



REPORT TO CITY COUNCIL

DATE: JUNE 23, 2015
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: GREG RAMIREZ, CITY MANAGER 
BY: CHRISTY PINUELAS, DIRECTOR OF FINANCE 
SUBJECT: AWARD CONTRACT FOR INFORMATION TECHNOLOGY SERVICES FOR THE CITY OF AGOURA HILLS FOR THE TWO FISCAL YEARS BEGINNING WITH THE FISCAL YEAR ENDING JUNE 30, 2016

The City currently contracts for information technology services with Lanspeed. After discussions with other firms, and consideration of our current operations, staff is recommending that we award a contract to Lanspeed for the next two fiscal years, with an option to extend the agreement for an additional three (3) year period.

The firm has been providing information technology services for the City of Agoura Hills for the past five (5) years. They have not had a change in fees since their original contract date of June, 22, 2011, and are asking for a 5% increase in fees.

Lanspeed has done considerable work on the migration of the recreation center from the Citrix platform, to a Windows platform. They have been instrumental in the design of the wireless system and the network. Because the pricing is in line with their current fees, and their service level meets our current needs, staff recommends continuing to use their services.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council award the contract for information technology services for the City of Agoura Hills for the two fiscal years beginning with the fiscal year ending June 30, 2016, with an option to extend the agreement for an additional three (3) year period to Lanspeed; and authorize the Mayor to sign the contract agreement.

Attachment: Agreement

**AGREEMENT FOR CONSULTANT SERVICES
WITH THE CITY OF AGOURA HILLS**

NAME OF CONSULTANT:	Lanspeed
RESPONSIBLE PRINCIPAL OF CONSULTANT:	Attn: Chris Chirgwin
CONSULTANT'S ADDRESS:	6950 Hollister Avenue, Suite 104 Goleta, CA 93117
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Christy Pinuelas
COMMENCEMENT DATE:	7/1/2015
TERMINATION DATE:	6/30/2017
CONSIDERATION:	Contract Price Not to Exceed: \$100,000/yr

ADDITIONAL SERVICES *(Describe Services, Amount, and Approval):*

Date: _____ Amount: \$ _____ Authorized By: _____
(Not to Exceed 10% of Contract Price) City Manager

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND LANSPEED**

THIS AGREEMENT is made and effective as of July 1, 2015, between the City of Agoura Hills, a municipal corporation ("City") and Lanspeed ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on July 1, 2015, and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2017, unless sooner terminated pursuant to the provisions of this Agreement.

The City may, at its option, extend this Agreement for one additional term of three year upon providing written notice of its intent to extend this Agreement to the Consultant not less than thirty (30) days prior to the expiration of the initial Term. Such extension shall be at the same price and conditions as set forth herein.

2. SERVICES

Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

In meeting its obligations under this Agreement, Consultant shall at all times faithfully and competently perform all tasks described herein in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

4. PAYMENT

A. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed One Hundred Thousand Dollars and Zero Cents (\$100,000.00). "Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth

herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

C. Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Consultant shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section entitled "PAYMENT" herein.

6. DEFAULT OF CONSULTANT

A. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

B. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of

this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.”

7. OWNERSHIP OF DOCUMENTS

A. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. INDEMNIFICATION

Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, agents and independent consultants serving in the role of City officials, and volunteers (collectively “Indemnitees”) free and harmless from any and all claims, demands, causes of action, proceedings, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively “Claims”), in any manner arising out of or incident to any acts or omissions of Consultant, its officials, officers, employees, agents or sub-consultants in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys’ fees, and other related costs and expenses, except for such Claims arising out of the sole negligence or willful misconduct of the Indemnitees. With respect to any and all such Claims, Consultant shall defend Indemnitees at Consultant’s own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Consultant shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant’s obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant or Indemnitees. All duties of Consultant under this Section shall survive termination of this Agreement.

9. INSURANCE REQUIREMENTS

Prior to commencement of work, Consultant shall procure, provide, and maintain, at Consultant's own expense, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88, or equivalent.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92, or equivalent, covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City, its officers, officials, employees and volunteers are to be covered and named as additional insureds in respect to: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. Consultant agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

F. Verification of Coverage. **Consultant shall furnish the City with original endorsements, specifically naming the City of Agoura Hills, its officers, officials, employees and volunteers as additional insured, effecting coverage required by this clause.** The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms acceptable to the City. Insurance certificates and endorsements must be received and approved by City's Risk Manager prior to commencement of performance. Current insurance certificates and endorsements shall be kept on file with the City at all times during the term of this agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

G. Mailing Instructions. Insurance documents shall be mailed with the signed Agreement to the attention of the staff person indicated on the cover sheet of this

Agreement, to the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA 91301. Executed Agreement(s) cannot be released nor may any work commence on a project until the signed Agreement and appropriate insurance documents are on file with the City Clerk.

10. INDEPENDENT CONSULTANT

A. Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

11. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

12. RELEASE OF INFORMATION

A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or sub-consultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-consultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding

this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

13. NON-SOLICITATION AGREEMENT

The parties agree that, unless otherwise agreed to by the parties in writing, during the performance of any Services hereunder and for a period of two (2) years after termination of such Services, the City shall not solicit, entice, encourage or induce (hereinafter collectively "solicit") any person who at any time during the Term of Agreement shall have been an employee, staff, temporary personnel or technical personnel of Consultant to cease being an employee, staff, temporary personnel, technical personnel or independent contractor of Consultant and to become employed by or associated with any person, firm or corporation other than Consultant, and City shall not approach any such employee or contractor for such purpose or authorize or knowingly approve the taking of such actions by any other person, firm or corporation or assist any person, firm or corporation in taking such action. In the event that Client breaches the covenants contained in this section. City agrees to pay to Consultant an amount equal to two times the annual salary (or annualized contract payments) of each employee or contractor as liquidated damages and agrees that such amount is a reasonable estimate of the cost and expense to Consultant to retrain new personnel.

14. FORCE MAJEURE

Other than with respect to payment obligations hereunder, if either party is unable to perform any of its obligations under Agreement because of a natural disaster, actions or decrees of governmental bodies, communications line failure not the fault of the affected party, or other events beyond the reasonable control of the affected party (a "Force Majeure Event"), the party who has been so affected will immediately give notice to the other party and will do everything possible to resume performance. Upon receipt of such notice, all obligations under Agreement will be immediately suspended for the duration of the Force Majeure event.

15. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301
Attention: City Manager

To Consultant: **Lanspeed**
6950 Hollister Avenue, Suite 104
Goleta, CA 93117
Attention: Chris Chirgwin

16. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

17. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

18. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

19. PROHIBITED INTEREST

No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-consultants for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Consultant or Consultant's sub-consultants on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Illece Buckley Weber,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk
Date Approved by City Council: _____

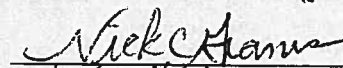
APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONSULTANT

Lanspeed
6950 Hollister Avenue, Suite 104
Goleta, CA 93117
Chris Chirgwin
(805)682-9981

By: 
Name: *Chris Chirgwin*
Title: *CEO*

By: 
Name: *Nick Gianis*
Title: *President & GM*

[Signatures of Two Corporate Officers Required]

EXHIBIT A

TASKS TO BE PERFORMED

The specific elements (scope of work) of this service include:

See Service Description Smart IT Platinum & Gold – effective Date July 1, 2015, attached.



Service Description Smart IT Platinum & Gold

Effective Date

July 1, 2015

Prepared By

Lanspeed
6950 Hollister Ave, Suite 104
Goleta, CA 93117

Prepared For

City of Agoura Hills
29900 Ladyface Court,
Agoura Hills, CA 91301

Statement of Confidentiality

This document contains trade secrets and information that is sensitive, proprietary, and confidential to Lanspeed, and the disclosure of which would provide a competitive advantage to others. Therefore, this document shall not be disclosed, used, or duplicated, in whole or in part, for any purpose other than to evaluate the requirements herein.

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1. General Definitions

This "**Service Description**" contains the terms and conditions of the Smart IT Platinum & Gold Managed Services ("**Service Terms**") and are as follows:

"**Managed Service Provider**" or "**MSP**" means Red Tail Networks, Inc. (d.b.a. "Lanspeed") a California corporation, with its principal office at 6950 Hollister Ave, Suite 104, Goleta, CA 93117.

"**Client**" means City of Agoura Hills, having a physical address of 30001 Ladyface Court, Agoura Hills, CA 91301.

"**Agreement**" means terms and conditions in effect between Client and MSP as established in the Managed Services Agreement and the Service Description.

"**Services**" means the services provided by the MSP and are defined in the Service Description, **including but not limited to updates, revisions and modifications as determined by the MSP from time to time.**

"**Add-On Services**" means additional services that will be provided by the MSP at an additional cost to the Client. These additional services are optional and not mandatory.

2. Service Terms & Conditions

2.1 Normal Hours of Operation

For the purpose of the Service Description, MSP normal hours of operation shall be Monday through Friday 8:00am to 5:00pm PST, excluding legal holidays. See holiday schedule in Section 2.3.

Services include a designated service phone number and email address. Remote Service Desk support for Client authorized users using the designated service phone number is available Monday through Friday 7:00am to 5:00pm PST.

2.2 Service Outside of Normal Business Hours

For the purpose of the Service Description, MSP non-business hours shall be defined as Monday through Friday 5:00pm to 8:00am PST, all day Saturday, all day Sunday, and legal holidays as defined in Section 2.3 of Service Description. Services include Remote Service Desk support Monday through Friday between 7:00am to 8:00am PST. MSP Smart IT Platinum package includes after-hours emergency Severity Level 1 or 2 support as defined in Section 3.2 of Service Description. Services provided by MSP during MSP non-business hours shall be subject to the Service Rates and Fees defined in Section 3.2 of Service Description.

2.3 Holiday Schedule

MSP will be closed to observe the following holidays. The list of holidays observed by MSP is subject to change without prior notice. In the event that the holiday list changes, MSP will provide to Client an updated list that will be considered an amendment to Service Description.

- New Year's Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- The day following Thanksgiving Day
- Christmas Eve
- Christmas Day

2.4 Support & Escalation

Services include a dedicated email address and phone number for service requests. MSP will provide contact information to Client once Services commence. Service requests must be submitted by Client authorized users to MSP using the assigned Service Desk email address or, if email is unavailable, assigned Service Desk phone number. Service requests will be assigned a Service Ticket number for tracking purposes.

MSP will make commercially reasonable efforts to respond to Client service requests covered under Agreement according to the provisions of Section 4 of Service Description.

2.5 Hardware & Software Support

MSP shall provide support Services for Client authorized users and or devices / equipment as defined in MSP "Client Authorized End-Users and Devices / Equipment", provided that the following conditions are met and maintained by Client:

- All server and firewall devices must be covered under a current active Manufacturer's Warranty agreement that will provide for the support, repair or replacement of equipment in the event of a failure. If replacement parts are not provided by current active Manufacturer's Warranty agreement, replacement parts must be made readily available at Client location provided by Client.
- All Software must be genuine, currently licensed and vendor-supported.
- Any custom or 3rd party applications must be covered by a valid and active support contract from the Software Vendor.

Should any hardware, software, or systems otherwise covered under Agreement fail to meet these provisions, they will be excluded from Agreement. Any and all 3rd party Vendor support charges that are required to resolve any issues will be invoiced by MSP to Client. If such 3rd party support charges are required, MSP will obtain authorization from Client prior to incurring the charges.

2.6 Monitoring Services

MSP shall provide ongoing monitoring of all devices/equipment defined in MSP "Client Authorized End-Users and Devices / Equipment". Should a problem or important notification be discovered during Monitoring, MSP shall make every reasonable attempt to notify Client according to the MSP "Client Escalation Preferences". Services include attempts by MSP to remediate the issue through remote access means in accordance with Section 4 and the terms and conditions of Agreement.

2.7 Minimum Standards Required

In order for Client's existing environment to qualify for Agreement, the following requirements must be met:

1. All Microsoft Windows Servers must be running Windows Server 2008 or later, and must have all of the latest Microsoft service packs and critical updates installed.
2. All Microsoft Windows Desktop / Laptop computers must be running Windows 7 Professional or later and must have all of the latest Microsoft service packs and critical updates installed.
3. All Microsoft Windows Servers / Desktops / Laptops must have Microsoft .NET Framework 2.0 at the minimum.
4. All Server and Desktop / Laptop software must be genuine, licensed and vendor supported.
5. Client environment must have a licensed and fully operational file and or server based backup solution that is covered under a current active support contract.
6. All devices / equipment / software covered by Agreement must meet the requirements of Section 2.7
7. Client environment must be protected by MSP supported firewall that is currently licensed and under a current active vendor supported warranty agreement.
8. Any and all wireless devices covered under Agreement must be securely encrypted with a minimum of WPA data encryption. Wireless traffic must be segmented for public and private use.
9. Client must have and maintain a stable and reliable internet connection to all devices / equipment covered by Agreement. Any on-site visit that is required as a result of a lack of internet access to Client devices / equipment will be invoiced by MSP to Client according to Section 3.2 of Service Description.

The costs required to bring Client's environment up to these Minimum Standards are not included in Agreement.

2.8 Services Excluded From Agreement

In addition to other limitations and conditions set forth in Agreement, the following services and support are NOT included or covered under Agreement, are considered to be Professional Services and will be invoiced separately if requested or required by Client:

1. Costs of consumables, equipment, hardware, replacement parts, software, network upgrades or support charges required from 3rd party vendors.
2. Costs of software licensing, renewal / support fees, support contracts, warranty contracts, incident fees or upgrade fees of any kind unless otherwise specified in Service Description.
3. Costs to maintain application software packages, whether acquired from MSP or any other source unless otherwise specified in Service Description.
4. Costs to bring Client's existing environment up to the minimum standard required for set forth in Section 2.7 of Service Description.
5. Shipping fees of any kind.
6. Costs of SSL Certificates and Domain Name registrations or renewals.
7. Training services of any kind.
8. Service or repair made necessary by the alteration or modification of equipment other than that authorized by MSP, including alterations, software installations or modifications of equipment made by Client's employees or anyone other than MSP.
9. Restoration of lost data caused by systems/hardware failure or Client deletion.
10. Programming or web development of any kind.
11. Moving of any devices or equipment covered under Agreement from one physical address location to a different physical address location.
12. Failure due to any acts of God including but not limited to inclement weather, fire, earthquakes, power failures, or any other adverse environmental conditions or factors.
13. Any work determined by MSP to be Professional Services. Professional Services can be defined as an extended undertaking, especially one requiring 3 or more hours of work involving specific tasks, planning, personnel and or equipment.

2.9 On-Site Service Request Escalation

All service requests regardless of type or origination will be processed according to Section 4 and Section 5 of Service Description. Remote Service Desk remediation will be the first method used in attempting to resolve any and all service requests according to the terms and conditions of Agreement. If remote remediation fails, or is unavailable for any reason, MSP will contact Client and schedule on-site Service Desk remediation. All on-site Service Desk requests will be invoiced to Client according to Section 3.2 of Service Description.

Smart IT Platinum package includes on-site Service Desk support for incidents during MSP normal business hours and Severity Level 1 and 2 issues as defined in Section 4 during MSP non-business hours. If on-site Service Desk support is requested by Client under the MSP Smart IT Platinum package and no trouble or problem is found or remote Service Desk remediation could have been used to resolve the issue, Client will be invoiced by MSP for said on-site service visit according to Section 3.2 of Service Description.

Client understands that on-site Service Desk requests may include or be handled entirely by 3rd party vendors under MSP Vendor Management service offering. Refer to Section 2.5 for Hardware and Software Support requirements and MSP "Authorized Vendors for Vendor Management".

2.10 Unapproved Maintenance & Modifications

Client agrees to inform MSP of any modification, installation, or service performed on any device, equipment or item covered under Agreement by any individuals not employed by MSP in order for MSP to provide efficient and effective support. Any maintenance and or modifications made by Client or other individuals not employed by MSP to any device, equipment or item covered under Agreement that results in work and or repairs necessary by MSP shall not be covered under the terms and conditions of Agreement, and will be subject to MSP Service Rates as defined in Section 3.2 of Service Description.

2.11 Maintenance Window

Client agrees that a maintenance window must be established by MSP and honored by Client in order to allow for proper system maintenance, patching and reboots. Maintenance Windows are time frames in which MSP can schedule patch installation, reboots and other routine maintenance. The Maintenance Windows listed herein Section 2.11 will be followed by MSP unless otherwise amended or scheduled between MSP and Client.

Default Maintenance Windows		
Task	Time	Day
Workstation Patching/Reboots	12:30 AM – 3:30 AM Local Time	Wednesday
VM Host Server Patching/Reboots	12:30 AM – 3:30 AM Local Time	Sunday on 4 th week of the month
SBS Server Patching/Reboots	12:30 AM – 3:30 AM Local Time	Friday on 2nd and 4th weeks of the month
Domain Controller Patching/Reboots	12:30 AM – 3:30 AM Local Time	Saturday on 2nd and 4th weeks of the month
Microsoft Exchange Patching/Reboots	12:30 AM – 3:30 AM Local Time	Monday
Microsoft SQL Patching/Reboots	12:30 AM – 3:30 AM Local Time	Monday
Other Server Roles Patching/Reboots	12:30 AM – 3:30 AM Local Time	Monday
Routine Maintenance	12:30 AM – 3:30 AM Local Time	Everyday

2.12 Support of Mobile and Remote Devices


MSP will provide support for mobile and remote devices under Agreement for the sole purpose of accessing Client network resources and synchronizing email from an MSP approved email platform covered under the terms and conditions of Agreement. In order for MSP to provide support for mobile and remote devices, certain standards must be met. The standards are as follows:

1. Client's Microsoft Exchange server must be protected by a valid and current industry standard SSL certificate with a minimum of 256-bit encryption. Client is responsible for the fees required to purchase and maintain this certificate.
2. Mobile or remote devices must be Microsoft Exchange or Microsoft Exchange Online compatible.
3. Mobile or remote devices must be configured to use Microsoft Exchange ActiveSync, Microsoft Outlook Anywhere or IMAP for email synchronization. POP3 or other email account types are not supported.
4. For mobile and remote device users: Client must have an existing on premise or hosted Microsoft Exchange mail service that is configured properly for use with Microsoft Exchange ActiveSync or Microsoft Outlook Anywhere.
5. Mobile or remote devices must be configured to use MSP approved secure access to connect remotely to Client network resources. Client must have an existing MSP approved firewall and or VPN appliance configured properly for secure remote access to Client network resources. Associated costs, including configuration and setup, of these minimum standard components, is not covered under the terms and conditions of Agreement.
6. Each mobile or remote device supported by MSP must belong to a Client authorized user covered under Agreement.































3. Description of Services & Summary of Fees

3.1 MSP Smart IT Managed Service Packages

MSP Smart IT Platinum and Gold Services can be broken down into the following four categories:

-  Service Desk Support
-  Centralized Services
-  Network Administration
-  Technology Consulting

MSP Smart IT Services by category:

	Smart IT Platinum	Smart IT Gold
Onsite Service Desk Support		
Emergency After Hours Support		
Remote Service Desk Support		
Priority Response Times		
Backup Monitoring		
Patch Management		
Email Protection		
Endpoint Protection		
Firewall Management		
Monitoring, Alerting & Escalation		
Change Control		
Network Health Reviews		
Vulnerability Reporting		
Documentation		
Vendor Management		
Strategic Business Reviews		

3.2 Service Rates for Excluded Services

Type Of Service	Standard Rate	After Hours	Holiday
Project/Professional Service Rate Level 1 & 2	175.00 / hour	1.5x	2x
Project/Professional Service Rate Level 3 & Senior	205.00 / hour	1.5x	2x
Project/Professional Service Rate Advanced	250.00 / hour	1.5x	2x
<i>*The following are additional for Gold Services only</i>			
*Onsite Service Desk Support Level 1 & 2	175.00 / hour	1.5x	2x
*Onsite Service Desk Support Level 3 & Senior	205.00 / hour	1.5x	2x
*Onsite Service Desk Support Advanced	250.00 / hour	1.5x	2x

3.3 Definition of Smart IT Service Terms

On-Site Service Desk Support

(Included with MSP Smart IT Platinum package only)

In the event that an issue cannot be resolved by means of remote remediation with Remote Service Desk Support, MSP will dispatch an on-site Service Desk engineer for on-site support remediation or coordinate a Vendor visit under MSP Vendor Management. In order for an issue to qualify for on-site support remediation under On-Site Service Desk Support, the issue must (a) be directly associated to a device covered under Agreement, (b) all remote remediation attempts to correct the issue must first be exhausted, and (c) the billable work to correct the issue with an on-site support visit must be covered under the terms and conditions of Agreement.

Emergency After Hours Support

(Included with MSP Smart IT Platinum package only)

Support incidents classified as Severity Level 1 or 2 that require MSP remote or on-site Service Desk support will be covered under Agreement. Severity levels and response times are defined in Section 4 of Service Description. In the event that an issue cannot be resolved by means of remote remediation with Remote Service Desk Support, MSP will dispatch an MSP on-site Service Desk engineer for on-site support remediation or coordinate a Vendor visit under MSP Vendor Management. In order for an issue to qualify for on-site support remediation under On-Site Service Desk Support, the issue must (a) be directly associated to a device covered under Agreement, (b) all remote remediation attempts to correct the issue must first be exhausted, and (c) the work to correct the issue with an on-site support visit must be covered under the terms and conditions of Agreement.

Remote Service Desk Support

Remote Service Desk Support means that MSP will provide Client remote Services, according to the terms and conditions of Agreement, over the telephone and or Internet. Remote Service Desk support with MSP remote Service Desk engineer for Client authorized end-users is available Monday thru Friday 7:00am to 5:00pm PST (excluding holidays) for Servers / Workstations / Laptops that are covered under Agreement. This service provides for remote Service Desk remediation only, and does not include hardware repairs of any kind. If remote remediation is unsuccessful or unavailable, an on-site Service Desk support visit will be required and will be chargeable according to the terms and conditions of Agreement.

Priority Response Times

Priority Response Times means that Client is entitled to priority response times for MSP Service Desk Services. MSP will make commercially reasonable efforts to respond to Client in accordance with Section 4 of Service Description.

Backup Monitoring

Backup Monitoring is provided to Client using MSP Centralized Services. Backups are monitored for status, such as successful completion, failure, errors and destination free space restrictions. MSP provides Backup Monitoring Services to help ensure adequate access to Client data in the event of loss of data or disruption of services. **MSP does not and cannot make any guarantees regarding the prevention of loss of data.** Restoration Services of lost data caused by systems/hardware failure or Client deletion are not covered under Agreement. MSP only provides Backup Monitoring Services for specific backup

applications. As of the Effective Date, the two MSP approved backup applications are StorageCraft ShadowProtect and Datto. Client backup applications will need to be reviewed and approved by MSP for Backup Monitoring to be covered under Agreement.

Patch Management

With Patch Management, Microsoft security updates will be reviewed for potential issues by MSP Centralized Services. Whitelisted patches are centrally deployed and installed automatically to Server / Workstation / Laptop systems that are covered under Agreement according to Section 2.11. In the event that systems will not accept or detect deployed patches, or patches require manual deployment, additional support may be required to allow for successful patch installation on affected systems. Services include initial patch deployment remote Service Desk remediation attempts. Professional Services work may be required to repair affected system(s) to allow successful patch deployment and is not included under Agreement.

Email Protection

Email Protection means that MSP will provide Email Protection services to Client Authorized End Users. As of the Effective Date, MSP Email Protection solution is McAfee SaaS Email Protection and Continuity services, formerly known as MX Logic Email Protection services. Licensing for Email Protection will be maintained by MSP for Client as long as the terms and conditions of Agreement are met. In the event that Agreement is terminated by either party, Client understands that Endpoint Protection licensing will either be canceled or billed as a separate service. MSP understands that Client may or may not require Email Protection services. Client may choose to "opt out" of Email Protection services by completing MSP "Managed Services Waivers".

Endpoint Protection

MSP will deploy Endpoint Protection to Servers / Workstations / Laptops covered under Agreement that have MSP Remote Monitoring and Management Agent installed. Licensing for Endpoint Protection will be maintained by MSP for Client as long as the terms and conditions of Agreement are met. As of the Effective Date, MSP Endpoint Protection vendor solution is Sophos Endpoint Security. Endpoint Protection only applies to the MSP selected vendor product. In the event that Agreement is terminated by either party, Client understands that Endpoint Protection licensing is no longer valid and must be removed. Endpoint Protection is monitored and updated by MSP. MSP will review Endpoint Protection status and escalate issues to either MSP Service Desk or Client based on the terms and conditions of Agreement. Services include initial Endpoint Protection remote remediation attempts. Professional Services work may be required to repair affected systems to allow successful system operation and is not included under Agreement.

Firewall Management

Firewall Management means that Client firewall is monitored, updated and supported by MSP. As of the Effective Date, MSP approved firewall appliance vendor is Sophos. Firewall Management only applies to the MSP approved vendor product. Unless otherwise noted in Agreement, Client understands that Licensing & Support agreements with Firewall Appliance vendor will be maintained by Client as long as Agreement is in effect. MSP will review Managed Firewall Appliance status and escalate issues to either MSP Service Desk or Client according to the terms and conditions of Agreement. Services include initial Managed Firewall Appliance remote remediation attempts. Professional Services work may be required to repair affected systems to allow successful system operation and is not included under Agreement.

Monitoring, Alerting, & Escalation

MSP Remote Monitoring and Management Agent will be installed on each Server / Workstation / Laptop covered under Agreement. The remote agent will monitor the Server / Workstation / Laptop / Device and provide alerting to MSP in the event a problem is detected. Performance and system health are actively monitored for possible issues. If a problem is detected, a service ticket is created by MSP Centralized Services. MSP will review the reported information and escalate the issue to the MSP Service Desk and or Client according to the terms and conditions of Agreement.

Change Control

MSP Remote Monitoring and Management Agent provides change control information for each Server / Workstation / Laptop covered under Agreement. This information is monitored by MSP Centralized Services for events that could impact the security or performance of Client systems. MSP will review the reported information and escalate issues to Client according to the terms and conditions of Agreement.

Network Health Reviews

Network Health Reviews means that Client systems covered under Agreement will be reviewed by MSP on a recurring basis. The Network Health Review will be completed by an MSP engineer and emailed to Client. The Network Health Report will include an overview of the general status / health in regards to MSP "best practices" of Client systems that are covered under this Agreement. The Network Health Review helps MSP ensure that services are being delivered according to terms and conditions of Agreement and that Client systems are in good health.

Vulnerability Reporting

Vulnerability Reporting means that an external vulnerability scan will be performed on a recurring basis by MSP on Client internet connected devices covered under Agreement. The purpose of this scan is to check for possible security concerns; therefore, helping to ensure the health and security of Client's network. The Vulnerability Health Report will be emailed to Client upon completion of this scan.

Documentation

Lanspeed Network Administration Services include Documentation of Client systems covered under Agreement. The Network Health Reviews include time for MSP to update Documentation records as needed. Documentation aides MSP in the delivery of Service Desk Remote and Onsite support Services.

Vendor Management

Vendor Management means that MSP will act as the initial single point of contact for Client issues related to hardware, software and or any 3rd party vendor applications for devices and or equipment covered under Agreement. Refer to "Authorized Vendors for Vendor Management" for a complete list of Vendors that are authorized by MSP as "Managed Vendors" under the terms and conditions of Agreement. MSP will act as the liaison to schedule the repair, replacement, or correction of the client reported issue provided that the affected system, device, hardware, software application or 3rd party vendor application covered under Agreement and meets all of the requirements as defined in Section 2.5 of Service Description. Vendors that are not listed in "Authorized Vendors for Vendor Management" will not be included under Agreement Vendor Management.

Strategic Business Reviews

An assigned MSP Technology Consultant and MSP engineer will review the Network Health Review on a recurring basis to determine the need for scheduling a Strategic Business Review. The Strategic Business Review is a meeting between MSP and Client to (a) discuss and review Client network health and performance, (b) to review Client business plans and goals, and (c) to develop a technology plan to address Client goals and industry trends.

4. Priority Service Desk Response Times

4.1 Priority Service Desk Response Times

MSP will make commercially reasonable efforts to perform work related to Client problems, issues, service requests, and any other work performed under Agreement by MSP in accordance with these parameters as outlined herein Section 6 – Priority Service Desk Response Times.

4.2 Severity Levels Defined

Severity Level	Definition
1	System wide outage. Client is unable to conduct business, or services for all users have failed. Examples may be a server down, network down, or primary application down.
2	Down department. A department or shared device is down and affecting more than 20% of Client's users.
3	Down user or issue that is affecting less than 20% of Client's users. Client can continue to conduct business.
4	Request from any single user for new service or clarification such as new user logins, new workstation setups, etc.
5	Long term projects, planned preventative maintenance, or issues that are not time sensitive.

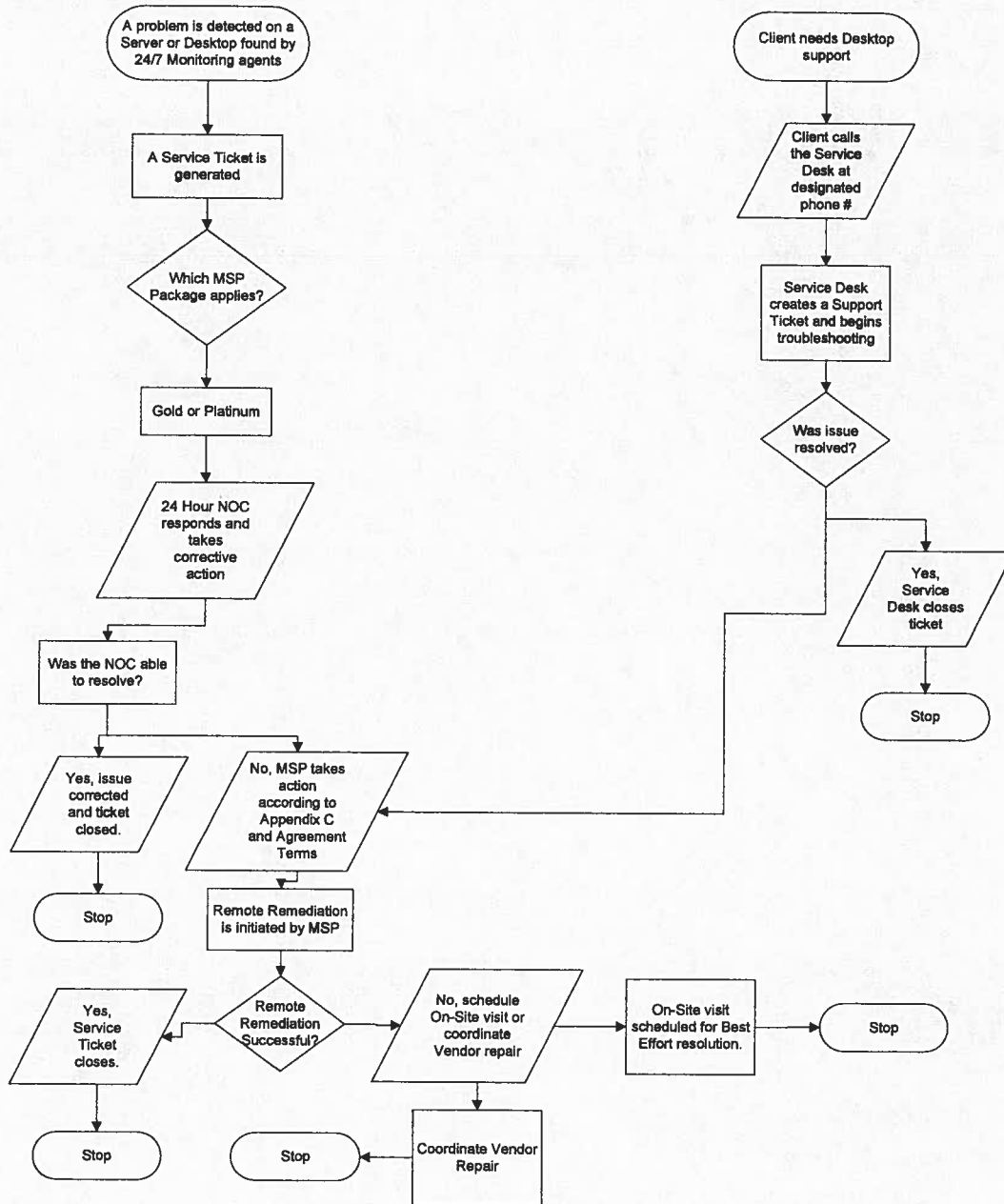
4.3 Response Times

Severity Level	Response Times	
	Normal Business Hours	Non-Business Hours
1	2 Hour	3 Hours
2	4 Hours	6 Hours
3	24 Hours	Scheduled
4	48 Hours	Scheduled
5	Scheduled	Scheduled

4.4 Support Tiers

Support Tier	Description
Tier 1	All support incidents begin at Tier 1, where the initial service ticket is created, the issue is identified and clearly documented, and basic hardware/software troubleshooting is initiated.
Tier 2	All support incidents that cannot be resolved with Tier 1 Support are escalated to Tier 2, where more complex support on hardware/software issues can be provided by Tier 2 Support.
Tier 3	Support Incidents that cannot be resolved by Tier 2 Support are escalated to Tier 3, where support is provided by the most qualified and experienced Engineers who have the ability to collaborate with 3 rd Party (Vendor) Support to resolve the most complex issues.

5. Service Desk Incident Management Flowchart



6. Signatures

By signing below, the signor represents and warrants that it is an authorized representative of Client, and agrees to be bound by these Service Terms.

Accepted By [Client]: City of Agoura Hills

Package Selection: Smart IT Gold Smart IT Platinum

Printed Name

Title

Signature

Date



Service Description Datto

Effective Date

7/1/2015

Prepared By

Lanspeed
6950 Hollister Ave, Suite 104
Goleta, CA 93117

Prepared For

City of Agoura Hills
29900 Ladyface Court,
Agoura Hills, CA 91301

Statement of Confidentiality

This document contains trade secrets and information that is sensitive, proprietary, and confidential to Lanspeed, and the disclosure of which would provide a competitive advantage to others. Therefore, this document shall not be disclosed, used, or duplicated, in whole or in part, for any purpose other than to evaluate the requirements herein.

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1. General Definitions

This "**Datto Service Description**" contains the terms and conditions of the Datto Backup Services ("**Service Terms**") and are as follows:

"**Managed Service Provider**" or "**MSP**" or "**Reseller**" means Red Tail Networks, Inc. (d.b.a. "Lanspeed") a California corporation, with its principal office at 6950 Hollister Ave, Suite 104, Goleta, CA 93117.

"**Client**" or "**Customer**" or "**you**" means City of Agoura Hills, having a physical address of 30001 Ladyface Court, Agoura Hills, CA 91301.

"**Datto**" means Datto, Inc., having a physical address of Merritt 7 Corporate Park, 101 Merritt 7, Norwalk, CT 06851.

"**Agreement**" means terms and conditions in effect between Client and MSP as established in the Managed Services Agreement or Professional Services Agreement and all effective Service Descriptions.

"**Services**" means the business continuity, backup and disaster recovery services provided to you by Datto and MSP and are defined in the Datto Service Description and Datto End User License Agreement, **including but not limited to updates, revisions and modifications as determined by the MSP and Datto from time to time.** The Services may be provided through the use of a BCDR Device owned by you or under your control and/or the Services may be provided through the use of remotely located servers owned by or under the control of Datto.

"**Datto End User License Agreement**" means terms and conditions in effect between Client and Datto as established in the Datto Service Description and Datto End User License Agreement. Datto End User License Agreement is updated and located online at <http://datto.com/eula/>

"**BCDR Device**" means any Datto hardware device to be used with the Datto Software and which you acquire separately from Reseller.

"**Datto Software**" means all intangible information in object code form constituting one or more computer or apparatus programs and the informational content of such programs, together with any Specifications supplied in conjunction with and supplementing such programs.

"**Enhancement**" means any upgrade, update, enhancement, change, or modification to the Product. Datto reserves the right to make any Enhancements at any time in its sole discretion. All Enhancements will be subject to the terms of this Datto Service Description, except to the extent that the parties mutually agree, in writing, to more restrictive provisions relating to such Enhancements.

"**Intellectual Property Rights**" means all intellectual property rights, however arising and in whatever media, whether or not registered, including patents, copyrights, trademarks, service marks, trade names, design rights, database rights, domain names, trade secrets and any applications for the protection or registration of such rights and all renewals and extensions thereof throughout the world.

"**Product**" means Datto's Services, any BCDR Device, all Datto Software as well as all Enhancements thereto. Product also includes Specifications and tools with respect to the Product.

"**Add-On Services**" means additional services that will be provided by the MSP at an additional cost to the Client. These additional services are optional and not mandatory.

"**Specifications**" means the documents, user manuals and any technical publications and specifications, as applicable, made available to you relating to the Product, or any portion thereof.

2. Service Terms & Termination

2.1 Term and Termination

The licenses hereunder will commence on the date you first register the Product and continue in effect until terminated as provided in Section 2 (Service Terms & Termination). If the initial term ("Initial Term") for

delivery of Services hereunder is one (1) year or greater, then, upon the expiration of the Initial Term, this Datto Service Description and all licenses hereunder shall automatically renew for one (1) or more additional terms of one (1) year (each, a "Renewal Term") unless and until either party notifies the other party of its intent to terminate at least sixty (60) days prior to the expiration of the Initial Term or any Renewal Term. The Initial Term, together with any and all Renewal Terms, are collectively referred to as the "Term." Without prejudice to any other rights, Datto may terminate this Datto Service Description in its sole discretion on 5 calendar days prior written notice if you fail to comply with any of the terms and conditions of this Datto Service Description or the Datto End User License Agreement or failure to pay for any fees due for use of the Product.

2.2 Account, Passwords, and Security

You must be a registered user to access the Service. MSP is automatically registered to access the Service. You are responsible for keeping your password secure. You will be solely responsible and liable for any activity that occurs under your user name. If you lose your password or the encryption key for your account, you may not be able to access your Content.

2.3 Additional Terms; Changes to the Service and Terms and Conditions.

By accepting the terms of this Datto Service Description, you acknowledge that you have reviewed and accept and understand the additional terms and conditions located here, including, but not limited to, Datto's warranty, return, and upgrade policies and any additional policies posted [here](http://datto.com/eula/) (<http://datto.com/eula/>) from time-to-time.

2.4 Support

You acknowledge and agree that Datto is under no obligation to provide you with telephone or technical support or maintenance for the Product.

Services include an MSP email address and phone number for service requests. MSP will provide contact information to Client once Services commence. Service requests must be submitted by Client authorized users to MSP using the assigned Service Desk email address or, if email is unavailable, assigned Service Desk phone number. Service requests will be assigned a Service Ticket number for tracking purposes.

MSP Datto Covered Support means MSP Support Services that are included at no additional cost outside of the monthly price set forth in the MSP "Proposal". Included MSP Support Services are any service, provided that the terms and conditions of Agreement are met, that can be provided by MSP Centralized Services through routine MSP maintenance and by working directly with Datto support.

2.5 Monitoring Services

MSP shall provide ongoing monitoring of Datto services with MSP Centralized Services. Should a problem or important notification be discovered during Monitoring, MSP shall make every reasonable attempt to notify Client.

2.6 Minimum Standards Required

In order for Client's existing environment to qualify for Datto Service Description, the following requirements must be met:

1. All covered Servers or Desktops must meet minimum standards supported by Datto.
2. Client must have and maintain a stable and reliable internet connection to all devices / equipment covered by Agreement. Any on-site visit that is required as a result of a lack of internet access to Client Services will be invoiced by MSP to Client according to Section 3.2 of Datto Service Description.

The costs required to bring Client's environment up to these Minimum Standards are not included in Agreement.

2.7 Services Excluded From Agreement

In addition to other limitations and conditions set forth in Agreement, the following services and support are NOT included or covered under this Datto Service Description unless otherwise covered by any other effective MSP Service Description, are considered to be Professional Services and will be invoiced separately if requested or required by Client:

1. Any MSP Support not related to the physical hardware or software provided by Datto.
2. Original setup and configuration of Services.
3. Costs of data overages for Cloud Storage.
4. Costs to bring Client's existing environment up to the minimum standard required set forth by Datto.
5. Round trip or shipping fees of any kind.
6. Training services of any kind.
7. Service or repair made necessary by the alteration or modification of equipment other than that authorized by MSP, including alterations, software installations or modifications of equipment made by Client's employees or anyone other than MSP.
8. Restoration of lost data caused by systems/hardware failure or Client deletion.
9. Moving of any devices or equipment covered under Agreement from one physical address location to a different physical address location.
10. Failure due to any acts of God including but not limited to inclement weather, fire, earthquakes, power failures, or any other adverse environmental conditions or factors.
11. Any work determined by MSP to be Professional Services. Professional Services can be defined as an extended undertaking, especially one requiring 3 or more hours of work involving specific tasks, planning, personnel and or equipment.

2.8 Unapproved Maintenance & Modifications

Any maintenance and or modifications made by Client or other individuals not employed by MSP to Datto Services that results in work and or repairs necessary by MSP shall not be covered under the terms and conditions of this Datto Service Description, and will be subject to MSP Service Rates as defined in Section 3.2 of Datto Service Description.

2.9 Off-Site Replication Policies

Datto has three options for replicating device data to an off-site location: (1) Datto Cloud, (2) Private Cloud, and (3) Local Only (no replication).

Datto Cloud. When a device is set up with Datto Cloud service, backups are replicated to one or more data centers. This ensures redundancy, and provides off-site restore capabilities including virtualization and file restore. All Datto products can replicate data to the Datto Cloud. SIRIS, SIRIS 2 and Virtual SIRIS appliances replicate to two data centers; all other products replicate to one datacenter.

Private Cloud. When MSP requires that their device replicate to a location of their choosing, rather than to the Datto Cloud, they can opt for Private Cloud service. This involves the purchase of a separate Datto Node appliance located somewhere off-site to act as a target for replication from one or more Datto devices.

Local Only. With Local Only service, all off-site replication is turned off, so no redundancy is provided. No off-site recovery options are available, and all backups will be lost if the Datto device is destroyed or rendered inoperable in the event of a catastrophe.

Service Availability By Model

Model	Datto Cloud	Private Cloud	Local Only
SIRIS 2, SIRIS, GenISIS	Yes	Yes	Yes
Virtual SIRIS	Yes	No	No
SIRIS Lite	Yes	Yes	No
Alto XL	Yes	No	No
ALTO 2, ALTO	Yes	No	No
Datto NAS	Yes	Yes	Yes
G Series	Yes	Yes	Yes
Z Series, V Series	Yes	Yes	Yes

2.10 Cloud Billing Policies

The following policies apply to devices using Datto Cloud service.

Live Dataset Retention. For all Datto devices purchased prior to October 1, 2013, Partners are allocated off-site cloud storage space equal to the lesser of 2 times the local device capacity or a rolling 12 months of incremental backups in the cloud. Of that allocated space, a portion is included with the monthly service charge, with the remainder of the allocated space available at an additional rate per TB per month. The amount of off-site cloud storage being used is calculated and billed monthly based on a "Live Dataset". A Live Dataset refers to the largest backup in the inverse backup chain, including the base backup, plus all incremental data points that include changes between backup points. Under the Live Dataset Cloud Retention policy, once the applicable threshold (i.e. 2 times the device size or a rolling 12 months of incremental backups) is met, off-site data is automatically pruned, in order of oldest to newest, to keep the off-site cloud storage amount not greater than the applicable threshold.

Total Cloud Retention. Beginning October 1, 2013, all new devices were sold pursuant to Datto Total Cloud Retention policy. Under the Total Cloud Retention policy, Client is billed based on an amount known as the Total Cloud, defined as the total off-site storage space used for a device, including all incremental backups. With this policy, devices come with a standard amount of off-site storage included in the monthly service charge, and additional storage is billed at an additional rate per TB per month. Any customer with a device purchased prior to October 1, 2013 can switch over to Total Cloud Retention by completing the Total Cloud Retention form.

Time-Based Retention. Time-Based Retention is a cloud billing policy available for SIRIS, SIRIS 2 and ALTO XL devices. With Time-Based Retention, Client pays a flat monthly rate for unlimited cloud retention of incremental backups for either 1, 3, or 7 years. Under this plan, retention is applied on a rolling basis, with the oldest cloud backups being deleted first. All recovery points are subject to an automatic consolidation of intradaily, daily, weekly and monthly backups, as follows:

Conversion of:	Takes Place After:
Intradailies to Dailies	3 Days
Dailies to Weeklies	2 Weeks
Weeklies to Monthlies	1 Month

Datto reserves the right to limit or restrict unlimited off-site retention if, as determined by Datto, a customer engages in any activity or uses the unlimited off-site retention in a manner that: (i) adversely impacts Datto; (ii) results in excessive bandwidth or storage usage; or (iii) harms, disrupts, or otherwise diminishes the Datto brand, services, network, or computer system. Any such use shall be at all times subject to all of the use restrictions and rights of Datto set forth in Datto's Reseller and End User terms and conditions.

Monthly backups are deleted on a rolling basis, oldest first, after 1, 3, or 7 years, depending on which time-based plan has been selected.

SIRIS, SIRIS 2, and ALTO XL are the only Datto Products for which Time-Based Retention is available.

Clients can switch from Live Dataset Retention or Total Cloud Retention to Time-Based Retention. Clients can switch from Time-Based Retention to Total Cloud Retention, but not from Time-Based Retention to Live Dataset Retention. Client may switch from one Time-Based Retention plan to a longer plan (e.g. 1 year to 3 years) by paying a one-time upgrade fee equal to the difference in the monthly fees for each plan, retroactive to the start date of the current (shorter) plan. For example, if Client signs up for a 1 year plan and wishes to switch to the 3 year plan after six months, the one-time upgrade fee would equal the

difference between the monthly charges times six. Client may switch from a longer plan to a shorter plan without incurring any additional charges. Time-Based Retention applies only to the cloud. Local retention settings are configurable on the device. 1, 3, and 7 years are the only cloud retention options available under Time-Based Retention.

2.11 Limited Hardware Warranty

Datto hardware Products are warranted against defects in materials and workmanship under normal use, handling and installation for a period of three years from the date of manufacture, regardless of the date of actual activation. In order to be eligible for warranty service, a Product must be enrolled in and current in payments for Service. The warranty does not extend to or include any third party components or software included in the Product. Datto will at its option and expense (and as the sole remedy for breach of this warranty) either repair, replace, or issue a credit for, a Product found by Datto to be defective during the warranty period. All warranty claims must be received by Datto within the warranty period.

Exclusions from Warranty - This warranty does not cover Products that have defects or failures resulting from 1) accident, neglect or abuse; 2) improper installation or maintenance; or 3) modifications, repairs, improvements, or any other changes to any software or hardware component of the Product that have not been authorized in writing by Datto. You are responsible for any costs incurred by Datto related to the foregoing exclusions.

THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THIS WARRANTY WILL BE TO REPAIR, REPLACE, OR ISSUE A CREDIT FOR A DEFECTIVE PRODUCT AT DATTO'S OPTION. THIS WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY DATTO AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, EACH OF WHICH IS HEREBY EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

3. Service Rates

3.1 MSP Datto Service Departments

MSP Datto Support Services are provided by the following departments:



Service Desk Support



Centralized Services

3.2 Service Rates for Excluded Services

Type Of Service	Standard Rate	After Hours	Holiday
Project/Professional Service Rate Level 1 & 2	175.00 / hour	1.5x	2x
Project/Professional Service Rate Level 3 & Senior	205.00 / hour	1.5x	2x
Project/Professional Service Rate Advanced	250.00 / hour	1.5x	2x
Onsite Service Desk Support Level 1 & 2	175.00 / hour	1.5x	2x
Onsite Service Desk Support Level 3 & Senior	205.00 / hour	1.5x	2x
Onsite Service Desk Support Advanced	250.00 / hour	1.5x	2x

3.3 Monthly Billing

The first month of Services is billed up front with the cost of any associated hardware or software. Monthly billing begins at the time the device is installed and registered. The first monthly bill will be prorated from the time of installation to the end of the first month of registration. Billing will then resume on a normal basis after the prorated 1st month and up front billing are accounted for. Monthly billing is billed for the month of service in advance.

6. Signature

By signing below, the signor represents and warrants that it is an authorized representative of Client, and agrees to be bound by this Datto Service Description.

Accepted By [Client]: City of Agoura Hills

Printed Name

Title

Signature

Date

EXHIBIT B

PAYMENT RATES AND SCHEDULE

Smart IT Platinum \$6,750/monthly

Datto – \$3000 (Off-site replication to Datto Cloud, Live Dataset Retention) \$699/monthly

Service Rates for Excluded Services

Project/Professional Service Rate Level 1 & 2 @ \$175/hour

Project/Professional Service Rate Level 3 & Senior \$205/hour

Project/Professional Service Rate Advanced \$250/hour

Rates are 1.5x for after hours

Rates are 2x for Holiday work

For option years – rates to be adjusted by Consumer Price Index for Urban Wage Earners & Clerical Workers for Los Angeles-RiversidSee-Orange County