without the written consent of the other party; provided, however, that, without the consent of the Customer, Licensor may assign this Agreement in connection with a merger, consolidation, assignment, sale or other disposition of the majority of Licensor's stock or substantially all of the assets or business relating to the portion of Licensor's operations that is the subject of this Agreement.
- 15.4 Relationship - Licensor is an independent contractor and not an agent, servant, joint-venturer, fiduciary or employee of Customer, and is responsible for its own acts, forbearance, negligence and deeds, and for those of its personnel or employees. Nothing in this Agreement makes Licensor a sole supplier to Customer, grants any exclusive rights to Licensor, or prohibits Customer from obtaining similar or related services from other parties.
- 15.5 Severability - A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement.
- 15.6 Headings Gender, Number and Language of Inclusion - Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless the context clearly requires otherwise, the singular includes the plural and vice versa, and the masculine, feminine and neuter adjectives include one another. As used in this Agreement, the word "including" shall mean "including, but not limited to".
- 15.7 Governing Law & Venue - Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in either **Williamson County, Texas or in the Austin Division of the Western Federal District of Texas**, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.
- 15.8 Publicity - Licensor may not use Customer's trade names, trademarks, logos, service marks, or other proprietary marks in any manner, including but not limited to advertising, publicity, user lists, or guest lists or websites, unless Licensor has received prior consent from an authorized representative of Customer to do so, which consent may not be unreasonably withheld by Customer.
- 15.9 Data Privacy - Licensor may use Customer's contact information, including names, phone numbers, and e-mail addresses only in connection with the performance of its obligations hereunder.
- 15.10 Remedies - The rights and remedies of Customer set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it in law or equity. Notwithstanding anything to the contrary in this Agreement, in the event of an alleged breach of this Agreement by Customer, Licensor shall not use any type of electronic means to prevent or interfere with Customer's use of the Software without first obtaining a valid court order authorizing the use of such electronic means.
- 15.11 Entire Understanding - This Agreement and its Schedules and amendments constitute the entire agreement between the parties for the Software licensed hereunder, and will become binding when signed by both parties. There are no understandings, agreements or representations not specified herein with respect to Software licensed hereunder. This Agreement may not be modified, except by a written amendment signed by duly authorized representatives of both parties.
- 15.12 Force Majeure - Any delay or failure of performance of either party to this Agreement shall not constitute a breach of the Agreement or give rise to any claims for damages, if and to the extent that such delay or failure is caused by an occurrence beyond the reasonable control of the party affected, including acts of governmental authorities, acts of God, material shortages, wars, riots, rebellions, sabotage, fire, explosions, accidents, floods, or strikes or lockouts of third parties. In the event one of the parties intends to invoke this provision, that party shall (i) promptly notify the other party of the cause beyond its reasonable control, the

expected duration thereof, and the anticipated effect of such cause on its ability to perform its obligations under this Agreement, and (ii) shall make reasonable efforts to mitigate any such effects.

- 15.13 Costs of Litigation - If a dispute should arise relating to the rights and obligations of the parties under this Agreement, and should that dispute result in litigation, the prevailing party shall be entitled to recover all reasonable costs incurred in the defense or prosecution of the claim, including, without limitation, court costs and reasonable attorneys' fees.
- 15.14 No Waiver - Except as expressly set forth in this Agreement, the failure of either party at any time to require performance of any provision of this Agreement or to exercise any right provided for herein shall not be deemed a waiver of such provision or right unless made in writing and executed by the party waiving such performance or right. No waiver by either party of any breach of any provision of this Agreement or of any right provided for herein shall be construed as a waiver of any continuing or succeeding breach of such provision or right or a waiver of the provision or right itself.
- 15.15 Survival - All representations, warranties, indemnities and obligations of confidentiality expressly set forth herein shall survive the termination of this Agreement.
- 15.16 Confidentiality - Licensor shall not disclose privileged or confidential communications or information acquired in the course of the performance of services under this Agreement, unless authorized in writing by Customer or as may be required by law. This provision does not apply to information that 1) has otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as a result of disclosure in breach hereof, 2) becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party that the receiving party believes is not prohibited from disclosing such information to the receiving party by obligation to the disclosing party, 3) is known by the receiving party prior to its receipt from the disclosing party without any obligation of confidentiality with respect hereto, or 4) is developed by the receiving party independently of any disclosures made by the disclosing party to the receiving party of such information.
- 15.17 Texas Public Information Act – To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't Code 552.001 et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that Customer, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to Customer as to whether or not the same are available to the public. It is further understood that Customer's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that Customer, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to Customer by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

16. Effective Date

The Effective Date, when the parties intend for the Service to commence, is the date signed by Customer below.

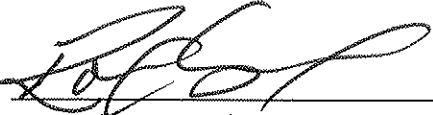
17. Schedules

The following Exhibits are attached hereto and deemed part of this Agreement:

- Exhibit A Fees
- Exhibit B Hosted Environment – Annual Software Assurance and Support
- Exhibit C Technical Support Attachment
- Exhibit D Service Level Agreement

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals by authorized personnel who, on the date of such signing, have the necessary and appropriate corporate authority to bind his or her respective organization hereunder.

Licensors:

By: 
Name: ROCKY SHERRY
Title: CHIEF INFORMATION OFFICER
Date: 3/4/2014

Customer:

By: _____
Name: Williamson County _____
Title: : Dan A. Gattis, Williamson County Judge _
Date: _____

EXHIBIT A

FEES

PRICING OVERVIEW

The following outlines Licensor's pricing model for SOE Software's TRACKING and SUPPORT solutions.

License Fee – The License fee represents our costs to develop and maintain the vision of the Tracking & Support solutions in order to provide technology leadership and advancement for your investment.

Implementation Fee – The Project Management and Installation of the platforms are included in this fee. The Installation includes the setup, configuration, and integration of interactive data. This plan is included in the pricing listed below. The Assurance Plan provides Customer with application hosting, customer support, maintenance, and the evolution of the TRACKING, SUPPORT AND TRAINING products.

PRICING FOR CUSTOMER

	Clarity TRACKING & SUPPORT
Clarity Tracking & Support License Fee-----	\$ 174,834
Clarity Tracking & Support Implementation Fee-----	<u>\$ 116,556</u>
Total Cost without Discount:	\$ 291,390
(Special Discount if Purchased by March 2014)	<u>(\$ 104,003)</u>
Total First Year Cost:	\$ 187,387
* Ongoing Annual Assurance: \$15,500	

Payment Terms




**1st year payment will be due within sixty (60) days of the execution of this agreement.

Extra Hardware

The associated first year cost includes 3 scanners. If additional scanners are needed they can be purchased at any time (see table below for pricing). Clarity solutions will be maintained, implemented and hosted by SOE Software.

Other

The first year cost includes implementation and training (hours). Traveling expenses which pertain to the Online Training, Tracking and Support solutions will be invoiced to the Customer as incurred; provided, however, Licensor must obtain Customer's written consent to incur such travel costs in advance of incurring such travel costs. In the event travel costs are not approved in advance by Customer, Customer shall not be obligated to pay such costs.

Scanner	Specifications	Cost (Per)
 <p>MC9190</p>	<ul style="list-style-type: none"> • 802.11a/b/g, 1D, 256/1GB, 53-Key, WM6.5, IST VGA Color, Gun. • Desktop Cradle (4-Slot) for the MC9190 • PWRSPPLY:100-240VAC,12VDC,9A • DC Line Cord (for Four Slot Cradle) • AC Power Cord, US RoHS • Standard Battery (10-Pack, 2200mAh) • Soft material holster for the MC909X and MC9190 Gun configurations only 	<ul style="list-style-type: none"> ➤ \$2,300.00 ➤ \$300.00 ➤ \$100.00 ➤ \$5.00 ➤ \$9.00 ➤ \$575.00 ➤ \$50.00 <p>Total: \$3,339.00</p>
 <p>*** MC65-9B ***</p>	<ul style="list-style-type: none"> • HSPA, EVDO, 802.11a/b/g, 2D Imager, Camera, 256/1GB, QWERTY, WM6.5, 1.5x • Desktop Cradle (4-Slot) for the MC65 • PWRSPPLY:100-240VAC,12VDC,9A • DC Line Cord (for Four Slot Cradle) • AC Power Cord, US RoHS • MC55/MC65 Extended Capacity Spare Battery 3600 mAh • MC55/MC65 Auto Charge Cable, 12/24 Volt (Cigarette Lighter Adapter) • MC55/MC65 Soft Case holster with plastic belt clip • Mini-SD Card 4GB • MC55 Snap on Trigger with extended handle • HOLDER: VEHICLE MC65 	<ul style="list-style-type: none"> ➤ \$1,800.00 ➤ \$225.00 ➤ \$90.00 ➤ \$39.00 ➤ \$9.00 ➤ \$72.00 ➤ \$100.00 ➤ \$20.00 ➤ \$15.00 ➤ \$140.00 ➤ \$31.50 <p>Total: \$2541.50</p>
 <p>MC55-A0</p>	<ul style="list-style-type: none"> • LAN 802.11a/b/g, Blue Tooth, 1D Laser Scanner, Camera, 256MB RAM/1GB Flash, QWERTY Keyboard, WM6.5 Classic, Extended 3600 mAh Battery • Desktop Cradle (4-Slot) for the MC55 • PWRSPPLY:100-240VAC,12VDC,9A • DC Line Cord (for Four Slot Cradle) • AC Power Cord, US RoHS • MC55/MC65 Extended Capacity Spare Battery 3600 mAh • MC55/MC65 Auto Charge Cable, 12/24 Volt (Cigarette Lighter Adapter) • MC55/MC65 Soft Case holster with plastic belt clip • Mini-SD Card 4GB 	<ul style="list-style-type: none"> ➤ \$1,500.00 ➤ \$225.00 ➤ \$90.00 ➤ \$39.00 ➤ \$9.00 ➤ \$72.00 ➤ \$100.00 ➤ \$20.00

	<ul style="list-style-type: none">• MC55 Snap on Trigger with extended handle• HOLDER: VEHICLE MC55	<ul style="list-style-type: none">➤ \$15.00➤ \$140.00➤ \$31.50 Total: \$2,241.50
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EXHIBIT B
HOSTED ENVIRONMENT
ANNUAL SOFTWARE ASSURANCE AND SUPPORT

1. Software Assurance Services - Operations

The software assurance services (the "Assurance") provided by Licensor to the Customer hereunder are included in the Yearly Payment described in Exhibit A, unless otherwise specified herein. The Assurance shall consist of:

- 1.1 All day to day operations of hosted products will be managed by Licensor staff or its agents, including required operating system and system utility administrative tasks and system back up and recovery. This includes management of system logs, coordination and installation of operating system patches and upgrades and system tuning.
- 1.2 Licensor will act as the database administrator for the application. Licensor will perform data back-up and recovery activities, manage and control database access, monitor and tune database performance and implement any required database patches and/or upgrades. Daily incremental backups will be performed Monday through Friday, after standard business hours. Full database back-ups will be performed weekly, after standard business hours. Database patches and/or upgrades are implemented as required, after standard business hours.
- 1.3 All maintenance will be performed done by Licensor staff or their agents.
- 1.4 Use of Licensor's reasonable commercial efforts to correct errors in the licensed Software. Errors are defined as the failure of the Software to operate in substantial conformity to the applicable documentation provided by Licensor to Customer for such Software.
- 1.5 Licensor will manage and maintain other items necessary to Hosting Services, including Software, internal network, firewall, routers, servers and data transmission equipment (including Licensor's virtual private network (VPN)).

2. Support

- 2.1 Operations and Technical Support will be available Monday – Friday, 8:30 AM – 8 PM, Eastern Time ("Business Hours").
- 2.2 Access to after-hour support (8:00 PM to 8:30 AM PT Monday – Friday, plus Saturday – Sunday), will be available through Licensor's after-hours support team.
- 2.3 Response by Operations / Technical Support personnel will be within 4 hours, during Business Hours.
- 2.4 Operation / Technical Support will cover data transfer and database / application availability issues.
- 2.5 Operation and Technical Support will not cover end-use or analytical issues or questions.

3. Bandwidth

- 3.1 Licensor will provide equipment and related software to send and receive data at approximately a 100 Mbps (Megabits) per second rate. However, Licensor cannot guarantee Internet latency and over-all Internet performance.

4. Redundancy

- 4.1 Primary Production Facility – Licensor will provide and maintain a fault-tolerant state-of-the-art hosting facility, including redundant power and communications.
- 4.2 Licensor will also provide an out-of-state failover hosting facility, in case of massive failure of all redundant systems, with similar capabilities as the main data center.

5. Security

- 5.1 Licensor will perform user ID and password management and dissemination. Access to Hosting Systems, Software and Ancillary Software will be coordinated with the Customer.
- 5.2 Licensor and Customer may agree to set-up and use a mutually agreed upon data encryption mechanism to transfer data between the Licensor's and Customer's sites within thirty (30) days from the execution of the Agreement.

6. Additional Services

Customer may request Licensor to perform services of a different nature than, or beyond the scope of, those described above ("Additional Services"). In the event such a request, Licensor shall provide Customer with its rates for such services in advance of such performance. Licensor's rates for Additional Services shall not exceed its customary rates for such services. Licensor may provide Additional Services upon the execution of a written amendment to the Agreement. Examples of such Additional Services are:

- 6.1 Retrieval of data lost by hardware malfunction or operator error.
- 6.2 Operational support beyond the allocated four hours per incident.
- 6.3 Designing, programming, or testing of "customer specific" customization or requested enhancements.
- 6.4 Changes required to Customer's unique modifications to interface with updates to the standard version of the Software.
- 6.5 Additional training and instruction (other than what is provided with normal implementation).

Licensor shall bill Customer for any Additional Services performed on a monthly basis and payment shall be made by Customer in accordance with the payment terms set out in the Agreement. Licensor agrees to submit complete, fully documented and accurate itemized monthly invoices, which shall include dates of service, a brief description of the services provided, and respective time (in hours) charged per date for services.

EXHIBIT C
TECHNICAL SUPPORT ATTACHMENT

TECHNICAL SUPPORT RESPONSE AND RESOLUTION LEVELS SHALL BE AS FOLLOWS:

Severity Classification	Description	Response Time*	Resolution Time Standard**
1 - Critical	<ul style="list-style-type: none"> • Business critical function is down • Major impact to Customer's business • No workarounds exist 	As soon as possible, using reasonable commercial efforts, but no more than 20 minutes.	24 hours [^]
2 - Major	<ul style="list-style-type: none"> • Business critical function is impaired or degraded • There are time-sensitive issues that impact ongoing production • Workaround exists, but it is only temporary 	4 hours	2 days [^]
3 - Minor	<ul style="list-style-type: none"> • Non-critical function down or impaired • Does not have significant current production impact • Performance is degraded 	1 business day	4 weeks [^]
4 - Low	<ul style="list-style-type: none"> • Non-critical, function down or impaired • No business impact • Generic Service Enhancements 	1 business day	Mutually agreed timeframe based on prioritization.

* Response Time is the elapsed time between Customer's first report of a problem and when the Licensor assigns a ticket number for the problem.

** Resolution Time is the elapsed time between Customer's first report of the problem and the problem in the Software has been resolved.

[^] Level 1 – 3 issues may require resolution times that exceed these Response Time Standards. If fixes to level 1 – 3 issues are not resolvable within the timeframes listed above, Licensor will immediately notify Customer of the anticipated time to resolve the issue.

In the event that the issue is classified as a level 1 or level 2, Licensor will immediately assign a senior Product Developer to work exclusively on the issue. Additionally, the COO will be notified and the issue resolution will be given top priority. If the fix will require more than one business week to implement, Licensor and Customer will mutually agree on a resolution timetable and Licensor will provide updates at agreed upon intervals via email and/or telephone calls. Interim workarounds, if any, will also be communicated during the initial meeting and any subsequent communications should a workaround become available after the initial meeting.

Failure to meet the mutually agreed upon maintenance response timetable in the preceding paragraphs using reasonable commercial efforts will result, at the Customer's option, in triggering the following Dispute Resolution provision:

Failure to meet the mutually agreed upon maintenance response timetables shall be addressed through non-binding mediation under the Commercial Mediation Rules of the American Arbitration Association ("AAA"). A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Agreement, will conduct the mediation under the then current rules of the AAA. Any mediation under this provision shall be conducted in Williamson County, Texas. All costs involved in the mediation shall be borne equally between the parties, except that each party shall bear its own attorneys fees. Nothing herein is intended to prevent either party from seeking any other remedy available under the Agreement and/or at law including seeking redress in a court of competent jurisdiction.

EXHIBIT D
SERVICE LEVEL AGREEMENT

1. Licensor may schedule no more than 5 hours per week for routine maintenance, back-ups and data loads. Licensor may or may not choose to use this time for maintenance, back-ups and data loads, but downtime in this period will not count against Licensor's service availability commitment. For major new releases Licensor may from time to time require longer planned maintenance window. In the case of longer planned maintenance due to major releases, Customer shall be notified twenty-four (24) hours in advance of any scheduled down-time. Release builds and routine maintenance will typically be performed on weekends between 7:00 a.m. Eastern Time Saturday morning and Sunday 12:00 p.m. Eastern Time. Occasionally, bug fix builds will need to be performed during the business week. If a bug fix build is required to be performed during the business week, it will take place after 9:00 p.m. Eastern Time.
2. The Hosting Services shall be deemed "unavailable" if Customer is unable for all practical business purposes to transmit data to or receive data from the Hosting Environment, provided that the inability to transmit and receive data is not due to problems with non-Hosting Environment equipment, services, communication lines, or other products.
3. Failure to meet Availability service levels will result in penalties and will may result in termination of this Agreement. Penalties will be calculated according to the following matrix if Licensor falls below minimum service levels detailed below. All percentages exclude planned maintenance.

Availability	
Guaranteed System Availability Percentage	97% of Total Hours Per Month (excluding planned maintenance referenced in 1.1 above)
Credit to Customer's Account	3% of monthly fee for each 1% of the time period that the Services are down beyond committed levels
Penalty Cap	Maximum = Monthly fee