



SPS VAR Services Agreement

Project Description

SPS VAR, LLC. (We) agree to provide Services described in a Statement of Work below or in an Attachment to our Customer (You) under the terms of this Agreement. You are responsible for project management and for any results achieved, unless specified otherwise in the Statement of Work. We do not provide Services under the terms of your purchase order.

Services are provided and billed either on an hourly ("Hourly Services") or on a fixed-price ("Fixed-Price Services") basis.

For Hourly Services, the Statement of Work specifies the hourly rate, the estimated hours and estimated expenses required to complete the project. This estimate is not a fixed-price commitment. Charges will equal the actual hours worked times the hourly rate, plus actual expenses and applicable sales taxes.

For Fixed-Price Services, the Statement of Work specifies the fixed-price and estimated expenses. This expense estimate is not a fixed-price commitment. Charges will equal the fixed-price plus actual expenses and applicable sales taxes.

Statement of Work

Project Name: __NaviLine Server Upgrade to POWER9 @ V7.3__

☐ **Hourly Services:** _____ Hours x \$ _____ per Hour = _____ **Estimated Total Charges**
OR

☒ **Fixed-Price Services:** \$ _____ Invoiced Upon Product Start

Estimated Expenses: \$ __N/A__ Travel & Living and __N/A__ Other Expenses

Estimated Start Date: 04/15/2019

End Date: 05/15/2019

Services: Remote assistance with data migration from current 8202-E4B sn 726BP to new POWER9 @ V7.3. Includes setup of Production and TEST partitions and updating code on installed HMC 7042-CR7 sn 21E861C.

This Project Description, the Statement of Work and the Additional Terms on page 2 form our complete agreement (the "Agreement") regarding these Services and replace any prior oral or written communication between us. By signing below, both of us agree to these terms.

Agreed to: (Customer legal name & address)

City of Stockton

400 E. Main Street
Stockton, CA 95202

Agreed to:

SPS VAR, LLC

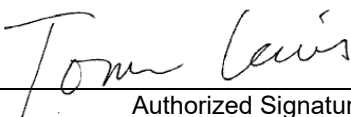
P. O Box 8869
Atlanta, GA 31106

By: _____
Authorized Signature

Name (print): _____

Title: _____

Date: _____


Authorized Signature

Name (print): Tom Lewis

Title: President

Date: 2-14-2019

Agreement Number: 2019021202LBB



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Additional Terms

Billing

For Hourly Services, the minimum billing increment is fifteen (15) minutes. However, there will be a one-hour minimum for each day in which Services are provided on-site and a fifteen (15) minute minimum for each day in which Services are provided by telephone. We may increase our hourly billing rate and minimums by giving you three (3) months' written notice.

Hourly Services are invoiced weekly as the work progresses. Fixed-Price Services are invoiced as specified in the Statement of Work. Travel and other expenses are invoiced weekly using IRS mileage allowances for automobile transportation and actual cost for all other expenses.

Charges for Services and expenses are due within 30 days from the invoice date. Amounts past due are subject to a late payment charge of 1.5% per month. You agree to pay accordingly.

You agree to pay applicable sales taxes or supply exemption documentation.

Project Completion and/or Termination

Hourly Services will end when we provide the estimated number of hours or upon the estimated project end date unless you authorize additional hours or an extension of the end date. In the event that additional hours are not authorized for incomplete project which is provided on an Hourly Services basis, we do not warrant that the Services will be completed. Fixed-Price Services will end when the tasks described in the Statement of Work are complete.

Either party may terminate this Agreement on written notice to the other if the other breaches any material provision of this Agreement, including nonpayment of any charges hereunder. Upon termination, we will stop our work in an orderly manner as soon as practical.

You agree to pay for all Services we provide, all materials (including programs, program listings, documentation, reports or other similar works of authorship) we deliver and all expenses we incur through the project's termination, including charges we incur in terminating subcontracts.

Customer Obligation

You agree to provide us reasonable access to the premises where Services will be provided during your business hours. You will also provide other onsite cooperation and assistance as may be reasonably requested by us. You agree to sign and deliver to us the Acknowledgment of Completion of Services when the tasks described in the Statement of Work are complete, or when we have provided the estimated number of hours of Services for Hourly Services (unless additional hours are authorized), whichever comes first.

Subcontractors

We have the right subcontract any part of the Services to a third party as we deem appropriate, provided that we will remain ultimately responsible for the Services, subject to the terms of this Agreement.

Changes to Statements of Work

The Statement of Work may only be changed by a written Change Authorization signed by both of us. The terms of the Change Authorization will prevail over those of the Project Description, the Statement of Work and any previous Change Authorizations.

Warranty

We warrant that we perform Services using reasonable care and skill in accordance with recognized standards in the industry. **WE DO NOT PROVIDE ANY OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. We do not warrant uninterrupted or error free operation of any Service.**

Limitation of Liability

In the event that you are entitled to recover damages from us, in each instance, regardless of the basis on which you are entitled to claim damages from us, we are liable only for an amount no greater than the sum of all payments you have made to us. This limit also applies to liabilities of any of our subcontractors. It is the maximum for which we and our subcontractors are collectively responsible. **Under no circumstances are we or our subcontractors responsible to you or third parties for 1) loss of, or damage to, your records or data; or 2) special, incidental, consequential or other indirect damages (including lost profits or savings), even if we are informed of their possibility.**

Disputes

The laws of the State of California govern this Agreement. Any controversy or claim arising out of or relating to this Agreement, or the breach of this Agreement, shall be settled by arbitration in accordance with the rules of the American Arbitration Association at a hearing in Stockton, California. A judgment of a court having jurisdiction may be entered upon the arbitrator's award. The prevailing party, in addition to all recoveries, is entitled to recover from the other party reasonable expenses (including attorney fees) relevant to the claim.

Agreement Number: 2019021202LBB



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Acknowledgement of Completion of Services

Customer hereby acknowledges that the Services required to be provided under Services Agreement No. ____2019021202LBB ____ have been completed, and such Services are hereby accepted.

____City of Stockton____

By: _____

Name: _____

Title: _____

Date: _____