



# SERVICES AND SUBSCRIPTION AGREEMENT

MONDAY, SEPTEMBER 09, 2019

Dane Quatacker

GRAY QUARTER

9700 El Camino Real #303 Atascadero CA 93422

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## Services and Subscription Agreement

### **Subscription Agreement for Software/Service ("SaaS")**

This Subscription Agreement for Software as a Service ("Agreement") between Gray Quarter Inc., a California corporation with its principal place of business at 9700 El Camino Real #303 Atascadero CA 93422 ("Provider"), and the City of Sparks ("Customer"), individually referred to in this Agreement as a "Party" and collectively as the "Parties".

#### **Recitals**

WHEREAS, Provider warrants that it is the owner and that it has the right to license the software which acts as a middleware ("software") to interface between the Customer's network/system, named Accela, and a web-based external payment processor of Customer's with compatible gateway API suitable for integration, all at Customer's own choice; and

WHEREAS, Customer desires a license and Provider is willing to grant to Customer a license to the software and will provide hosting, via third-party, based upon the agreed to terms of this Agreement, for the interface between Customer's network/system, Accela, and web-based external payment processor of Customer, so that when payments are made in the Accela system, it will call Provider's software as an interface for completion of payment processing.

#### **Agreement**

NOW, THEREFORE, in consideration of the benefits and obligations exchanged in this Agreement, the Parties agree as follows:

##### **1. Definitions.**

- a. Agreement means the terms and conditions of this Agreement, the Quote, and any other Provider document or agreement or policy that is made reference to and incorporated herein.
- b. Provider Technology means all Provider proprietary technology made available to Customer in providing the Hosted Service.

- c. Content means the information, documents, software, products and services, copies, modifications and derivatives of the foregoing (in whole or in part), and all related copyright, patent, trade secret and other proprietary rights, made available to Customer by Provider.
- d. Customer Data means any data, information, or material provided by Customer to the Hosted Service.
- e. Personally Identifiable Information, as used in information security and privacy laws, means any data, information, or material provided by Customer's clients (hereafter defined as Customer's consumers, patrons, or clients whether or not they use Hosted Service, collectively hereafter referred to "Customer's clients") to Customer that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context.
- f. Hosted Service means Provider's software being granted access to under this Agreement (as a middleware) and third-party hosting required for the interface between Accela and Payment Provider for the benefit of Customer. Provider may perform certain aspects of the Hosted Service, such as service administration and application management support, as well as other services from locations and through the use of subcontractors worldwide.
- g. Intellectual Property Rights means patent rights, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and trade secret rights, and all other intellectual property rights, derivatives thereof as well as other forms of protection of a similar nature.
- h. Support Level Agreement means the Provider's standard and policy with respect to providing Customer with uptime Hosted Service as well as response and resolution times to any issues or defects with Hosted Service which may be found on Provider's website at [www.grayquarter.com](http://www.grayquarter.com), as may be amended from time to time in Provider's sole discretion without notice to Customer, of which, the most updated version is incorporated herein by reference.

**2. License Grant and Restrictions.** Provider hereby grants Customer a non-exclusive, non-transferable, worldwide right to use the Hosted Service, solely for its own internal business purposes, subject to the terms and conditions of this Agreement in addition to the extent of authorizations acquired by Customer as specified in the Quote.

Customer agrees not to: (a) license, sublicense, sell, resell, lease, rent, transfer, assign, distribute or otherwise make available to any third party the Hosted Service or Provider Technology; (b) copy, distribute, modify, or make derivative works based upon the Hosted Service; (c) reverse engineer, decompile, or attempt to obtain the source code or algorithms of any of the Hosted Service or Provider Technology; (d) knowingly send or store infringing, obscene, libelous or otherwise unlawful or tortious material to the Hosted Service; (e) knowingly send or store material containing viruses, worms, Trojan horses or other harmful computer code, files, or programs to or from the Hosted Service; (f) interfere with or disrupt the integrity or performance of the Hosted Service; (g) attempt to gain unauthorized access to the Hosted Service or its systems or networks; (h) make any attempt to circumvent the technological measures that control access to or use of the Hosted Services; or (i) use the Hosted Service in violation of applicable law.

Customer further agrees it will utilize the Hosted Service only for its internal business purposes and shall not act as a contracted service bureau or type of commercial application service provider that allows for third party access to the Hosted Service in exchange for a fee or profit or even on an unpaid basis.

**3. Customer Responsibilities.** Customer is responsible for all activity occurring under Customer's use of Hosted Service and will abide by all applicable laws, treaties, and regulations in connection with its use of the Hosted Service. Customer agrees to: (a) be responsible for the use of the Hosted Service in compliance with this Agreement by all to whom Customer has given access; (b) promptly notify Provider of any known or suspected unauthorized use of Hosted Service or any other breach of security of the Hosted Service; and (c) cooperate with Provider's investigation of outages, technical issues, security problems, unauthorized use of the Hosted Service, or any suspected breach of this Agreement, or any applicable law, court order, rule or regulation.

**4. Provider Responsibilities.** Provider agrees to provide Customer with its Hosted Service during the term and per the terms and conditions of this Agreement. In its sole discretion, Provider may make changes to or update the Hosted Service (such as infrastructure, security, technical configurations, application features, etc.) to reflect changes in, among other things laws, regulations, rules, technology, industry practices, patterns of system use and availability, and security. Provider will make its best efforts to not materially reduce the level of performance, functionality, security, or availability of the Hosted Service during the applicable term under this Agreement. Provider shall take commercially reasonable steps, or cause such commercially reasonable steps to be taken, designed to prevent security breaches of the Hosted Service.

**5. Availability and Support.** Service administration and technical support for the Hosted Service shall be set forth in the Provider's Service Level Agreement.

**6. Use of the Internet.** Customer acknowledges and agrees that the internet, and communications over it, may not be absolutely secure and connecting to the internet provides the opportunity for unauthorized access to computer systems, networks, and all data stored therein. Data transmitted through the internet or stored on any equipment through which data is transmitted may not remain confidential and Provider does not make any representation or warranty regarding privacy, security, authenticity, or non-corruption or destruction of any such data. Use of the internet is at Customer's own risk.

**7. Privacy Policy, Customer Data, and Personally Identifiable Information.** Provider is concerned with the security of the data it will collect while providing Hosted Service to Customer and will utilize commercially reasonable protocols to prevent unauthorized access to that information. Such protocols include policies, procedures, employee training, physical access and technical essentials relating to data access controls.

In addition, Provider uses standard security protocols to facilitate the exchange and the transmission of data. Provider does not process data in a way that is incompatible with the purposes for which it has been collected or subsequently authorized.

In the event that data is (or is reasonably believed to have been) acquired by unauthorized person(s), Provider will use its best efforts and commercially reasonable procedures to determine the scope of the breach and to ensure or restore the integrity of the Hosted Service. In the event of a breach, if applicable law requires notification, Provider will notify Customer of the breach. Notice will be given promptly. Provider may delay notification if Provider or a law enforcement agency determines that the notification will impede a criminal investigation. In such a case, notification will not be provided unless and until Provider or the law enforcement agency determines that notification will not compromise the investigation.

Provider does not own any Customer Data or Personally Identifiable Information. Customer Data is Customer's proprietary and confidential information and will not be accessed, used, or disclosed by Provider except for the limited purpose of: (a) supporting Customer's use of the Hosted Service; (b) improve or enhance the Hosted Service; (c) monitor Customer's use of the Hosted Service; (d) enforcement of this Agreement; and (e) share with any of Provider's affiliates, third party service providers and subcontractors who need to know such information in order to provide the Hosted Service to Customer. Customer, has sole responsibility for the accuracy, legality, reliability, and intellectual property ownership to use the Customer Data. Provider makes no other warranty or representation regarding the security of Customer Data. Furthermore, except as to Provider's express obligations set forth in this Agreement, Customer is solely responsible for any damage or losses caused by unauthorized destruction, loss, interception, or alteration of Customer Data by unauthorized persons.

Personally Identifiable Information is Customer's client's proprietary and confidential information. Although Provider is capable of accommodating the secure access, use, and processing of Personally Identifiable Information, no Personally Identifiable Information will be accessed, used, processed, or disclosed by Provider in supporting Customer's use of the Hosted Service. Customer, has the sole responsibility for the accuracy, legality, reliability, and protection and fortification and safety of Personally Identifiable Information of Customer's clients. Provider makes no other warranty or representation regarding the security of Personally Identifiable Information. Furthermore, except as to Provider's express obligations set forth in this Agreement, Customer is solely responsible for any damage or losses caused by unauthorized destruction, loss, interception, or alteration of Personally Identifiable Information by unauthorized persons.

Provider reserves the right in its unfettered discretion to modify or change its Privacy Policy in order to adhere to standards and custom within the industry and as may be required by law. Any posting of an updated Privacy Policy may be found on Provider's website at [www.grayquarter.com](http://www.grayquarter.com). Any such updated

Privacy Policy as posted may be amended from time to time in Provider's sole discretion without notice to Customer, of which, the most updated version is incorporated herein by reference.

**8. Intellectual Property Ownership.** Provider owns all right, title and interest, including all related Intellectual Property Rights, in and to the Provider Technology, Content, and the Hosted Service and all will remain the exclusive property of Provider and/or its licensors or third-party service providers. This Agreement is not a sale and does not convey any rights of ownership in the Provider Technology, Content, or Hosted Service. Customer acknowledges and agrees that any enhancements or modifications to the Hosted Service based upon Customer's requests, recommendations, or other feedback, are and will remain the exclusive property of Provider and/or its licensors or third-part service providers. This ownership is protected not only by the laws of the State of California but also by the laws United States and applicable international laws, treaties, and conventions regarding intellectual property or proprietary rights, inclusive of trade secrets. From the date of this Agreement, Customer agrees to use reasonable means to protect the Provider Technology, Content, and the Hosted Service from unauthorized use, reproduction, distribution, or publication. Provider reserves all rights not specifically granted in this Agreement. Provider reserves the right to improve or make changes in its offerings of the Provider Technology, Content, and the Hosted Service at any time.

**9. Fees, Billing, and Payment.** Customer shall pay Provider all fees specified in the Quote. All fees are payable and due as designated in the Quote; however, in the event that the Quote is silent on the timing of payments, Customer agrees to pay all fees within thirty (30) days from the date of the invoice sent by Provider. Once due, all fees are non-cancellable and non-refundable. Customer shall pay all fees and reasonable reimbursable expenses in full, without any setoff, recoupment, counterclaim, deduction, or withholding for any reason.

Fees on the Quote may not include sales, use, value added or other excise tax. Customer shall pay or reimburse Provider (the latter if paid by Provider for the benefit of Customer) for all such taxes based upon this Agreement or fees payable hereunder (except for taxes based upon Provider's gross revenues or net income), together with any interest on such taxes that is not due to Provider's delay.

Any amounts arising under this agreement not paid when due shall be subject to interest calculated at the lesser of either one percent (1.00%) per month or the maximum rate allowed by law.

**10. Term, Renewal, and Termination.** Hosted Service provided under this Agreement shall commence on the date the Hosted Service is made available for access by Provider to Customer and shall continue for the period specified in the Quote unless earlier suspended or terminated in accordance with this Agreement.

Hosted Service shall automatically renew at the end of the then-current term for additional one-year periods (12 months in each period) unless either party notifies the other party in writing at least thirty (30) days prior to the renewal date of its intention not to renew.

Customer may terminate this Agreement by notifying Provider in writing at least thirty (30) days prior to the expiration of the then-current term which will act to terminate the automatic renewal as noted above. Provider reserves the right to terminate this Agreement effective as of the end of the then-current Term by thirty (30) days advance written notice thereof.

**11. Termination.** Any breach of Customer's payment obligations or unauthorized use of the Hosted Service will be deemed a material breach of this Agreement. Provider may terminate this Agreement, Customer account, or Customer's use of the Hosted Service if Customer commits a material breach of this Agreement or otherwise fails to comply with this Agreement, and such breach has not been cured within thirty (30) days after written notice of such breach.

Customer may terminate this Agreement at any time upon providing at least thirty (30) days' written notice to Provider.

**12. Representations and Warranties.** Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

Provider represents and warrants that: (a) it will provide the Hosted Service in a manner consistent with general industry standards and as noted in the Support Level Agreement; (b) the Hosted Service will perform substantially in accordance with the provided documentation to Customer, if any; (c) it will use best efforts to detect software viruses and other undesirable components and will promptly take all reasonable steps to remove or neutralize any such components; (d) it will use leading commercial encryption technology designed to encrypt Customer Data in its possession; and (e) to the best of Provider's knowledge, information, and belief, provision by Provider and use by Customer of the Hosted Service provided under this Agreement does not infringe upon any intellectual property right of any third party.

Customer represents and warrants that: (a) it shall be solely responsible with regard to the quality or completeness of any Customer Data; (b) it, at its own expense, shall be solely responsible for establishing, operating and maintaining Customer's connection to the internet in order to interface with the Hosted Service including but not limited to, procuring, configuring, operating and maintaining all computer hardware and software, communications equipment, databases, electronic systems, networks, and web browsers, and modems and access lines, necessary for such connection and interface; and (c) it will use reasonable best efforts to ensure compliance with the above restrictions, noted in paragraph 2, and all other paragraphs of this Agreement.



**13. Mutual Indemnification.** Customer will indemnify, defend and hold Provider, and each of Provider's affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses, including attorneys' fees, arising out of or in connection with: (a) a claim by a third party alleging that use of the Customer Data infringes the Intellectual Property Rights of a third party, provided in any such case that Provider: (i) promptly gives Customer written notice of the claim; (ii) gives Customer sole control of the defense and settlement of the claim; and (iii) provides Customer all available information and assistance; and (b) a breach of security or unauthorized use of the Hosted Service which may or may not result in unauthorized third party access to Customer Data or Personally Identifiable Information.

Provider will indemnify, defend and hold Customer and Customer affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses, including attorneys' fees, arising out of or in connection with: (a) a claim by a third party alleging that the Hosted Service directly infringes an Intellectual Property Right of a third party; provided that Customer: (i) promptly give written notice of the claim to Provider; (ii) give Provider sole control of the defense and settlement of the claim; and (iii) provide Provider all available information and assistance.

**14. Disclaimer.** THE REPRESENTATIONS AND WARRANTIES PROVIDED IN THIS AGREEMENT ARE PROVIDER'S COMPLETE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES. PROVIDER DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND GUARANTIES OF ANY KIND WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY WITH RESPECT TO THE SECURITY OF THE HOSTED SERVICE OR THAT CUSTOMER DATA OR PERSONALLY IDENTIFIABLE INFORMATION WILL NOT BE DESTROYED, LOST, INTERCEPTED, OR ALTERED BY UNAUTHORIZED PERSONS. PROVIDER DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE HOSTED SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO CUSTOMER DATA.

**15. Limitation of Liability.** EXCEPT FOR CLAIMS ARISING UNDER A PARTY'S OBLIGATIONS OF CONFIDENTIALITY OR INDEMNIFICATION UNDER THIS AGREEMENT, NEITHER PARTY'S AGGREGATE LIABILITY WILL EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM, AND NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND ARISING FROM CUSTOMER'S USE OF THE HOSTED SERVICE. THIS LIMITATION OF LIABILITY INCLUDES ANY PARTY'S AFFILIATES AND ANY PARTY'S OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.

**16. Notice.** Provider may give notice by means of an electronic mail to Customer's e-mail address on record with Provider. Any other notice to be given to either party shall be deemed to have been duly given if in writing and delivered personally or mailed by first-class, registered, or certified mail, postage prepaid

and addressed (when intended for Customer) or (when intended for Provider) to Gray Quarter, Inc., 9700 El Camino Real #303 Atascadero CA 93422.

**17. Force Majeure.** If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes, except financial, beyond the reasonable control of the party obligated to perform, then that party's performance will be excused for a period equal to the period of the cause for failure to perform as long as the party who fails to perform gives the other party notice within thirty (30) calendar days after the event causing the failure. Despite anything to the contrary in this paragraph, if the cause of a party's failure to perform results from any act by that party, then that cause will not excuse the performance of the provisions of this Agreement by that party.

**18. Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party, which will not be unreasonably withheld, but may be assigned without the other party's consent to: (a) a parent or subsidiary; (b) an acquirer of assets or equity or (c) a successor by merger. Any purported assignment in violation of this section will be void.

**19. Subcontractors.** Provider may from time to time in its sole discretion engage third parties to perform service administration and application management support of Hosted Service.

**20. Governing Law and Jurisdiction and Venue.** This Agreement shall be governed by laws of the state of Nevada without regard to the choice or conflicts of law provisions of any jurisdiction. All disputes, claims, or actions (whether in contract, tort, or other legal theory) arising under, out of, or in any way connected with this Agreement shall be litigated exclusively in the State or Federal Courts situated in the Washoe County, Nevada, and in no other court or jurisdiction.

**21. Invalidity and Severability.** If any provision of these terms and conditions is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision will be construed to reflect the intentions of the invalid or unenforceable provision, with all other provisions remaining in full force and effect.

**22. Relationship of Parties.** No joint venture, partnership, employment, or agency relationship exists between Customer and Provider as a result of this Agreement.

**23. No Waiver.** The failure of either Party to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision unless acknowledged and agreed to by that Party in writing.

**24. Entire Agreement.** This Agreement comprises the entire agreement between Customer and Provider and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

**25. Modification.** This Agreement may be amended only by written consent of all parties to the Agreement.

**26. Counterpart Signatures.** This Agreement may be executed in one or more counterparts. Each will be deemed an original and all, taken together, will constitute one and the same instrument.

## **SECTION B - PROFESSIONAL SERVICES**

**27. Services.** We will provide you the various implementation-related services itemized in the Price Quote and described in the Statement of Work. We will finalize that documentation with you upon execution of this Agreement.

**28. Professional Services Fees.** You agree to pay us the professional services fees in the amounts set forth in the Price Quote. Those amounts are payable in accordance with our Invoicing and Payment Policy.

**29. Additional Services.** The Price Quote contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.

**30. Cancellation.** We make all reasonable efforts to schedule our personnel for travel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.

**31. Services Warranty.** We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will

re-perform such services at no additional cost to you.

**32. Site Access and Requirements.** At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.

**33. Client Assistance.** You acknowledge that the implementation of the Gray Quarter solution is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

**34. Contract Documents.** This Agreement includes the following exhibits:

- Exhibit A      Price Quote
- Exhibit B      Service Level Agreement
- Exhibit C      Privacy Policy
- Exhibit E      Statement of Work

The Undersigned parties have caused this agreement to be duly executed this 16<sup>th</sup> day of September, at Edwards

PROVIDER

GRAY QUARTER, INC.

By: 

Its: Secretary

CUSTOMER

Sparks, NV

By: \_\_\_\_\_  
Ronald Smith, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lisa Hunderman, City Clerk

\_\_\_\_\_  
Chester H. Adams, City Attorney

Gray Quarter, Inc.

## Exhibit A - Price Quote

The following Price Quote details the subscription and services to be delivered by us to you under the Agreement. This Quote is effective as of the Effective Date and valid for 60 days unless otherwise noted.

Pricing provided is based on the "RENO NEVADA E-PAYMENT SERVICE AND SUBSCRIPTION AGREEMENT" dated JULY 11<sup>th</sup>, 2019 and provided in the Optional Pricing Section.

**Effective Date:** 8/14/2019

### Sparks, NV

Item	Quantity	Cost Per	Total	Notes
iPaaS Payment Connectors (\$799/mo)	3	\$9,588/yr	\$28,764	Host Additional Accela Agency, recurring cost per year *Must use same payment processor as (JetPay/NCR).
Implementation of Payment Connector	1	\$3,750	\$3750	Setup Payment Connect with Additional Accela Agency (20% Discount will be applied if associated 3+ year subscription also purchased for connector), one-time fee *Must use same payment processor as (JetPay/NCR).
Multi Year Discount	1	(\$750)	(\$750)	20% Discount for multi-year subscription
<b>Total Services and Subscription for 5yrs</b>			<b>\$31,764</b>	

### Optional Items (Price Sheet Valid for 1 year following effective date)

Item	Quantity	Cost Per	Total	Notes
Technical Consulting Accela Civic Platform		\$185/hr		T&M Technical Consulting on Accela Civic Platform

## Exhibit B - Service Level Agreement

This document is incorporated by reference into the Subscription Agreement for Software as a Service entered into between Gray Quarter, Inc. ("Gray Quarter") and Customer.

Hosted Service monitoring occurs twenty-four (24) hours per day, seven (7) days per week, and three-hundred sixty-five (365) days per year. Gray Quarter will use its best efforts and commercially reasonable standards to meet a target availability service level of ninety-nine and one-half percent (99.50%) for Hosted Service (in production environment) of the term noted in the Subscription Agreement for Software as a Service.

In the event technical support is required by Customer regarding Hosted Service, Gray Quarter will provide support to Customer ("Technical Support") for Hosted Service during Gray Quarter's normal business hours defined as Monday through Friday, 8:00 a.m. to 5:00 p.m. Pacific Standard Time. After hours support for critical issues that cannot wait to be requested and addressed until the next business day may be provided through the Gray Quarter After Hours Technical Support phone number (925) 236 0070, or via email at: help@grayquarter.com

Customer may make Technical Support requests by contacting Gray Quarter electronically or telephoning Gray Quarter's Technical Support staff. Customer will provide the requestor's name, Customer name (organization/entity), and a detailed description of the issue. The Technical Support staff shall assign to the request the Problem Severity Level as determined by Gray Quarter. Customer must provide Gray Quarter with the contact information for employees who will be available outside of Customer's normal business hours, if any, should Technical Support be provided during that time. Gray Quarter will use its best efforts and commercially reasonable standards and protocol to respond to Customer's support problems within twenty-four (24) hours from Customer's initial Technical Support request.

If, during the Technical Support request, Gray Quarter determines within its sole discretion that the Technical Support request warrants a higher or lower priority level response, the Technical Support request will be upgraded or downgraded to the priority level that most appropriately reflects the issues experienced by Customer with Hosted Service.

Gray Quarter may use commercially reasonable efforts to resolve each significant issue by providing a Workaround, a code patch or a specific action plan for how Gray Quarter will address the issue for the benefit of Customer. "Workaround" means a change in the procedures followed or that Customer supplies to avoid a problem in the environment of Hosted Service without substantially impairing Customer's use of the Hosted Service. A Workaround may be either temporary or permanent in nature.

Service fees may apply to any requests outside of normal support services if explicitly requested by Customer. These services will be provided on a time and material basis at Gray Quarter's then-current hourly rate.

For new releases of the Hosted Service, Customer and Gray Quarter will work together to define upgrade requirements and protocols and timelines so that Customer realizes little downtime to Hosted service while the environment and customizations to the new version of Hosted Service are being implemented.

Notwithstanding anything to the contrary in this Policy or in the Agreement or any Quote or SOW, in no event, with respect to the Hosted Service, shall any service unavailability or failure to meet any service availability objectives or parameters under this Policy be deemed to be or constitute a breach by Gray Quarter of this Policy, the Agreement for Software as a Service, or Quote or SOW. Customer's right to terminate provided in the Subscription Agreement for Software as a Service shall be Customer's sole and exclusive remedy at law or in equity on account of any failure to meet any service availability objectives or parameters set forth in this Policy.

## Exhibit C - Privacy Policy

This privacy policy has been compiled to better serve those who are concerned with how their 'Personally Identifiable Information' (PII) is being used online. PII, as described in US privacy law and information security, is information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context. Please read our privacy policy carefully to get a clear understanding of how we collect, use, protect or otherwise handle your Personally Identifiable Information in accordance with our website.

### **What personal information do we collect from the people that visit our blog, website or app?**

When ordering or registering on our site, as appropriate, you may be asked to enter your name, email address or other details to help you with your experience.

### **When do we collect information?**

We collect information from you when you register on our site, place an order, Open a Support Ticket or enter information on our site.

Provide us with feedback on our products or services

### **How do we use your information?**

We may use the information we collect from you when you register, make a purchase, sign up for our newsletter, respond to a survey or marketing communication, surf the website, or use certain other site features in the following ways:

- To personalize your experience and to allow us to deliver the type of content and product offerings in which you are most interested.
- To improve our website in order to better serve you.
- To allow us to better service you in responding to your customer service requests.
- To quickly process your transactions.
- To ask for ratings and reviews of services or products
- To follow up with them after correspondence (live chat, email or phone inquiries)

### **How do we protect your information?**

Our website is scanned on a regular basis for security holes and known vulnerabilities in order to make your visit to our site as safe as possible.

We use regular Malware Scanning.

Your personal information is contained behind secured networks and is only accessible by a limited number of persons who have special access rights to such systems, and are required to keep the information confidential. In addition, all sensitive/credit information you supply is encrypted via Secure Socket Layer (SSL) technology.

We implement a variety of security measures when a user places an order enters, submits, or accesses their information to maintain the safety of your personal information.



All transactions are processed through a gateway provider and are not stored or processed on our servers.

**Do we use 'cookies'?**

Yes. Cookies are small files that a site or its service provider transfers to your computer's hard drive through your Web browser (if you allow) that enables the site's or service provider's systems to recognize your browser and capture and remember certain information. For instance, we use cookies to help us remember and process the items in your shopping cart. They are also used to help us understand your preferences based on previous or current site activity, which enables us to provide you with improved services. We also use cookies to help us compile aggregate data about site traffic and site interaction so that we can offer better site experiences and tools in the future.

**We use cookies to:**

- Understand and save user's preferences for future visits.
- Compile aggregate data about site traffic and site interactions in order to offer better site experiences and tools in the future. We may also use trusted third-party services that track this information on our behalf.

You can choose to have your computer warn you each time a cookie is being sent, or you can choose to turn off all cookies. You do this through your browser settings. Since browser is a little different, look at your browser's Help Menu to learn the correct way to modify your cookies.

If you turn cookies off, some of the features that make your site experience more efficient may not function properly. It won't affect the user's experience that make your site experience more efficient and may not function properly.

**Third-party disclosure**

We do not sell, trade, or otherwise transfer to outside parties your Personally Identifiable Information.

**Third-party links**

We do not include or offer third-party products or services on our website.

**Google**

Google's advertising requirements can be summed up by Google's Advertising Principles. They are put in place to provide a positive experience for users. <https://support.google.com/adwordspolicy/answer/1316548?hl=en>

We use Google AdSense Advertising on our website.

Google, as a third-party vendor, uses cookies to serve ads on our site. Google's use of the DART cookie enables it to serve ads to our users based on previous visits to our site and other sites on the Internet. Users may opt-out of the use of the DART cookie by visiting the Google Ad and Content Network privacy policy.

**We have implemented the following:**

Gray Quarter, Inc.

- Demographics and Interests Reporting

We, along with third-party vendors such as Google use first-party cookies (such as the Google Analytics cookies) and third-party cookies (such as the DoubleClick cookie) or other third-party identifiers together

**Opting out:**

Users can set preferences for how Google advertises to you using the Google Ad Settings page. Alternatively, you can opt out by visiting the Network Advertising Initiative Opt Out page or by using the Google Analytics Opt Out Browser add on.

**California Online Privacy Protection Act**

CalOPPA is the first state law in the nation to require commercial websites and online services to post a privacy policy. The law's reach stretches well beyond California to require any person or company in the United States (and conceivably the world) that operates websites collecting Personally Identifiable Information from California consumers to post a conspicuous privacy policy on its website stating exactly the information being collected and those individuals or companies with whom it is being shared. - See more at: <http://consumercal.org/california-online-privacy-protection-act-caloppa/#sthash.0FdRbT51.dpuf>

**According to CalOPPA, we agree to the following:**

Users can visit our site anonymously.

Once this privacy policy is created, we will add a link to it on our home page or as a minimum, on the first significant page after entering our website.

Our Privacy Policy link includes the word 'Privacy' and can easily be found on the page specified above.

You will be notified of any Privacy Policy changes:

- On our Privacy Policy Page

Can change your personal information:

- By logging in to your account

**How does our site handle Do Not Track signals?**

We honor Do Not Track signals and Do Not Track, plant cookies, or use advertising when a Do Not Track (DNT) browser mechanism is in place.

**Does our site allow third-party behavioral tracking?**

It's also important to note that we do not allow third-party behavioral tracking

**COPPA (Children Online Privacy Protection Act)**

When it comes to the collection of personal information from children under the age of 13 years old, the Children's Online Privacy Protection Act (COPPA) puts parents in control. The Federal Trade Commission, United States' consumer protection agency, enforces the COPPA Rule, which spells out what operators of websites and online services must do to protect children's privacy and safety online.

We do not specifically market to children under the age of 13 years old.

Do we let third-parties, including ad networks or plug-ins collect PII from children under 13?

**CAN SPAM Act**

The CAN-SPAM Act is a law that sets the rules for commercial email, establishes requirements for commercial messages, gives recipients the right to have emails stopped from being sent to them, and spells out tough penalties for violations.

**We collect your email address in order to:**

- Send information, respond to inquiries, and/or other requests or questions
- Process orders and to send information and updates pertaining to orders.
- Send you additional information related to your product and/or service

**To be in accordance with CANSPAM, we agree to the following:**

- Not use false or misleading subjects or email addresses.
- Identify the message as an advertisement in some reasonable way.
- Include the physical address of our business or site headquarters.
- Monitor third-party email marketing services for compliance, if one is used.
- Honor opt-out/unsubscribe requests quickly.
- Allow users to unsubscribe by using the link at the bottom of each email.

**If at any time you would like to unsubscribe from receiving future emails, you can email us at**

- Follow the instructions at the bottom of each email.

we will promptly remove you from ALL correspondence.

## Exhibit D – Statement of Work

**SEE ATTACHMENT A – SOW Gray Quarter Implementation**