AGREEMENT NO. _____

BETWEEN THE ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY
AND
SPARKROCK U.S., INC. DBA SPARKROCK

THIS AGREEMENT ("Agreement") is made and entered into by and between the ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, a California Joint Powers Authority ("ACTA", "Client", "Customer", "you", "your") acting by and through its Governing Board ("Board"), and SPARKROCK U.S., INC. doing business as SPARKROCK, a Delaware corporation, with a principal place of business at 21750 Hardy Oak Blvd., Suite 104, PMB 62757, San Antonio, Texas 78258 ("Consultant", "Sparkrock", "Partner", "we", "us").

WHEREAS, ACTA has purchased and implemented a new Enterprise Resource Planning ("ERP") accounting system utilizing Consultant's proprietary software system known as "Sparkrock 365"; and

WHEREAS, ACTA requires the professional, expert and technical services of Consultant to provide technical support and licensing for continued use of Sparkrock 365; and

WHEREAS, Consultant possesses extensive experience in supporting its proprietary Sparkrock 365 system; and

WHEREAS, Consultant, by virtue of training and experience, is well qualified to provide such services to ACTA;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1.   Incorporation of Recitals

        1.1   The recitals to this Agreement above are incorporated herein and made a part hereof.

2.   Services To Be Performed By Consultant

        2.1   Consultant hereby agrees to render to ACTA, as an independent contractor, certain professional, technical and expert services as set forth in Exhibits A, A-1, A-2, A-3, and A-4 ("Scope of Work").

        2.2   Consultant acknowledges and agrees that it lacks authority to perform and that ACTA's CEO lacks authority to request the performance of any services outside the Scope of Work. Consultant further acknowledges and agrees that any services it performs outside the Scope of Work are performed as a volunteer and shall not be compensable under this Agreement.

        2.3   The Scope of Work shall be performed by personnel qualified and

competent in the sole reasonable discretion of ACTA's CEO. Consultant shall not have any Scope of Work performed by third parties as subconsultants. Obligations of this Agreement are and shall be the responsibility of Consultant. Consultant acknowledges and agrees that this Agreement creates no rights in any third parties with respect to ACTA and that no obligations may be owed to third parties as Subconsultants.

2.4   Consultant, at its sole cost and expense, shall furnish all services, materials, equipment, subsistence, transportation and all other items necessary to perform the Scope of Work. As between ACTA and Consultant, Consultant is solely responsible for any taxes or fees which may be assessed against it or its employees resulting from performance of the Scope of Work, whether social security, payroll or other, and regardless of whether assessed by the federal government, any state, City, or any other governmental entity.

3.   Services To Be Performed By ACTA

3.1   ACTA shall furnish Consultant, upon its request, with available and/or necessary information in possession of ACTA which may lawfully be supplied to Consultant and which are necessary for Consultant to perform its obligations.

3.2   ACTA's CEO or his designee is designated as the contract administrator for ACTA and shall also decide any all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the interpretation of instructions to Consultant and the acceptable completion of this Agreement and the amount of compensation due. Notwithstanding the preceding, the termination of this agreement shall be governed by the provisions of Section 6 (Termination) thereof.

3.3   Consultant shall provide ACTA's CEO with reasonable advance written notice if it requires access to the premises of ACTA. Access rights, if any, shall be granted to Consultant at the sole reasonable discretion of ACTA's CEO, specifying conditions Consultant must satisfy in connection with such access. Consultant acknowledges that such areas may be occupied or used by tenants or contractors of ACTA and that access right granted by ACTA to Consultant shall be consistent with any such occupancy or use.

4.   Effective Date and Term

4.1   The effective date of this Agreement shall be the date of its execution by ACTA's CEO or his designee upon authorization of the Board.

4.2   Commencing on the Agreement's effective date, this Agreement shall be in full force and effect until the earlier of the following occurs:

a.   October 30, 2025 ("Initial Term"); or

b.   ACTA's Board exercises its one option to renew the Agreement for an additional term of five (5) years under Section 4.3 of this Agreement; or

c.   The Agreement is terminated pursuant to Section 6.

4.3   The ACTA Board may renew the term of the Agreement for one (1) renewal period of five (5) years (the "Renewal Term"), subject to the parties' negotiating to a mutually acceptable amendment to Exhibit A, Order Form. The Renewal Term and Order Form shall be approved by the ACTA Board prior to the expiration of the Agreement. Upon approval of the Renewal Term by the ACTA Board, ACTA's CEO shall provide written notice of said approval to Consultant.

5.   Compensation.

5.1   The maximum amount payable, including reimbursable expenses, for the full and satisfactory performance under this Agreement during the Initial Term, shall be One Hundred Sixty-Nine Thousand Eight Hundred Ten Dollars ($169,810).

5.2   Compensation payable under this Agreement for payment for labor, travel, per diem, materials, supplies, transportation, and all other direct and indirect costs and expenses incurred by Consultant ("Expenses") are listed in Exhibit A, A-1, A-2, A-3 and A-4.

5.3   Each month during the term of this Agreement, as a prerequisite to payment for services, Consultant shall submit a written invoice to ACTA for services performed during the prior month, accompanied by such records and receipts as may be required by Section 5.5. If payments are to be based on the performance of established milestones, Consultant shall bill as each milestone is completed, but not more often than once a month.

Consultant shall submit one (1) original and one (1) copy of each such invoice for payment and include the following certification:

> "I certify under penalty of perjury that the above invoice is true and just, in accordance with the terms of Agreement No. _____, that payment of this invoice has not been received and that none of the items contained in the invoice have been submitted to any other agency.
> _____"
> (signed)

5.4   Consultant shall not employ Subconsultants under this Agreement. Consultant further acknowledges and agrees that any services performed by a subconsultant shall be considered work performed by Consultant as a volunteer and shall not be compensable under this Agreement.

5.5   Consultant shall submit supporting documents with each invoice, which may include, but not be limited to, provider invoices, receipts, payrolls, and time sheets. ACTA may require, and Consultant shall provide, all documents reasonably required to determine whether amounts on the invoice are allowable expenses under this Agreement.   Consultant is not required to submit support for direct costs items of $25 or less. All invoices are subject to audit.

5.6   All sums due and payable to Consultant shall be paid as soon as, in the

ordinary course of ACTA business, the same may be reviewed and approved.

For payment and processing, all invoices shall be mailed to the following address:

> Accounts Payable Department
> Alameda Corridor Transportation Authority
> 3760 Kilroy Airport Way, Suite 200
> Long Beach, California 90806

6.   Termination

See Exhibit A-2, Section 8.

7.   Recordkeeping and Audit Rights

Consultant shall keep and maintain full, complete and accurate books of accounts and records of the services performed under this Agreement in accordance with generally accepted accounting principles consistently applied. Such books and records shall be maintained by Consultant for a period of three (3) years after completion of services to be performed under this Agreement or until all disputes, appeals, litigation or claims arising from this Agreement have been resolved.

8.   Consultant Is An Independent Contractor

Consultant, in the performance of the Scope of Work, is an independent contractor and not an agent or employee of ACTA. Consultant shall not represent itself as an agent or employee of ACTA and shall have no power to bind ACTA in contract or otherwise.

9.   Indemnification

See Exhibit A-2, Section 7.

10.   Insurance

10.1   Insurance procured by Consultant on Behalf of Consultant

As a condition precedent to the effectiveness of this Agreement, Consultant shall procure and maintain at its sole cost and expense, and keep in force at all times during the term of this Agreement the following insurance:

(a)   Commercial General Liability Insurance

Commercial general liability insurance covering personal and advertising injury, bodily injury, and property damage providing contractual liability, independent contractors, products and completed operations, and premises/operations coverage written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars ($1,000,000) combined single limit for injury or claim. Said

4

limits shall provide first dollar coverage except that ACTA's CEO may permit a self-insured retention or self-insurance in those cases where, in his judgment, such retention or self-insurance is justified by the net worth of Consultant. The retention or self-insurance provided shall provide that any other insurance maintained by ACTA shall be excess of Consultant's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision, and a severability of interest clause. Each policy shall include ACTA, its Board, officers, agents and employees as Primary additional insureds.

(b)   Automobile Liability Insurance

Automobile liability insurance written by an insurance company authorized to do business in the State of California rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to ACTA if Best's is not available) within Consultant's normal limits of liability but not less than One Million Dollars ($1,000,000) covering damages, injuries or death resulting from each accident or claim arising out of any one claim or accident. Said insurance shall protect against claims arising from actions or operations of the insured, or by its employees. Coverage shall contain a defense of suits provision and a severability of interest clause. Each policy shall include ACTA, its Board, officers, agents and employees as Primary additional insureds.

(c)   Workers' Compensation and Employer's Liability

Consultant shall certify that it is aware of the provisions of Section 3700 of the California Labor code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that where applicable Consultant shall comply with such provisions before commencing the performance of the tasks under this Agreement. Where applicable, Consultant shall submit Workers' Compensation policies whether underwritten by the state insurance fund or private carrier, which provide that the public or private carrier waives its right of subrogation against ACTA in any circumstance in which it is alleged that actions or omissions of ACTA contributed to the accident. Such Worker's Compensation and occupational disease requirements shall include coverage for all employees of Consultant, and for all employees of any subcontractor or other vendor retained by Consultant.

(d)   Professional Liability Insurance

Consultant is required to provide Professional Liability insurance with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Agreement. This insurance shall protect against claims arising from professional services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability.

Consultant certifies that it now has professional liability insurance in the amount of One Million Dollars ($1,000,000), which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following expiration or termination of the Agreement.

(e)   Technology Errors and Omissions Liability Insurance

Consultant is required to provide Technology Errors and Omissions Liability Insurance with respect to negligent or wrongful acts, errors or omissions, in rendering or failing to render computer or information technology services or technology products in connection with the professional services to be provided under this Agreement. This insurance policy shall include coverage for Privacy and Network Security and protect against claims arising from all products and services of the insured, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability. The limits disclosed herein shall neither increase nor decrease Consultant's liability as defined elsewhere in this Agreement.

Consultant certifies that it now has Technology Errors and Omissions Liability Insurance in the amount of One Million Dollars ($1,000,000) per claim/aggregate including Notification Costs, which shall cover the work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Agreement and until two (2) years following expiration or termination of the Agreement.

10.2   Insurance Procured by Consultant on Behalf of ACTA

Where Consultant is required to name ACTA, its Board, officers, agents and employees as Primary additional insureds on any insurance policy required by this Agreement, Consultant shall cause ACTA to be included as an additional insured on all policies it procures in connection with this Section 10. Consultant shall cause such additional insured status to be reflected in the original policy or by additional insured endorsement (CG 2010 or equivalent) substantially as follows:

"Notwithstanding any inconsistent statement in the policy to which this endorsement is attached, or any endorsement or certificate now or hereafter attached hereto, it is agreed that the Alameda Corridor Transportation Authority, its Board, their officers, agents and employees, are additional insureds hereunder, and that coverage is provided for all contractual obligations, operations, uses, occupations, acts and activities of the insured under Agreement No. C0894, and under any amendments, modifications, extensions or renewals of said Agreement regardless of where such contractual obligations, operations, uses, occupations, acts and activities occur.

"The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by ACTA is excess coverage;

"In the event of one of the named insured's incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability; and

"Notice of occurrences or claims under the policy shall be made to ACTA's CEO with copies sent to ACTA's Co-General Counsel at the following addresses; 1) Office of the Long Beach City Attorney, 411 West Ocean Boulevard, 9th Floor, Long Beach, California 90802, and 2) Office of the Los Angeles City Attorney, 425 S. Palos Verdes Street, San Pedro, California, 90731."

10.3   Required Features of Coverages

Insurance procured by Consultant in connection with this Section 10 shall include the following features:

(a)   Acceptable Evidence and Approval of Insurance

Consultant's insurance broker or agent shall submit to ACTA the appropriate proof of insurance on Consultant's behalf.

Upon request by ACTA, Consultant shall furnish full copies of certified policies of any insurance policy required herein. This obligation is intended to, and shall, survive the expiration or earlier termination of this Agreement.

(b)   Carrier Requirements

All insurance which Consultant is required to provide pursuant to this Agreement shall be placed with insurance carriers authorized to do business in the State of California and which are rated A-, VII or better in Best's Insurance Guide. Carriers without a Best's rating shall meet comparable standards in another rating service acceptable to ACTA.

(c)   Notice of Cancellation

For each insurance policy described above, Consultant shall give a 10-day prior notice of cancellation or reduction in coverage for nonpayment of premium, and a 30-day prior notice of cancellation or reduction in coverage for any other reason, by written notice via registered mail and addressed to ACTA as set forth herein.

(d)   Modification of Coverage

ACTA's CEO, at his sole reasonable discretion, based upon recommendation of independent insurance consultants to ACTA, may increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof by giving ninety (90) days' prior written notice to Consultant.

(e)   Renewal of Policies

At least thirty (30) days prior to the expiration of any policy required by this Agreement, Consultant shall renew or extend such policy in accordance with the requirements of this Agreement and direct their insurance broker or agent to submit to the ACTA a renewal endorsement or renewal certificate or, if new insurance has been obtained, evidence of insurance as specified above. If Consultant neglects or fails to secure or maintain the insurance required above, ACTA's CEO may, at his own option but without any obligation, obtain such insurance to protect ACTA's interests. The cost of such insurance shall be deducted from the next payment due Consultant.

(f)   Limits of Coverage

If Consultant maintains higher limits than the minimums required by this Agreement, ACTA requires and shall be entitled to coverage for the higher limits

maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to ACTA.

10.4   Accident Reports

Consultant shall report in writing to ACTA's CEO within fifteen (15) calendar days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Five Hundred Dollars ($500.00) to property, occurring upon any Alameda Corridor property if Consultant's officers, agents or employees are involved in such an accident or occurrence. Such report shall contain to the extent available (1) the name and address of the persons involved, (2) a general statement as to the nature and extent of injury or damage, (3) the date and hour of occurrence, (4) the names and addresses of known witnesses, and (5) such other information as may be known to Consultant, its officers or managing agents.

11.   Personal Services Agreement

Consultant acknowledges that it has been selected to perform the Scope of Work because of its experience, qualifications and expertise. Any assignment or other transfer of this Agreement or any part hereof, including the assignment of work to third parties as subconsultants, shall be void.

12.   Confidentiality

The Parties agree that ACTA's obligations regarding the handling and disclosure of documents and records in its possession shall at all times be in accordance with the California Public Records Act. All other obligations of the Parties regarding handling and disclosure of proprietary or confidential information, shall be as set forth in Exhibit A-1 (See Sections Titled *Privacy* and *Confidentiality*) and Exhibit A-2, Section 5.

13.   Affirmative Action

Consultant shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded shall contain a like nondiscrimination provision.

14.   Small/Very Small Business Enterprise Program

It is the policy of ACTA to provide Small Business Enterprises (SBE), Very Small Business Enterprises (VSBE), and Minority-Owned, Women-Owned, Disabled Veteran Business Enterprises and all Other Business Enterprises (MBE/WBE/DVBE/OBE) an equal opportunity to participate in the performance of all ACTA contracts in all areas where such contracts afford such participation opportunities. Consultant shall assist ACTA in implementing this policy and shall use its best efforts to afford the opportunity for SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs to achieve participation in subcontracts where such participation opportunities present themselves and attempt to ensure that all available business enterprises, including SBEs, VSBEs, MBEs, WBEs, DVBEs, and OBEs, have equal participation opportunities which might be presented

under this Agreement. See Exhibit B.

15.   Conflict of Interest

It is hereby understood and agreed that the parties to this Agreement have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of ACTA. All parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of ACTA relating to this Agreement. Notwithstanding any other provision of this Agreement, it is further understood and agreed that if such financial interest does exist at the inception of this Agreement, ACTA may immediately terminate this Agreement by giving written notice thereof.

16.   Compliance with Applicable Laws

Consultant's activities under this Agreement, including its performance of the Scope of Work, shall comply with all federal, state, municipal, and local laws, ordinances, rules, regulations, and orders.

17.   ACTA's Disclosure Obligations

Consultant acknowledges that ACTA is subject to laws, rules and/or regulations generally requiring it to disclose records upon request, which laws, rules and/or regulations include, but are not limited to, the California Public Records Act (California Government Code Sections 6250 et seq.) ("Disclosure Laws").

18.   Notices

All notices given by either party to the other party under this Agreement shall be in writing and personally delivered or sent by guaranteed overnight courier to ACTA addressed to its Chief Executive Officer, Alameda Corridor Transportation Authority, 3760 Kilroy Airport Way, Suite 200, Long Beach, California 90806, and notice to Sparkrock shall be by email to sales@sparkrock.com. Notices under this Section will be deemed given: (a) at the time of actual delivery if made in person; (b) one day after delivery to an overnight air courier service; or (c) if by email to Sparkrock, when sent, with confirmation of transmission. Either party may change its address for notices on written notice to the other party. Except for communications concerning operational maintenance (including downtime) or support services, any notice by email will be effective only if a signed scanned letter is attached to the email. Notices required under this Agreement shall not be made upon ACTA by email, including service of process for any suit, action, or other proceeding brought in any court of law.

19.   Construction of Agreement

This Agreement shall not be construed against the party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a

result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

20. Titles and Captions

The parties have inserted the section titles in this Agreement only as a matter of convenience and for reference, and the section titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

21. Modification in Writing

This Agreement shall not be amended, nor any provision or breach hereof waived, except in writing signed by the parties which expressly refers to this Agreement Any such modifications are subject to all applicable approval processes required by, without limitation, ACTA's Joint Powers Authority Agreement.

22. Waiver

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

23. Governing Law/Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

24. Severability

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

25. Integrated Agreement

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written,

regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. **THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.**

26.   Exhibits; Sections

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to sections are to sections of this Agreement unless stated otherwise.

27.   Order of Precedence

To the extent the terms of this Agreement and the terms of any exhibit conflict with, or appear to conflict with, each other, the following order of precedence shall be observed:

    1) For Governing Law and Venue, Section 23 of the Agreement.
    2) For Notices, Section 18 of the Agreement.
    3) For all other terms and conditions provided herein:
            a. the Agreement;
            b. Exhibit A, Order Form;
            c. Exhibit A-1 and Exhibit A-2;
            d. Exhibit A-4; and
            e. Any Task Orders issued under Exhibit A-3.

28.   Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

/ / / / /

/ / / / /

/ / / / /

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date next to their signatures.

ALAMEDA CORRIDOR
TRANSPORTATION AUTHORITY

Date:_____

By:_____
      Michael Leue, P.E.
      Chief Executive Officer

Attest: _____
      Secretary

SPARKROCK U.S., INC. Doing
Business As SPARKROCK

Date: _____

By:_____

Name: _____

Title: _____

Attest: _____

Name:_____

Title: _____

APPROVED AS TO FORM
_____, 2022
Michael N. Feuer, Los Angeles City Attorney

By _____
    Heather M. McCloskey, Deputy
    ACTA Co-General Counsel

Exhibit A

Sparkrock U.S., Inc.

21750 Hardy Oak Blvd, Suite 104
PMB 62757, San Antonio, TX 78258

Order Form

Prepared for:		SR365 Order #	
Alameda Corridor Transportation Authority		Order Date	October 29, 2020
3760 Kilroy Airport Way, Suite 200			
Long Beach, CA 90806		Payment Terms	Upon Signature
		Initial Subscription Term Start Date	November 10, 2020
		Initial Subscription Term End Date	November 9, 2025

Sparkrock products included	
Finance & Procurement	Yes

Sparkrock users included	Qty	Monthly/User	Annually/user	Total
Sparkrock 365 Users				
Sparkrock Full users	8	244	2,928	23,424
Sparkrock Manager users	10	27	324	3,240
Sparkrock Employee users	10	4	48	480
Total Licenses for Products before discount				27,144

Microsoft Power Platform Licensing Add-Ons		Monthly/User	Annually/user	Total
Power BI Pro (# users)	15	10	120	1,800
Total Add-Ons				1,800

Jet Integration Add-Ons		Monthly/User	Annually/user	Total
Jet Reports Foundation	Yes	143	1,716	1,716
Add-On Viewers	10	8	96	960
Add-On Designers	3	41	492	1,476
Total Add-Ons				4,152

Support & Managed Services Plans	Annual
Annual Support	10,000
Total Support	10,000
Total Before Discount	**43,096**

Discounts		Term	Discount
Initial Subscription Term Discount		5	-$1,448
Total Discount			**-$1,448**

Payment Schedule	Year1	Year2	Year3	Year4	Year5
Annual	49,896	49,896	43,096	43,096	43,096
Term Discount - 5 YR	- 18,060	- 1,076	- 1,076	- 1,076	- 1,076
Estimated CPI (2.5%)		592	1,407	2,243	3,100
Total USD (plus applicable sales taxes)	31,836	49,412	43,427	44,263	45,120
	PAID VIA Arctic IT	PAID VIA Arctic IT	To Be Invoiced	To Be Invoiced	To Be Invoiced

All software licensing in years 2-5 is subject to an annual increase of 'the higher of 2.5% and CPI.

Terms and Conditions

This Order Form, and Your use of the Sparkrock program and support and maintenance services identified above, is subject to, and governed by the initial subscription terms of the Sparkrock Master Subscription Agreement included in the Sparkrock documentation package that accompanies this Order Form. By Signing this Order Form, You hereby accept the terms and conditions of the Sparkrock documentation package, including the Master Subscription Agreement, Service Level Comittment, Statement of Work, and Third Party Software terms, including the Microsoft Mandatory Terms, Microsoft Software License Terms, and Primo Pay EULA, etc. (as applicable).

_____
Sparkrock U.S., Inc. Signature

_____
Name, Title

_____
Alameda Corridor Transportation Authority Signature

_____
Name, Title

_____
Alameda Corridor Transportation Authority Signature

_____
Name, Title

Footnotes

A. Sparkrock Full user licenses powered by Microsoft Dynamics 365 Business Central Essentials Full user licenses

B. Sparkrock Manager user licenses powered by Microsoft Dynamics 365 Team Member user licenses

C. Sparkrock Team user licenses provide acces to mySparkrock functionality.

Exhibit A-1

Microsoft Customer Agreement

This Microsoft Customer Agreement (the "Agreement") is between Customer and Microsoft and consists of these General Terms, the applicable Use Rights and SLAs, and any additional terms Microsoft presents when an order is placed. This Agreement takes effect when the Customer accepts these General Terms. The individual who accepts these General Terms represents that he or she is authorized to enter into this Agreement on behalf of the Customer.

General Terms

These General Terms apply to all of Customer's orders under this Agreement. Capitalized terms have the meanings given under "Definitions."

License to use Microsoft Products

a. **License grant.** Products are licensed and not sold. Upon Microsoft's acceptance of each order and subject to Customer's compliance with this Agreement, Microsoft grants Customer a nonexclusive and limited license to use the Products ordered as provided in the applicable Use Rights and this Agreement. These licenses are solely for Customer's own use and business purposes and are nontransferable except as expressly permitted under this Agreement or applicable law.

b. **Duration of licenses.** Licenses granted on a subscription basis expire at the end of the applicable subscription period unless renewed. Licenses granted for metered Products billed periodically based on usage continue as long as Customer continues to pay for its usage of the Product. All other licenses become perpetual upon payment in full.

c. **Applicable Use Rights.** For perpetual licenses, the Use Rights in effect when Customer orders a Product will apply. For subscriptions, the Use Rights in effect at the start of each subscription period will apply. Customers with subscriptions for Software may use new versions released during the subscription period subject to the Use Rights in effect when those versions are released. For metered Products billed periodically based on usage, the Use Rights in effect at the start of each billing period will apply during that period. Microsoft may update the Use Rights periodically, but material adverse changes for a particular version will not apply during the applicable license, subscription, or billing period.

d. **End Users.** Customer will control access to and use of the Products by End Users and is responsible for any use of the Products that does not comply with this Agreement.

e. **Affiliates.** Customer may order Products for use by its Affiliates. If it does, the licenses granted to Customer under this Agreement will apply to such Affiliates, but Customer will have the sole right to enforce this Agreement against Microsoft. Customer will remain responsible for all obligations under this Agreement and for its Affiliates' compliance with this Agreement.

f. **Reservation of Rights.** Microsoft reserves all rights not expressly granted in this Agreement. Products are protected by copyright and other intellectual property laws and international treaties. No rights will be granted or implied by waiver or estoppel. Rights to access or use a

Product on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.

g. **Restrictions.** Except as expressly permitted in this Agreement or Product documentation, Customer must not (and is not licensed to):

  (1) reverse engineer, decompile, or disassemble any Product, or attempt to do so;

  (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms;

  (3) work around any technical limitations in a Product or restrictions in Product documentation;

  (4) separate and run parts of a Product on more than one device;

  (5) upgrade or downgrade parts of a Product at different times;

  (6) transfer parts of a Product separately; or

  (7) distribute, sublicense, rent, lease, or lend any Products, in whole or in part, or use them to offer hosting services to a third party.

h. **License transfers.** Customer may only transfer fully-paid, perpetual licenses to (1) an Affiliate or (2) a third party solely in connection with the transfer of hardware to which, or employees to whom, the licenses have been assigned as part of (a) a divestiture of all or part of an Affiliate or (b) a merger involving Customer or an Affiliate. Upon such transfer, Customer must uninstall and discontinue using the licensed Product and render any copies unusable. Customer must notify Microsoft of a License transfer and provide the transferee a copy of these General Terms, the applicable Use Rights and any other documents necessary to show the scope, purpose and limitations of the licenses transferred. Attempted license transfers that do not comply with this section are void.

i. **Customer Eligibility.** Customer agrees that if it is purchasing academic, government or nonprofit offers, Customer meets the respective eligibility requirements (https://aka.ms/eligiblitydefinition). Microsoft reserves the right to verify eligibility and suspend product use if requirements are not met.

Non-Microsoft Products.

Non-Microsoft Products are provided under separate terms by the Publishers of such products. Customer will have an opportunity to review those terms prior to placing an order for a Non-Microsoft Product through a Microsoft online store or Online Service. Microsoft is not a party to the terms between Customer and the Publisher. Microsoft may provide Customer's contact information and transaction details to the Publisher. Microsoft makes no warranties and assumes no responsibility or liability whatsoever for Non-Microsoft Products. Customer is solely responsible for its use of any Non-Microsoft Product.

Verifying compliance.

Customer must keep records relating to Products it and its Affiliates use or distribute. At Microsoft's expense, Microsoft may verify Customer's and its Affiliates' compliance with this Agreement at any time upon 30 days' notice. To do so, Microsoft may engage an independent auditor (under nondisclosure obligations) or ask Customer to complete a self-audit process. Customer must promptly provide any information and documents that Microsoft or the auditor reasonably requests related to the verification and access to systems running the Products. If verification or self-audit reveals any unlicensed use, Customer must, within 30 days, order sufficient licenses to cover the period of its unlicensed use. Without limiting Microsoft's other remedies, if unlicensed use is 5% or more of Customer's total use of all Products, Customer must reimburse Microsoft for its costs incurred in verification and acquire sufficient licenses to cover its unlicensed use at 125% of the then-current Customer price or the maximum allowed under applicable law, if less. All information and reports related to the verification process will be Confidential Information and used solely to verify compliance.

Privacy.

a. **Personal Data.** Customer consents to the processing of Personal Data by Microsoft and its Affiliates, and their respective agents and subcontractors, as provided in this Agreement. Before providing Personal Data to Microsoft, Customer will obtain all required consents from third parties (including Customer's contacts, Partners, distributors, administrators, and employees) under applicable privacy and data protection laws.

b. **Location of Personal Data.** To the extent permitted by applicable law, Personal Data collected under this Agreement may be transferred, stored and processed in the United States or any other country in which Microsoft or its Affiliates, or their respective agents and subcontractors, maintain facilities. Microsoft will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of Personal Data from the European Economic Area and Switzerland.

Confidentiality.

a. **Confidential Information.** "Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to, Customer Data, the terms of this Agreement, and Customer's account authentication credentials. Confidential Information does not include information that (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed; or (4) is a comment or suggestion volunteered about the other party's business, products or services.

b. **Protection of Confidential Information.** Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as this Agreement. Each

party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party. The Online Services Terms may provide additional terms regarding the disclosure and use of Customer Data.

c. **Disclosure required by law.** A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

d. **Residual information.** Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

e. **Duration of Confidentiality obligation.** These obligations apply (1) for Customer Data, until it is deleted from the Online Services; and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

Product warranties.

a. **Limited warranties and remedies.**

   (1) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during Customer's use. Customer's remedies for breach of this warranty are described in the SLA.

   (2) **Software.** Microsoft warrants that the Software version that is current at the time will perform substantially as described in the applicable Product documentation for one year from the date Customer acquires a license for that version. If it does not, and Customer notifies Microsoft within the warranty term, Microsoft will, at its option, (a) return the price Customer paid for the Software license or (b) repair or replace the Software.

   The remedies above are Customer's sole remedies for breach of the warranties in this section. Customer waives any warranty claims not made during the warranty period.

b. **Exclusions.** The warranties in this Agreement do not apply to problems caused by accident, abuse, or use inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, preview, or prerelease products, or to components of Products that Customer is permitted to redistribute.

c. **Disclaimer.** Except for the limited warranties above and subject to applicable law, Microsoft provides no other warranties or conditions for Products and disclaims any other express, implied or statutory warranties for Products, including warranties of quality, title, non-infringement, merchantability, and fitness for a particular purpose.

Defense of third-party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

a. **By Microsoft.** Microsoft will defend Customer against any third-party claim to the extent it alleges that a Product made available by Microsoft for a fee and used within the scope of the license granted under this Agreement (unmodified from the form provided by Microsoft and not combined with anything else), misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party. If Microsoft is unable to resolve a claim of misappropriation or infringement, it may, at its option, either (1) modify or replace the Product with a functional equivalent or (2) terminate Customer's license and refund any license fees (less depreciation for perpetual licenses), including amounts paid in advance for unused consumption for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Customer's continued use of a Product after being notified to stop due to a third-party claim.

b. **By Customer.** To the extent permitted by applicable law, Customer will defend Microsoft and its Affiliates against any third-party claim to the extent it alleges that: (1) any Customer Data or Non-Microsoft Product hosted in an Online Service by Microsoft on Customer's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Customer's use of any Product, alone or in combination with anything else, violates the law or harms a third party.

Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Customer was required to pay for the Products during the term of the applicable licenses, subject to the following:

a. **Subscriptions.** For Products ordered on a subscription basis, Microsoft's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Product during the 12 months before the incident.

b. **Free Products and distributable code.** For Products provided free of charge and code that Customer is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US$5,000.

c. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or loss of use, loss of profits, or interruption of business, however caused or on any theory of liability.

d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for liability related to Customer Data, which will remain

subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

Partners.

a. **Selecting a Partner.** Customer may authorize a Partner to place orders on Customer's behalf and manage Customer's purchases by associating the Partner with its account. If the Partner's distribution right is terminated, Customer must select an authorized replacement Partner or purchase directly from Microsoft. Partners and other third parties are not agents of Microsoft and are not authorized to enter into any agreement with Customer on behalf of Microsoft.

b. **Partner Administrator privileges and access to Customer Data.** If Customer purchases Online Services from a Partner or chooses to provide a Partner with administrator privileges, that Partner will be the primary administrator of the Online Services and will have administrative privileges and access to Customer Data and Administrator Data. Customer consents to Microsoft and its Affiliates providing the Partner with Customer Data and Administrator Data for purposes of provisioning, administering and supporting (as applicable) the Online Services. Partner may process such data according to the terms of Partner's agreement with Customer, and its privacy commitments may differ from Microsoft's. Customer appoints Partner as its agent for purposes of providing and receiving notices and other communications to and from Microsoft. Customer may terminate the Partner's administrative privileges at any time.

c. **Support and Professional Services.** Customer's Partner will provide details on support services available for Products purchased under this agreement. Support services may be performed by Partner or its designee, which in some cases may be Microsoft. If Customer purchases Professional Services under this agreement, the performance of those Professional Services will be subject to the terms and conditions in the Use Rights.

Pricing and payment.

If Customer orders from a Partner, the Partner will set Customer's pricing and payment terms for that order, and Customer will pay the amount due to the Partner. Pricing and payment terms related to orders placed by Customer directly with Microsoft are set by Microsoft, and Customer will pay the amount due as described in this section.

a. **Payment method.** Customer must provide a payment method or, if eligible, choose to be invoiced for purchases made on its account. By providing Microsoft with a payment method, Customer (1) consents to Microsoft's use of account information regarding the selected payment method provided by the issuing bank or applicable payment network; (2) represents that it is authorized to use that payment method and that any payment information it provides is true and accurate; (3) represents that the payment method was established and is used primarily for commercial purposes and not for personal, family or household use; and (4) authorizes Microsoft to charge Customer using that payment method for orders under this Agreement.

b. **Invoices.** Microsoft may invoice eligible Customers. Customer's ability to elect payment by invoice is subject to Microsoft's approval of Customer's financial condition. Customer authorizes Microsoft to obtain information about Customer's financial condition, which may include credit reports, to assess Customer's eligibility for invoicing. Unless the Customer's financial statements are publicly available, Customer may be required to provide their balance sheet, profit and loss and cash flow statements to Microsoft. Customer may be required to provide security in a form acceptable to Microsoft to be eligible for invoicing. Microsoft may withdraw Customer's eligibility at any time and for any reason. Customer must promptly notify Microsoft of any changes in its company name or location and of any significant changes in the ownership, structure, or operational activities of the organization.

c. **Invoice Payment terms.** Each invoice will identify the amounts payable by Customer to Microsoft for the period corresponding to the invoice. Customer will pay all amounts due within thirty (30) calendar days following the invoice date.

d. **Late Payment.** Microsoft may, at its option, assess a late fee on any payments to Microsoft that are more than fifteen (15) calendar days past due at a rate of two percent (2%) of the total amount payable, calculated and payable monthly, or the highest amount allowed by law, if less.

e. **Cancellation fee.** If a subscription permits early termination and Customer cancels the subscription before the end of the subscription or billing period, Customer may be charged a cancellation fee.

f. **Recurring Payments.** For subscriptions that renew automatically, Customer authorizes Microsoft to charge Customer's payment method periodically for each subscription or billing period until the subscription is terminated. By authorizing recurring payments, Customer authorizes Microsoft to process such payments as either electronic debits or fund transfers, or as electronic drafts from the designated bank account (in the case of Automated Clearing House or similar debits), as charges to the designated card account (in the case of credit card or similar payments) (collectively, "Electronic Payments"). If any payment is returned unpaid or if any credit card or similar transaction is rejected or denied, Microsoft or its service providers reserve the right to collect any applicable return item, rejection or insufficient funds fee to the maximum extent permitted by applicable law and to process any such fees as an Electronic Payment or to invoice Customer for the amount due.

g. **Taxes.** Microsoft prices exclude applicable taxes unless identified as tax inclusive. If any amounts are to be paid to Microsoft, Customer shall also pay any applicable value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges, or surcharges, or any regulatory cost recovery surcharges or similar amounts that are owed under this Agreement and that Microsoft is permitted to collect from Customer. Customer shall be responsible for any applicable stamp taxes and for all other taxes that it is legally obligated to pay including any taxes that arise on the distribution or provision of Products by Customer to its Affiliates. Microsoft shall be responsible for all taxes based upon its net income, gross receipts taxes imposed in lieu of taxes on income or profits, and taxes on its property ownership.

If any taxes are required to be withheld on payments invoiced by Microsoft, Customer may deduct such taxes from the amount owed and pay them to the appropriate taxing authority, but only if Customer promptly provides Microsoft an official receipt for those withholdings and other documents reasonably requested to allow Microsoft to claim a foreign tax credit or refund. Customer will ensure that any taxes withheld are minimized to the extent possible under applicable law.

Term and termination.

a. **Term.** This Agreement is effective until terminated by a party, as described below.

b. **Termination without cause.** Either party may terminate this Agreement without cause on 60 days' notice. Termination without cause will not affect Customer's perpetual licenses, and licenses granted on a subscription basis will continue for the duration of the subscription period(s), subject to the terms of this Agreement.

c. **Termination for cause.** Without limiting other remedies it may have, either party may terminate this Agreement on 30 days' notice for material breach if the other party fails to cure the breach within the 30-day notice period. Upon such termination, the following will apply:

   (1) All licenses granted under this Agreement will terminate immediately except for fully-paid, perpetual licenses.

   (2) All amounts due under any unpaid invoices shall become due and payable immediately. For metered Products billed periodically based on usage, Customer must immediately pay for unpaid usage as of the termination date.

   (3) If Microsoft is in breach, Customer will receive a credit for any subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

d. **Suspension.** Microsoft may suspend use of an Online Service without terminating this Agreement during any period of material breach. Microsoft will give Customer notice before suspending an Online Service when reasonable.

e. **Termination for regulatory reasons.** Microsoft may modify, discontinue, or terminate a Product in any country or jurisdiction where there is any current or future government regulation, obligation, or other requirement, that (1) is not generally applicable to businesses operating there; (2) presents a hardship for Microsoft to continue offering the Product without modification; or (3) causes Microsoft to believe these terms or the Product may conflict with any such regulation, obligation, or requirement. If Microsoft terminates a subscription for regulatory reasons, Customer will receive, as its sole remedy, a credit for any subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

Miscellaneous.

a. **Independent contractors.** The parties are independent contractors. Customer and Microsoft each may develop products independently without using the other's Confidential Information.

b. **Agreement not exclusive.** Customer is free to enter into agreements to license, use, and promote the products and services of others.

c. **Amendments.** Microsoft may modify this Agreement from time to time. Changes to the Use Rights will apply as provided in this Agreement. Changes to other terms will not apply until Customer accepts them. Microsoft may require Customer to accept revised or additional terms before processing a new order. Any additional or conflicting terms and conditions contained in a purchase order or otherwise presented by Customer are expressly rejected and will not apply.

d. **Assignment.** Either party may assign this Agreement to an Affiliate, but it must notify the other party in writing of the assignment. Customer consents to the assignment to an Affiliate or third party, without prior notice, of any rights Microsoft may have under this Agreement to receive payment and enforce Customer's payment obligations, and all assignees may further assign such rights without further consent. Any other proposed assignment of this Agreement must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned Agreement. Any attempted assignment without required approval will be void.

e. **U.S. export.** Products are subject to U.S. export jurisdiction. Customer must comply with all applicable international and national laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end use and destination restrictions by U.S. and other governments related to Microsoft products, services, and technologies.

f. **Severability.** If any part of this Agreement is held to be unenforceable, the rest of the Agreement will remain in full force and effect.

g. **Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.

h. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.

i. **Survival.** All provisions survive termination of this Agreement except those requiring performance only during the term of the Agreement.

j. **Notices.** Notices must be in writing and will be treated as delivered on the date received at the address, date shown on the return receipt, email transmission date, or date on the courier or fax confirmation of delivery. Notices to Microsoft must be sent to the following address:

>   Microsoft Corporation
>   Dept. 551, Volume Licensing
>   6100 Neil Road, Suite 210
>   Reno, Nevada 89511-1137
>   USA

Notices to Customer will be sent to the individual at the address Customer identifies on its account as its contact for notices. Microsoft may send notices and other information to Customer by email or other electronic form.

k. **Applicable law.** This Agreement will be governed by and construed in accordance with the laws of the State of Washington and federal laws of the United States. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Agreement.

l. **Dispute resolution.** When bringing any action arising under this Agreement, the parties agree to the following exclusive venues:

(1) If Microsoft brings the action, the venue will be where Customer has its headquarters.

(2) If Customer brings the action against Microsoft or any Microsoft Affiliate located outside of Europe, the venue will be the state or federal courts in King County, State of Washington, USA.

(3) If Customer brings the action against Microsoft or any Microsoft Affiliate located in Europe, and not also against Microsoft or a Microsoft Affiliate located outside of Europe, the venue will be the Republic of Ireland.

The parties consent to personal jurisdiction in the agreed venue. This choice of venue does not prevent either party from seeking injunctive relief in any jurisdiction with respect to a violation of intellectual property rights or confidentiality obligations.

m. **Order of precedence.** These General Terms will take precedence over any conflicting terms in other documents that are part of this Agreement that are not expressly resolved in those documents, except that conflicting terms in the Use Rights take precedence over these General Terms as to the applicable Products. Terms in the Online Services Terms take precedence over conflicting terms in the Product Terms. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.

n. **Microsoft Affiliates and contractors.** Microsoft may perform its obligations under this Agreement through its Affiliates and use contractors to provide certain services. Microsoft remains responsible for their performance.

o. **Government procurement rules.** By accepting this agreement, Customer represents and warrants that (i) it has complied and will comply with all applicable government procurement laws and regulations; (ii) it is authorized to enter into this Agreement; and (iii) this Agreement satisfies all applicable procurement requirements.

Definitions.

"Administrator Data" means the information provided to Microsoft or its Affiliates during sign-up, purchase, or administration of Products.

"Affiliate" means any legal entity that controls, is controlled by, or is under common control with a party. "Control" means ownership of more than a 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.

"Confidential Information" is defined in the "Confidentiality" section.

"Customer" means the entity identified as such on the account associated with this Agreement.

"Customer Data" means all data, including all text, sound, software, image or video files that are provided to Microsoft or its Affiliates by, or on behalf of, Customer and its Affiliates through use of Online Services.

"End User" means any person Customer permits to use a Product or access Customer Data.

"Licensing Site" means http://www.microsoft.com/licensing/contracts or a successor site.

"Microsoft" means Microsoft Corporation.

"Non-Microsoft Product" means any third-party-branded software, data, service, website or product, unless incorporated by Microsoft in a Product.

"Online Services" means Microsoft-hosted services to which Customer subscribes under this Agreement. It does not include software and services provided under separate license terms.

"Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Licensing Site and updated from time to time.

"Partner" means a company Microsoft has authorized to distribute Products to Customer.

"Personal Data" means any information relating to an identified or identifiable natural person.

"Product" means all Software and Online Services identified in the Product Terms that Microsoft offers under this Agreement, including previews, prerelease versions, updates, patches and bug fixes from Microsoft. Product availability may vary by region. "Product" does not include Non-Microsoft Products.

"Product Terms" means the document that provides information about Products available under this Agreement. The Product Terms document is published on the Licensing Site and is updated from time to time.

"Publisher" means a provider of a Non-Microsoft Product.

"Representatives" means a party's employees, Affiliates, contractors, advisors and consultants.

"SLA" means Service Level Agreement, which specifies the minimum service level for the Online Services and is published on the Licensing Site.

"Software" means licensed copies of Microsoft software identified in the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"use" means to copy, download, install, run, access, display, use or otherwise interact with.

"Use Rights" means the license terms and terms of service for each Product published on the Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. License terms for all Products are published in the Product Terms. Terms of service for Online Services are published in the Online Services Terms.

Exhibit A-1(a)

MANDATORY MICROSOFT TERMS: SUBSCRIPTION

1. Customer may access and log onto the Microsoft Dynamics 365 Business Central hub, a benefit provided to all Microsoft customers with an active license plan by logging onto the address: https://docs.microsoft.com/en-us/dynamics365/business-central/?source=docs. This site provides gated access to important Microsoft documents to help provide further information on Microsoft Dynamics 365 Business Central.

2. Customer acknowledges that Customer's agreement with Sparkrock, and not Microsoft's software license terms, governs Customer's use of the Sparkrock Software and all Customizations.

3. Customer must have enough licenses issued by Microsoft for all Microsoft Dynamics 365 Business Central software licensed to support the maximum number of users and/or devices that may access or use the Sparkrock Software and/or any Customization.

4. Customer further acknowledges that Sparkrock is solely responsible for the Sparkrock Software, and that (except for license rights granted to Sparkrock under separate agreement as required to develop the Sparkrock Software and/or Customizations), Microsoft has no responsibility for the Sparkrock Software nor any Customization or any effect they may have on the functionality of the Microsoft Dynamics 365 Business Central product listed in Customer Quote or Customer's systems, business or operations.

5. Customer expressly acknowledges that the subscription duration to the Microsoft Dynamics 365 Business Central product is for a limited term. Upon expiration or termination of this Agreement, Customer will no longer have the right to use the Microsoft Dynamics 365 Business Central product. Customer hereby agrees to allow Sparkrock (or any third party designated by Sparkrock) to remove all copies of the Microsoft Dynamics 365 Business Central product after expiration or termination of this Agreement. Customer's use of the Microsoft Dynamics 365 Business Central product after expiration or termination of this Agreement is a violation of international copyright laws and the Microsoft Third Party License Terms (as defined in your Sparkrock agreement).

6. Microsoft may disable Customer's subscription. Depending on the subscription, this may mean that Customer will have limited or no access to the Microsoft Dynamics 365 Business Central product. Microsoft will not be liable in any manner whatsoever to Customer arising out of Microsoft's disabling the Customer's subscription. Microsoft reserves the right to terminate a subscription, at any time, in response to an intellectual property infringement claim against Microsoft or according to a court or other governmental order.

7. Customer has licensed the Microsoft Dynamics 365 Business Central product on a per use basis for a limited period. If the license expires or terminates, Customer's right to use the software will stop immediately. If Customer continues to use the Microsoft Dynamics 365 Business Central product after its license expires, Customer acknowledges it could be held liable for infringement of intellectual property rights, which could result in significant damages being assessed against Customer or other legal remedies.

8. Servers on which the Microsoft Dynamics 365 Business Central product is installed will from time to time perform a validation check of the software, as detailed in the Microsoft Third Party License Terms (as defined in your Sparkrock agreement). Validation verifies that the software has been properly

licensed. It also verifies that no unauthorized changes have been made to the validation features of the software.

Exhibit A-2

SPARKROCK

CUSTOMER AGREEMENT

THIS CUSTOMER AGREEMENT GOVERNS YOUR PURCHASE OF A SOFWTARE SUBSCRIPTION LICENSE AGREEMENT FROM SPARKROCK, AND USE OF THE CLOUD-BASED SPARKROCK SOFTWARE-AS-A-SERVICE PRODUCT "SPARKROCK CLOUD SERVICES" AND ALL RELATED PROFESSIONAL SERVICES PROVIDED BY US TO YOU FROM TIME TO TIME (COLLECTIVELY, WITH THE SPARKROCK CLOUD SERVICES, THE "SERVICES"). YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT, AND IN SUCH CASE, THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. PLEASE REVIEW THIS AGREEMENT CAREFULLY, AS IT FORMS A LEGALLY BINDING AGREEMENT BETWEEN US AND YOU. IT IS RECOMMENDED THAT YOU PRINT AND RETAIN A COPY OF THIS AGREEMENT FOR YOUR RECORDS. BY ACCEPTING THE MICROSOFT CUSTOMER AGREEMENT AND THE SPARKROCK CUSTOMER AGREEMENT, YOU ACCEPT THE SCOPE OF WORK TERMS AND CONDITIONS PROVIDED BY SPARKROCK.

1. THE SPARKROCK CLOUD SERVICES

1.1 **Provision of Cloud Services.** Subject to and conditioned on your compliance with this Agreement, we will make the Sparkrock Cloud Services available to you. The Sparkrock Cloud Services consist of Sparkrock proprietary software ("Sparkrock Software") and third party proprietary software ("Third Party Software"), each as identified on your Scope of Work, including without limitation, certain products of Microsoft Corporation and and/or other licensors and their respective affiliates for which separate license acknowledgments have been provided to you with this Agreement. The Sparkrock Cloud Services include all updates and upgrades to the Sparkrock Cloud Services made generally available by us to our customers from time to time, as well as our standard support services, which may vary according to the support package purchased by you. The Sparkrock Cloud Services may only be accessed and used by your employees, contractors and other personnel who are authorized by you to access and use the Sparkrock Cloud Services on your behalf ("Users"), and you are liable for their compliance with this Agreement. Users may not be any of our direct competitors.

1.2 **Subscriptions; Usage Limits.** The Sparkrock Cloud Services are purchased as subscriptions, and are subject to those usage limits, including number of Users, defined

within the applicable SOW. User login IDs, passwords, or other means of logging in to access and use the Sparkrock Cloud Services ("Access Credentials") may not be shared with any other individual. Additional subscriptions may be added during a subscription term at our standard price then in effect, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and any added subscriptions will terminate on the same date as your underlying subscription.

1.3 **Your Responsibilities.** You are responsible for: (a) procuring and maintaining the network connections that connect your network to the Sparkrock Cloud Services and licensing of third party products that inter-operate with Sparkrock Cloud Services, including without limitation, certain products and services supplied by Microsoft Corporation and/or its affiliates; (b) the accuracy, quality and legality of all data, information, and other materials submitted by or on your behalf to, or processed using, the Services ("Your Data"); (c) prevent unauthorized access to or use of the Sparkrock Cloud Services; (d) using the Sparkrock Cloud Services only in accordance with Sparkrock's guidelines and documentation and applicable laws, rules, and government regulations, including those relating to data privacy, spam, and transmission of technical data ("Applicable Law"); and (e) maintaining the confidentiality of all Access Credentials. You will immediately notify us if you become aware of any loss or theft of such Access Credentials or of any other unauthorized access, use, or disclosure of the Sparkrock Cloud Services or Customer Data.

1.4 **Restrictions.** You agree that you will not: (a) make the Sparkrock Cloud Services available to, or use the Sparkrock Cloud Services for the benefit of, anyone other than your organization; (b) sell, resell, license, sublicense, distribute, rent or lease the Sparkrock Cloud Services or include the Sparkrock Cloud Services in any service bureau or outsourcing offering; (c) use the Sparkrock Cloud Services to send spam or other unsolicited messages in violation of Applicable Law, or to store, display, or send any information, data, or other material that is obscene, harassing, libelous, defamatory, or threatening, illegal, or tortious; (d) copy, translate, reverse engineer, disassemble, decompile, or create a derivative work of the Sparkrock Cloud Services or Deliverables (or any underlying structure, algorithms, software, or technology) or otherwise attempt to discover any source code of, or modify, the Sparkrock Cloud Services in any form or manner unless expressly allowed by us in our user documentation; (e) use the Services for the purpose of benchmarking, or for building a similar or competitive product or service; (f) use the Sparkrock Cloud Services to transmit any code, files, scripts, agents, or program intended to do harm or deny access, including, for example, viruses, worms, time bombs and Trojan horses; (g) interfere with or disrupt the integrity or performance of the Sparkrock Cloud Services; (h) frame or mirror the Sparkrock Cloud Services; (i) attempt to gain unauthorized access to the Sparkrock Cloud Services; (j) disable, tamper with, or otherwise attempt to circumvent any billing mechanism that meters your use of the

Sparkrock Cloud Services; or (k) remove, alter, or obscure any trademark, copyright, or other proprietary rights notices on any Sparkrock materials.

1.5 **Changes.** We may modify, update, and upgrade the Sparkrock Cloud Services from time to time in our sole discretion. We will use reasonable efforts to give you at least 75 days prior notice before removing any material features or functionality, unlesssecurity, legal, or system performance considerations require an expedited removal or unless any applicable licensor has provided less notice to us of any such change.

1.6 **Availability.** We provide a Service Level Commitment. For any breach of this uptime commitment, your exclusive remedy, and our sole liability, is to request a service level credit, as further described in the Service Level Commitment.

2. YOUR RESPONSIBILITIES

2.1 **Provision of Required Information.** You are responsible, at your sole cost, to provide us with all information reasonably required by us in order to provide Sparkrock Cloud Services in a timely manner. You acknowledge that any delay or failure by you in fulfilling your tasks and responsibilities, may result in delays to the schedule or availability of Sparkrock Cloud Services and/or increased fees from those set out in any SOW.

3. FEES AND PAYMENT

3.1 **Fees**. You will pay all fees specified in any applicable SOW on the dates or at the frequency set out therein (Monthly or Yearly Software Subscription Fees). Except as otherwise specified herein or in an SOW: (a) subscription fees are based on the Sparkrock Cloud Services purchased and not actual usage, (b) subscription fees are payable in advance; and (c) subscription fees paid for the Sparkrock Cloud Services are non-refundable. You are responsible for providing complete and accurate billing and contact information to us, and for keeping such information up to date at all times.

3.2 **Taxes.** Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature and assessable by any jurisdiction whatsoever, including, for example, value-added, sales, use, or withholding taxes (collectively, "Taxes"). You are responsible for, and will pay, all Taxes associated with your purchases hereunder. If we have the legal obligation to pay or collect Taxes for which you are responsible under this Section, we will invoice you, and you will pay that amount, unless you provide us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, we are solely responsible for taxes assessable against us based on our income, property and employees. If any Taxes are required to be withheld, you shall pay an amount to us such that the net amount payable to us after withholding of taxes shall equal the amount that would have been otherwise payable under this Agreement.

3.3 **Payment.** Invoices are due and payable upon receipt, unless otherwise stated in the applicable SOW or invoice. If you object to all or any portion of an invoice, you must notify us of the objection within twenty (20) days after the invoice date, identify the cause of disagreement, and pay, when due, that portion of the invoice not in dispute. Any undisputed invoiced amount not received by us on the due date will bear interest at the rate of 1.5% per month (18% per annum) or the maximum amount allowed by law, whichever is less.

4. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

4.1 **Sparkrock Intellectual Property Rights**. All software (including the Sparkrock Software and Third Party Software), documentation, workflow processes, user interface, design, know-how and other technologies or materials underlying the Services, as well as any modifications, configurations, customizations, enhancements or upgrades to any of the foregoing, are our (and/or our Licensors') confidential proprietary property ("Sparkrock Intellectual Property"). Except as set expressly set forth herein, we (and/or our Licensors) reserve all right, title and interest in and to the Sparkrock Intellectual Property, and all other related intellectual property rights.

4.2 **Your Intellectual Property Rights**. Except as set forth herein, you reserve all right, title and interest in and to Your Data and all intellectual property rights related thereto. You hereby grant us and our Licensors and other third-party services providers a non-exclusive, non-transferable (except in connection with a permitted assignment of this Agreement) and royalty-free license for the Term to access and use your Data and any other data, information or materials made available to us to provide the Services to you.

4.3 **License Grant**. We grant you a non-exclusive, non-transferable, non-sublicensable license for the Term to access and use the Sparkrock Software and Deliverables as part of your use of the Sparkrock Cloud Services in accordance with any applicable SOW and this Agreement.

4.4 **Third Party Software**. You acknowledge that the Third Party Software made available to you as part of the Sparkrock Cloud Services is licensed by the applicable third party to you solely in accordance with separate end user license agreements or software licensing terms or software agreements (the "Third Party License Terms") referenced in and provided with this Agreement. We make no warranty, promise, or indemnity with respect to any Third Party Software, such software being provided and warranted solely by the third party licensor named in the applicable Third Party License Terms (each, a "Licensor"). You agree to be bound by each of the Third Party License Terms. The Third Party License Terms constitute separate legal agreements between you and the applicable Licensor. You acknowledge that each Licensor is a third party beneficiary of this Agreement with the right to enforce this Agreement directly against

you, verify your compliance with this Agreement, and contact you directly. You authorize us to share information about you (including the terms and conditions of this Agreement and any applicable SOW including financial terms, as well as limited personal information about your designated contact person) with each Licensor (i.e.: Microsoft) as required to allow us to collaborate with Licensors in order to provide the Services to you, to enable the Licensors to provide services and communications directly to you, and to allow each Licensor to verify your compliance with the Third Party License Terms.

4.5   **Suggestions and Usage Data**. If you provide any suggestions, recommendations or other feedback relating to the features, functions or operation of the Services, you grant us a worldwide, perpetual, irrevocable, royalty-free license to use, modify, creative derivative works from, distribute, perform, reproduce, and display the feedback in any manner and for any purpose without obligation to you. You also acknowledge and agree that we may collect and use information relating to the performance, and your use, of the Sparkrock Cloud Services (which may include elements of Your Data) provided that Your Data is anonymized and aggregated with data from other customers. Such anonymized and aggregated data will be owned solely by us, and may be used by us for any purpose, including to provide and improve the Services, to conduct research and analysis, and to market our services.

5.   CONFIDENTIALITY AND SECURITY

5.1   **Definition.** "Confidential Information" means all non-public, proprietary information disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Our Confidential Information includes the Services (including all underlying software, workflow processes, user interfaces, documentation, know-how and other technologies) and the terms and conditions of this Agreement, including pricing. Your Data is your Confidential Information (subject to the above exclusion regarding aggregated and anonymized usage data). Confidential Information does not include information that: (a) is or becomes generally known to the public without breach by Recipient of its obligations under this Agreement; (b) is received from a third party without breach of any obligation owed to Discloser; (c) was known to Recipient prior to its disclosure by Discloser; or (d) is independently developed by Recipient without use or access to the Confidential Information of Discloser.

5.2   **Protection of Confidential Information.** All Confidential Information of Discloser delivered, made available, or otherwise acquired pursuant to this Agreement: (a) may not be copied, distributed, disseminated or made available in any way or form by Recipient without the prior written consent of Discloser; (b) will be maintained in strict confidence by Recipient using the same degrees of care that it uses to protect the

confidentiality of its own confidential information (but in no event less than reasonable care); (c) may only be disclosed to those employees, affiliates, contractors, licensors, and/or service providers of Recipient who have a need to know in connection with purposes consistent with this Agreement, and only where such employees, affiliates, contractors, licensors, and/or service providers are bound by a written obligation of confidentiality no less restrictive than this Section; and (d) will not be used by Recipient for any purpose, except for the purposes of this Agreement. Notwithstanding the foregoing, Recipient may disclose Confidential Information of Discloser to the extent required by law, court order or other governmental order; provided that Recipient provides Discloser with prior notice of such compelled disclosure to the extent legally permissible. If Recipient is compelled by law to disclose the Discloser's Confidential Information as part of a proceeding to which Recipient is not a party, Discloser will reimburse Recipient for reasonable costs of compiling and securely transmitting the Confidential Information.

5.3 **Security.** We will employ technical and organization measures, internal controls, and data security routines designed to protect Your Data against unauthorized change, disclosure, access, or loss. The Sparkrock Cloud Services rely upon security practices and features of the underlying systems on which Sparkrock Cloud Services operate as provided by Microsoft Corporation and its affiliates. Your Data will be stored on servers located in the United States. You acknowledge that as Your Data is transmitted between the data center and your offices, Your Data is transmitted through the internet and, as such, may transit locations outside your country of origin, without ever storing Your Data in such locations. Data transmitted through the Internet will be encrypted for your protection; however, the security of transmissions over the Internet cannot be guaranteed. We will not be responsible for any interception or interruption of any communications through the Internet or changes to or losses of data through the Internet. In order to protect Your Data, we may suspend your access to the Sparkrock Cloud Services immediately, without notice, pending an investigation if any breach of security is suspected.

6. WARRANTIES AND REMEDY

6.1 **Mutual Warranties**. Each of us warrants to the other that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Applicable Laws of the jurisdiction of its incorporation; (b) it has the full right, power and authority to enter into this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and (d) when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

6.2   **Sparkrock Warranties.** We warrant that: (a) the Sparkrock Cloud Services will operate in all material respects in accordance with the applicable Sparkrock user documentation and specifications; and (b) we will perform Sparkrock Cloud Services in a good and workmanlike manner.

6.3   **Remedy.** Our warranties set forth in Section 6.2 are conditional upon you promptly reporting to us any actual or suspected defects in order that we may take prompt, appropriate measures to correct such defect. Upon notice from you of any warranty claim, we will, in our discretion, correct or replace the Sparkrock Cloud Services or applicable deliverables, or re-perform the defective services, at no additional charge; provided that if the foregoing is not reasonably possible, we may terminate this Agreement and provide you with a refund of any fees prepaid by you for the future portion of the subscription term that would have remained but for such termination. If we do not cure a warranty breach within a reasonable period of time or terminate this Agreement in accordance with the preceding sentence, you may terminate this Agreement for cause pursuant to Section 8.2, in which case we will promptly refund to you, on a pro rata basis, any fees prepaid by you for the future portion of the subscription term that would have remained but for such termination. The remedies set forth in this Section will be your sole remedy, and our sole liability, for any warranty breach.

Disclaimer. WE MAKE NO OTHER GUARANTEES OR WARRANTIES IN RESPECT OF THE SERVICES OR ANY DELIVERABLE, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. WE SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, DATA ACCURACY, OR ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WARRANTIES IN RESPECT OF THE SPARKROCK CLOUD SERVICES ARE VOID IF THE SPARKROCK CLOUD SERVICES OR DELIVERABLE, AS APPLICABLE, FAILS OR OTHERWISE MALFUNCTIONS AS A RESULT OF ACCIDENT, ABUSE, OR USE BY YOU IN BREACH OF THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, WE DO NOT WARRANT: (1) THAT THE SERVICES WILL BE ERROR-FREE IN ALL CIRCUMSTANCES; OR (2) THAT THE SERVICES WILL MEET YOUR OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, OR ACHIEVE ANY INTENDED RESULT.

7.   INDEMNITIES AND LIABILITY

7.1   **Our Indemnity.** We will defend you, your affiliates, and your and their respective directors, officers, employees, subcontractors, and agents (collectively "Customer Indemnitees") against any claim, demand, suit or proceeding brought against Customer Indemnitees by a third party alleging that Customer Indemnitees' use of the Sparkrock Software or any Deliverable in accordance with this Agreement infringes or misappropriates any valid Canadian or United States patent, copyright, trademark, or

trade secret (an "Infringement Claim"), and will indemnify Customer Indemnitees from any damages, reasonable legal fees, and costs awarded against them (or included in a settlement approved by us) as a result of an Infringement Claim; provided you: (a) promptly give us written notice of the Infringement Claim; (b) give us sole control of the defense and settlement of the Infringement Claim (except that we may not settle any Infringement Claim unless it unconditionally releases Customer Indemnitees of all liability); and (c) give us all reasonable assistance, at our expense. If all or any part of the Sparkrock Software or any Deliverable is, in our opinion, likely to or do become the subject of a claim of infringement or misappropriation, we may, in our discretion and at no cost to you: (i) modify or replace the Sparkrock Software or any Deliverable so that it is no longer infringing; (ii) use reasonable efforts to procure the right to permit you to continue to use the Sparkrock Software or Deliverable; or (iii) terminate this Agreement on notice to you and refund you any fees paid by you for the future portion of the subscription term that would have remained but for such termination. The above defense and indemnification obligations do not apply to the extent an Infringement Claim arises from Your Data, any Third Party Software or your breach of this Agreement. This section states your exclusive remedy, and our sole liability, in respect of any Infringement Claim.

7.2   **Your Indemnity.** You will defend us, our affiliates, and our and their respective directors, officers, employees, subcontractors, licensors, and agents (collectively "Sparkrock Indemnitees") against any claim, demand, suit or proceeding brought against Sparkrock Indemnitees by a third party arising out of or related to: (a) Your Data; (b) any use by you of the Sparkrock Cloud Services or Deliverables contrary to the terms of this Agreement; or (c) any other breach by you of this Agreement (a "Claim Against us"), and will indemnify Sparkrock Indemnitees from any damages, reasonable legal fees, and costs awarded against them (or included in a settlement approved by you) as a result of a Claim Against us; provided we: (a) promptly give you written notice of the Claim Against us; (b) give you sole control of the defense and settlement of the Claim against us (except that you may not settle any Claim Against us unless it unconditionally releases Sparkrock Indemnitees of all liability); and (c) give you all reasonable assistance, at your expense.

7.3   **Cooperation**. Each of us will cooperate with the other in maintaining a consistent position wth respect to any opposing parties during the pendency of the indemnified claim and shall resolve all issues of relative responsibility, liability, or blameworthiness of the parties after the claim is resolved; any claims based on the foregoing shall be tolled during the pendency of the indemnified claim. To the extent Sparkrock has carriage of any such claim, all inquiries and communications from any opposing party shall be referred by you to Sparkrock.

7.4   **Limitation of Liability.** EXCEPT FOR EACH PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, AND INDEMNIFICATION OBLIGATIONS, AND YOUR LIABILITY FOR ANY

BREACH OF SECTION 1.4, IN NO EVENT: (A) WILL EITHER PARTY BE LIABLE FOR ANY LOST DATA, LOST PROFITS OR REVENUES, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) WILL OUR AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, THE SERVICES OR ANY DELIVERABLES EXCEED THE AMOUNT OF FEES ACTUALLY RECEIVED BY SPARKROCK FOR THE SPARKROCK CLOUD SERVICES UNDER THIS AGREEMENT WITHIN THE SIX (6) MONTHS PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. THE FOREGOING DISCLAIMERS AND LIMITATIONS WILL APPLY TO FULLEST EXTENT ALLOWABLE BY LAW; AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER AN ACTION IS IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

8. TERM, TERMINATION AND SUSPENSION

8.1 **Term.** The term of this Agreement will commence on the date of the initial SOW entered into hereunder, and will continue until all subscriptions hereunder have expired or been terminated as specified in the applicable SOW Form (the "Term"). The initial subscription term for the Sparkrock Cloud Services shall be that period specified in the applicable SOW. Thereafter, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other party written notice of non-renewal at least 90 days before the end of the then-current subscription term. We reserve the right to increase the subscription fee for any renewal subscription term upon prior notice to you.

8.2 **Termination For Cause.** Either party may terminate this Agreement for cause: (a) upon 30 days' written notice to the other party of a material breach by such other party if such breach remains uncured at the expiration of such period; or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, or all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy.

8.3 **Additional Termination Right.** Additionally, we may terminate this Agreement in the event that any unforeseen change or fact outside of our reasonable control materially adversely impacts our ability to provide the Sparkrock Cloud Services, our costs in providing the Sparkrock Cloud Services, or if we otherwise discontinue the Sparkrock Cloud Services across all customers. We will use reasonable efforts to provide you with as much notice of termination of this Agreement under this Section as possible.

8.4 **Suspension.** We also reserve the right to suspend your access to, and use of, the Services if we (in good faith) believe that you have violated the terms of this Agreement,

if your use of the Services is causing immediate, material and ongoing harm to us or any other of our customers or if any undisputed amounts owing by you to us under this Agreement are 30 days or more overdue. We will provide you with prompt notice of such suspension and will reinstate the Services upon resolution of the issue or breach.

8.5   **Export of Data.** Unless we have terminated this Agreement for cause under Section 8.2, upon any request from you made within 90 days after the effective date of termination or expiration of this Agreement, we will make Your Data available for export or download. After such 90-day period, we will have no obligation to maintain or provide any of Your Data, and may thereafter delete or destroy all copies of Your Data in our systems or otherwise in our possession or control, unless legally prohibited.

9.   AUDIT.

During the term of this Agreement, you will maintain records reasonably required to verify your compliance with this Agreement (the "Records"). Upon at least 30 days' written notice to you, and not less than 12 months since a prior audit, we or our designated representative will be entitled to audit and inspect the Records. Any Sparkrock representative that audits or inspects the Records shall be bound by confidentiality obligations with respect to the Records no less restrictive than those that would be applicable under this Agreement to us in the same circumstances. In addition, we may use remote monitoring technology to verify your compliance with the licensing terms of this Agreement.

10.   NOTICE.

10.1   All notices given by either party to the other party under this Agreement shall be in writing and personally delivered or sent by guaranteed overnight courier or email to the applicable address(es) for you as listed on the most recent SOW and, in the case of Sparkrock, by email to sales@sparkrock.com. Notices under this Section will be deemed given: (a) at the time of actual delivery if made in person; (b) one day after delivery to an overnight air courier service; or (c) if by email, when sent, with confirmation of transmission. Either party may change its address for notices on notice to the other party. Except for communications concerning operational maintenance (including downtime) or support services, any notice by email will be effective only if a signed scanned letter is attached to the email.

11.   ELECTRONIC COUNTERPARTS.

Any SOW entered into hereunder may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, provided that identical counterparts are executed by both parties. These counterparts may include those forwarded by facsimile transmission

or electronically by email, and the facsimile or electronic signature of any party to this Agreement shall be deemed to be effective to bind such party to the terms of this Agreement as part, and parcel of the SOW.

12. GENERAL

Jurisdiction: (a) this Agreement will be governed by the laws of the State of New York without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods; (b) the applicable state and federal courts located in New York County, New York will have exclusive jurisdiction to adjudicate any disputes arising out of or relating to this Agreement; and (c) each party consents and irrevocably submits to the exclusive jurisdiction and venue of such courts in any suit, action, or proceeding.

Notice in accordance with this Agreement shall be effective service of process for any suit, action, or other proceeding brought in any such court.

In the event of litigation, each party expressly waives its right to have its claims or defenses heard by a jury.

Neither party shall be deemed the drafter of this Agreement.

Either party will be excused from performance for any period of time that the party is prevented from performing its obligations hereunder as a result of an act of God, war, earthquake, epidemic, terrorism, threat of terrorism, civil disobedience, court order, labor dispute, or other cause beyond the party's reasonable control.

You may not assign or delegate this Agreement or any right or obligation under this Agreement without our prior written consent, and any purported assignment or delegation in violation of this sentence will be null and void. You acknowledge that we may assign this Agreement at any time, and may also utilize contractors and other third parties to provide the Services, provided that we remain responsible for all such persons (except we will not be responsible for Licensors, with whom you have Third Party License Terms).

This Agreement is the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, proposal or representations, written or oral, concerning its subject matter. The parties acknowledge and agree that they have not relied on any other commitments or representations of any kind in entering into this Agreement. In the event of a conflict between this Agreement, and SOW, Service Level Commitment, or document incorporated by reference, the following shall take precedence in descending order to the extent of any conflict or express inconsistency except as you and Sparkrock may otherwise expressly agree in

writing: (a) this Agreement; (b) Service Level Commitment; and (c) any document incorporated by reference into any of the foregoing.

No modification, amendment or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is asserted. The parties agree that any term or condition stated in a purchase order or in any other customer SOW documentation is void and is hereby expressly rejected, and that any agreement is limited to this Agreement's terms. The parties are independent contractors.

This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

The parties recognize that money damages will not be an adequate remedy for any breach or threatened breach of any obligation hereunder by a party involving intellectual property or Confidential Information and therefore agree that, in addition to any other remedies that may be available in law or otherwise, a party shall be entitled to an injunction or other equitable relief against any breach by the other party related to the intellectual property or Confidential Information of the first party.

No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

The provisions of this Agreement, which by their nature or express terms would survive termination or expiration of this Agreement, shall survive any termination or expiration, including confidentiality, intellectual property and ownership, and limitation of liability.

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law or otherwise unenforceable, then such provision shall be re-construed to accord as fully as possible with the parties' original intent, and the remaining provisions of this Agreement will remain in effect.

This Agreement may be executed by facsimile and in counterparts.

For purposes of this Agreement: (a) the word "include" and its variations are deemed to be followed by the words "without limitation"; (b) headings are used for reference only and will not be considered when interpreting this Agreement; and (c) any reference to a party's "discretion" means "its sole and absolute discretion, for any reason, and considering only its own interests and not the effect of its decision on the other party".

SPARKROCK

SERVICE LEVEL COMMITMENT

We provide this Service Level Commitment subject to your Sparkrock Master Subscription Agreement and the terms and conditions below. Capitalized terms used in this Service Level Commitment and not otherwise defined herein will have the meaning given to such terms in your Sparkrock Master Subscription Agreement. We reserve the right to change this Service Level Commitment if Microsoft changes their Service Level Commitment with respect to Microsoft Azure in any way which impacts our ability to meet this Service Level Commitment. We will provide you with notice of any such changes.

We commit to provide 99.9% Availability with respect to the Sparkrock Cloud Services during each calendar month of the term of the Agreement, excluding periods of regularly scheduled maintenance or emergency maintenance. "Availability" means that you are able to access the Sparkrock Cloud Services, and "Downtime" means you are not able to access the Sparkrock Cloud Services.

The Availability of the Sparkrock Cloud Services is calculated for a given calendar month using the following formula:

- Monthly Uptime Percentage = [(Total number of minutes in a given calendar month) minus (Total number of minutes of Downtime in a given calendar month)] divided by (Total number of minutes in a given calendar month)

If in any calendar month during the term of this Agreement, this Availability commitment is not met, upon your request, we will provide, as your sole and exclusive remedy, a Service Credit calculated using the following formula:

- Monthly uptime percentage equal to or greater than 98.0% and less than 99.9%: a Service Credit of 5%

- Monthly uptime percentage equal to or greater than 95.0% and less than 98.0%: a Service Credit of 10%

- Monthly uptime percentage equal to or greater than 90.0% and less than 95.0%: a Service Credit of 15%

- Monthly uptime percentage equal to or greater than 80.0% and less than 90.0%: a Service Credit of 25%

- Monthly uptime percentage of less than 80.0%: a Service Credit of 100%.

Service Credits are based on a percentage of your annual service fees under the Agreement, pro rated on an equal monthly basis (i.e. 1/12th of the annual amount that you

pay Sparkrock for the Sparkrock Cloud Services). Service Credits will be issued against your next owing invoice.

In order to receive a credit under this Service Level Commitment, you must submit a request to us, and provide us with all reasonable details regarding the claim for service level credits, including but not limited to, a detailed description of the incident, the duration of the incident, the number of affected users and the locations of such users, and attempts made by you to resolve the incident, by the end of the month following the month in which the Availability commitment was not met (for example, if the Downtime occurs on January 15th, you must submit a request with sufficient supporting evidence by February 28th). We will use all information reasonably available to us to validate your claim and will make a good faith judgement on whether the Availability commitment was or was not met. We will use commercially reasonable efforts to process claims for service level credits within 60 days.

If any invoice owing by you is past due, or if you are otherwise in breach of your Sparkrock Master Subscription Agreement at the time you submit any service level request to us, you are not eligible for credit under this Service Level Commitment.

This Service Level Commitment does not apply to Downtime:

a. That resulted from factors beyond our reasonable control (provided that any factors relating to Microsoft Azure shall be deemed to be within our reasonable control);

b. That resulted from issues with any third party hardware, software, or services not provided in connection with the Sparkrock Cloud Services by us;

c. That resulted from actions or inactions by you or your employees, agents, contractors, or vendors, or anyone gaining access to the Sparkrock Cloud Services by means of your passwords or equipment.

d. That was caused by your use of the Sparkrock Cloud Services after we advised you to modify your use of the Sparkrock Cloud Services, if you did not modify your use as advised;

e. That is ten minutes or less in duration; or

f. That resulted from scheduled maintenance or emergency maintenance;

Scheduled maintenance is performed on a monthly basis, is typically scheduled to occur at night or on weekends, and will not exceed 5% of the total time available per month. Where possible, information about scheduled maintenance will be provided to you at least 24 hours in advance. We may also call for emergency maintenance, which may have an impact on the Availability. This is done typically with 24 hours' notice; however, the unpredictable nature of the "emergency" may require a shorter notice period. The maximum notice period possible will be provided and the impact on Availability will be communicated to you.

EXHIBIT A-3

As-Needed Services

ACTA may request additional services from Consultant on an as-needed basis during the term of the Agreement which ACTA deems necessary for the full implementation of the Project using the procedure set forth herein. Such additional services may include, but are not limited to, changes, modifications, or solution customizations to the Sparkrock 365 system. Such as-needed services shall be paid on a time and materials basis as set forth in Exhibit A-4.

As-needed services performed by Consultant shall occur as follows:

ACTA's Chief Executive Officer ("CEO") or Chief Financial Officer ("CFO") shall issue a written Contract Task Order ("CTO") in the form attached hereto as Exhibit A-3(a) that specifies, without limitation: the Task or Subtask to be performed; the specific services required in connection with such Task or Subtask; the deliverables required in the performance of such Task or Subtask; the schedule for the performance of such Task or Subtask; authorized personnel who may perform the Task or Subtask; and authorized compensation for such Task or Subtask.

Consultant, if it agrees to the CTO, shall sign, date and return such CTO to ACTA to reflect its agreement with all the terms of such CTO. If Consultant believes that a SOW or other terms or revisions are necessary, Consultant shall make add such SOW or terms or make such revisions to the CTO.

Following ACTA's receipt of the CTO signed by Consultant, ACTA's CEO or CFO shall issue a Notice to Proceed in the form attached hereto as Exhibit A-3(b) that has been signed by him and that authorizes Consultant to commence performance of the services contemplated by such CTO. The parties acknowledge and agreed that, upon Consultant's receipt of a Notice to Proceed from ACTA, the CTO shall be a binding agreement between the parties.

Exhibit A-3(a)

Contract Task Order

(Date)
(Consultant)
(Consultant Address)

Attention: (Project Manager)

Subject: Agreement No. _____
               Contract Task Order No. _____
               Project Name _____

Pursuant to Agreement No. _____, after receipt of a written Notice to Proceed signed by ACTA's CEO, Consultant shall proceed with the following:

Task   Services   Authorized Amount

_____

Consultant shall provide all required task, services, and deliverables in accordance with the terms of Agreement No. _____.

Consultant shall complete the work within _____ calendar days from ACTA's transmittal of its written Notice to Proceed.

Consultant acknowledges that the terms and conditions of Agreement No. ____ govern this Contract Task Order and that its signature below reflects its agreement with the terms and conditions of this Contract Task Order No. ___.

If you have any questions, please contact _____at (562) 247-_____.

Very truly yours,

Mike Leue
ACTA Chief Executive Officer   ACCEPTED:

                                       _____
                                       (Consultant Name)

                                       Date:_____

Exhibit A-3(b)

Notice to Proceed

(Date)

(Consultant)
(Consultant Address)

Attention: (Project Manager)

Subject: Agreement No. _____
        Notice to Proceed – Contract Task Order No. _____
       Project Name

This is to notify and direct you to commence performance of the subject Contract Task Order No. ____. Enclosed is your set of the executed Contract Task Order documents.

If you have any questions, please contact _____ at (562) 247-_____.

Very truly yours,

Mike Leue
ACTA Chief Executive Officer

Enclosure: Contract Task Order No. _____

Exhibit A-4
SOW

STATEMENT OF WORK

Project Professional Services

This Statement of Work is made under and subject to the Master Services Agreement between Alameda Corridor Transportation Authority ("Customer") and Sparkrock ("Sparkrock") dated _____ (the "Agreement") for the services to be provided by Sparkrock as described in this SOW (the "Project").

Contract Type

This SOW represents a Time and Material contract. Any material changes in the Scope of services to be performed under this SOW will be made in accordance with Project Change Control and may result in a change in the Fee and/or Term.

Project Scope

The Project Scope is limited to the Business Processes and Design Areas listed below and follows Sparkrock's implementation methodology as set out in this SOW. Except as otherwise expressly set out in this SOW or any Project Change Request (PCR) signed by Customer and Sparkrock under the Project Change Control Process, the Business Processes and Design areas are limited to Sparkrock Software as made generally commercially available by Sparkrock licensed by Customer under the MSA (e.g., if Customer subscribed only for the Finance Software Module under the applicable Order, only the Finance Software Module sections below apply).

1.   Training provided which includes overview of how the budget module works, including:

- fund accounting
- encumbrances
- blocks and warnings

2.   Set up and configuration for budget-check at the G/L account, funding source and project level (dimensions)

3.   Set up and configuration to budget-check all expense account transactions including:

- Purchase invoices
- Purchase Requisitions
- Payment Requests
- Journal Entries

4.   Training on changes to existing workflows and approval groups if budget-checking is turned on

5.   Analysis on multi-year contracts budgeted on a fiscal year basis.

6.   Budget Module

- Comprehensive review of budget functionality

- ACTA's Principal Accountant and Staff Accountant complete Budget Template previously developed by Arctic IT or one newly developed by Sparkrock

- Sparkrock loads template and tests

- Joint review of Budget process, workflows and reporting

- ACTA UAT

- Post UAT corrections

- ACTA review and signs-off

7.   Reporting – running standard, ad hoc, budget vs. actual, other available reports

8.   All work described in Exhibit A-4(a)

Description of Work to be Completed (Deliverables)

This includes:

- Analysis
- Configuration
- Training

Project Scope Exclusions

Scope Exclusions
Any review of Arctic IT Implementation that is not defined above **General** 1. **Any Integration not listed above** 2. **Any Customization not listed above** 3. **Any configuration or development services required to address Gaps identified by the parties** 4. **All Sparkrock Additional Service Offerings except to the extent Customer and Sparkrock enter into a separate Statement of Work or Work Order for any such Additional Service Offerings.**
Product Enhancement Requests **A Product Enhancement is considered functionality not currently supported by the Sparkrock Solution. Any Product Enhancement requests are out of scope under this SOW unless otherwise agreed by the parties the Project Change Control Process set out in the SOW.**

Project Resources, Timeline & Responsibilities

Sparkrock Team

The Sparkrock team tasked to deliver the Services pursuant to this SOW will be comprised of key roles and several additional experts with various subject matter specialties. The key roles will provide the mainstays for the duration of the Project: Sparkrock Engagement Manager, Customer Success Representative, Customer Success Product Trainer, Project Manager, Finance Consultant, HCM Consultant. Other roles, skills and expertise will be active on the Project as required.

Timeline

The Project is scheduled to begin after this Statement of Work is executed.

Dates (if applicable) set out in this SOW are dependent on Customer availability, scheduling, and resource availability. Failure by Customer to assign or make available Customer personnel to complete tasks relating to the Project in a timely manner in accordance with the Project plan and as requested by Sparkrock may result in delays in Project timelines.

Responsibility Matrix *(as applicable)*

The responsibility assignment matrix ("RACI") set out below describes the respective responsibilities of Sparkrock and Customer.

Within the 'RACI matrix' below, we define the following terms have the meanings below:

- **Responsible (R)** – The party who is responsible for delivering a Deliverable. Although a party may be reflected as responsible, the work of that party may be dependent on other parties who are Accountable; in the event the party or parties who are Accountable do not provide their work fully or on a timely basis, the Responsible party although so identified, would not be in a position to deliver the Deliverable on which there are dependencies on an Accountable party or parties. One Responsible party only is assigned for each Deliverable.
- **Accountable (A)** –A party ultimately whose inputs or work are required for the proper completion of the Deliverable by a Responsible party. One accountable party, other than the Responsible party, is assigned for each Deliverable.
- **Consulted (C)** – The party who is consulted before as part of the development of a Deliverable. Consulted parties do not expected produce the Deliverable, but instead provide general advice concerning the Deliverable. However, unlike an Accountable party, the Consulted party's input is not required for the proper completion of the Deliverable.
- **Informed (I)** – Those parties who are periodically provided information on the characteristics of and progress on the Deliverable.

Deliverable RACI Matrix

ITEM	DELIVERABLE	DESCRIPTION	Phase	CUSTOMER	SPARKROCK
1	**Project Plan**	The Project Plan identifies milestones, tasks, durations, resources, and constraints. The Project Plan shall also include a detailed timeline.	Onboarding	**A + C**	**R**
2	**Project Collaboration Site**	Project Collaboration Site (Microsoft Teams) to facilitate collaboration on the Project. This site will contain the following: • Issues List • Action Items List • Project Documents • Project Calendar • Risk Register • Change Control	Initiation	**A + C**	**A + R**
3	**Project Management Controls**	The following artifacts will be used to monitor, control, and communicate Project progress: • Bi-Weekly status report • Issue Log • Change Control	Onboarding	**A + C**	**R**
4	**Data Migration Mapping and Validation**	The customer will map all legacy data to the provided Data Migration Templates. The customer will validate the migrated data and perform any required data cleaning in the source data to have a repeatable migration process.	Onboarding	**R + A**	**C**
5	**Use Cases**	Use Cases will be by the Customer and used to validate the Sparkrock Solution.	Onboarding	**R + A**	**C**
6	**User Test Drive**	The customer will conduct tests using data that was uploaded using the provided data migration templates.	Onboarding	**R + A**	**C**

ITEM	DELIVERABLE	DESCRIPTION	Phase	CUSTOMER	SPARKROCK
7	**Cutover Plan**	A cutover plan will outline the priorities, tasks, and procedures during the cutover period for e the planned Go-Live.	Launch	**A + C**	**R**
8	**Postproduction Support**	Sparkrock will provide post-production support in the month following go live (Go live date to be set out in the Project Plan).	Post Go-Live	**A**	**R**

Acceptance Procedures

The following acceptance procedures apply to Deliverables for which Sparkrock has been designated as the Responsible (R) Party:

- Sparkrock will make such Deliverables available to Customer for review and acceptance, in accordance with the applicable Project timelines;
- Customer will provide written notice of acceptance or rejection of such Deliverables within ten (10) business days of notification of delivery by Sparkrock. Deliverables which are not rejected by Customer within the above time period shall be deemed accepted.
- Notwithstanding the foregoing, Deliverables expressly identified in this SOW as being part of the "Monitoring & Controlling" phase are deemed to be accepted when delivered to Customer.
- If Customer rejects a Deliverable, Customer shall deliver to Sparkrock an exception report describing the nonconformity (the "Exception Report"). Sparkrock shall promptly investigate the alleged nonconformity and shall work diligently to correct such nonconformity on a timely basis as soon as practicable. Upon Sparkrock's notice to Customer that Sparkrock has remedied the applicable nonconformity, Customer will re-test the applicable Deliverable, confirming the cure or providing a further Exception Report to Sparkrock describing the nonconformity requiring further remediation. The above process will repeat, until such Deliverable is accepted or deemed to be accepted by Customer pursuant to the Acceptance Procedures specified above.

Obligations and Additional Project Assumptions

- Sparkrock has the right to assign / re-assign any resource to the Project as required.

- The Customer will provide resources to complete the Customer Project tasks as assigned in the baseline Project Plan and Responsibility Matrix.

- No Integrations / Customizations are included in this SOW unless specifically listed in the Business Processes and Design Areas.

- Electronic File Transfer (EFT) will use one of the Sparkrock standard file layouts.

- Setup of Roles and Permissions is based on a "Train the User" approach. Sparkrock will provide standard Roles and Permissions. Modifying or Creating New Roles and permissions may be required by the customer.
- Project design will be based on recommended practices for Sparkrock Software, rather than the reimplementation of existing business processes based on the Customer's legacy system. Sparkrock will provide recommendations for configuration and design options to meet the Customers' requirements based on best practices for implementation of Sparkrock Software.

- Where possible the Project team will optimize functionality of the version of Sparkrock Software that has been generally commercially release or is planned by Sparkrock rather than customizing the Sparkrock Software.

- Completion of Deliverables requires Customer resources (Executive Sponsors, Business Decision Makers, Key Users, IT Managers, and IT Members etc.) to be reasonably available to support activities such as workshops, meetings, document review sessions, etc.
- Customer's Business Leaders will be responsible for timely decision-making, critical issue resolution, and efforts to promote this project internally.
- Customer will provide a Project Manager, who will work with the Sparkrock Project Manager to co-ordinate the Project (specifically, the activities and Deliverables to be completed by Customer personnel) and provide feedback on associated deliverables.
- Customer business and technical Subject Matter Experts (SME's) will provide knowledge and insight into the data, processes and tools for each activity being

undertaken. Customer resources will be available to provide follow up materials and answer questions after sessions have been completed.

- In order to meet the Project Timeline any issues escalated to the Project Sponsors will require an action plan to resolve the issues within three business days. Any delays could result in delays in the Project schedule.

- If Sparkrock is delayed in performing the work arising from action or inaction of Customer, Customer's employees, or any contractor engaged by Customer, cost and Project schedule shall be correspondingly adjusted based on the length of applicable delay or the change arising from such action or inaction, as agreed by both parties pursuant to the Project Change Control Process.

- Customer is solely responsible for all cost and actions required with respect to Customer's existing legacy systems, software and applications (whether internally developed or supplied by third party vendors) for resolution of issues arising in existing systems, software and applications as they may interoperate or be required to interoperate with the Sparkrock Software.

- Customer will be solely responsible for obtaining and the costs associated with all necessary licenses and use rights for any such systems, software and applications not supplied by Sparkrock required to be utilized by Sparkrock to provide the Deliverables.

- Customer will provide, and is solely responsible for costs associated with, facilities, workspace, printers, applicable network access, email, applicable system access, and building access for the Sparkrock personnel on the Project team to the extent they are required on-site at the premises of Customer.

- Customer will provide, and is solely responsible for costs associated with, connectivity required for Sparkrock personnel working on the Project remotely and not on Customer's premises. Sparkrock acknowledges that such access may be subject to internal Customer security policies or procedures which will be provided to Sparkrock by Customer and with with Sparkrock agrees to comply.

- Customer personnel assigned to the Project team will be responsible for preparing internal documentation, testing and in-house support for the Project.

- Communications concerning issue identified and issue resolution related to the Project will be managed through the Sparkrock Customer Resource Portal. Specific high priority issues may also be communicated via Project status reports or escalated in emails and through phone calls.

- Statutory holiday and weekend work is not covered in the scope of the existing fixed price cost of this SOW. Billing rates for Sparkrock personnel required for the Project on statutory holidays or weekends are 1.5 times standard rates otherwise specified in this SOW. In the event Customer requests Sparkrock resources to work over a statutory

holiday or weekend, a Project Change Request will be issued the cover the additional fees on a time and materials basis.

- Sparkrock professional services under this SOW are provided only in English.

Fees, Billing and Change Orders

Project Fees

Subject to the assumptions and scope set out above, Customer will pay Sparkrock a Time and Material price of for this Statement of Work as set out below.

Resources and Rates	Resource	Hours	Rate USD	Total
	Consulting	20	$250	$5,000
	Training	12	$250	$3,000
	Configuration and Set Up	16	$250	$4,000
	As-Needed Services	100	$250	$25,000
Total Estimated Cost:				Pre-Tax: $37,000 (Time & Materials)

Payment Terms

Sparkrock will complete this Work Order on a time and material basis. Sparkrock will issue invoices bi-monthly based on the actual time spent and any costs incurred.

Fees set out above do not include:

- Applicable taxes

- Any fees applicable to software licensing or access, or annual maintenance and support programs relating to any software

- Any hardware, if applicable

- Post implementation support, except as otherwise expressly set out above

Project Change Control Process

Any modification to the services set out in this SOW requires a Project Change Request (PCR) to be signed by the Customer and Sparkrock, which when signed will constitute and amendment to the applicable Statement of Work. The process for requesting and establishing a PCR is set out below.

If Customer proposes any additions, deletions, amendments or other changes to the Project as outlined above (each, a "Change"), Customer shall deliver a written notice proposing the Change(s) (a "Project Change Proposal") to Sparkrock. Sparkrock shall respond to such Project Change Proposal on a timely basis providing, at no cost to Customer, a quotation in the form of a Project Change Request (PCR) including the following: (i) the effect of the Project Change Proposal, if any, on the amounts payable by Customer hereunder and the manner in which such effect was calculated; (ii) the effect of the Project Change Proposal, if any, on the Project functionality and schedule; (iii) an implementation plan for the Project Change Proposal; (v) additional costs for implementing the Change; (vi) any other information reasonably requested in the request for the applicable Change .

Similarly, if Sparkrock desires to initiate and proposed Changes, it shall provide a Project Change Proposal to Customer in the form of a PCR as outlined above.

Customer shall respond a Project Change Proposal as soon as practicable and in any case within no more than thirty (30) days of Customer's receipt of the Project Change Request Proposal, indicating whether the Project Change Proposal is accepted or rejected. If the Customer does not accept the Change Request Proposal within ten (10) days of receipt thereof, the Project Schedule and any other timelines outlined in the Project Change Proposal shall be correspondingly delayed taking into account the additional time arising from the Customer's acceptance later than ten (10) days from receipt of such Project Change Proposal.

No Change to the Project or any amendment to resource assignments will be made by Sparkrock until the Project Change Request for the applicable Change(s) has been signed by both Customer and Sparkrock.

Customer

SIGNATURE

NAME

TITLE

_____

DATE

I have the authority to bind the company

Sparkrock

SIGNATURE

NAME

TITLE

_____

DATE

I have the authority to bind the company

SIGNATURE

NAME

TITLE

_____

DATE

I have the authority to bind the company

14803889.7

Exhibit A-4(a)

Support and Training

- **Application Support** – Sparkrock will provide unlimited remote phone/email support for break/fix and general how-to questions for the ACTA solution.

- **Refresher Training** –Most end users benefit from a review of the initial training. This "refresher training" will allow end users to ask questions, re-learn the best steps for completing common tasks, and provide additional knowledge after they have become comfortable and familiar with the application. The Sparkrock Account Manager will work with ACTA to schedule a 1-week end user refresher training.

   Ongoing Training – Periodic training is available throughout the year to help end users learn tips and tricks to become more efficient in the use of Sparkrock 365. ACTA will work with their Sparkrock assigned Account Manager to identify those areas of the application which end users would benefit for additional training. Once a topic is identified for the training session, a date/time will be set and content created which will provide the most benefit to the end users.

- **Periodic Meetings and Status Reports** – Sparkrock will conduct regular meetings with ACTA's appointed contact on a mutually agreed upon schedule to provide ACTA insights into the status of the business applications operations. Sparkrock will provide ACTA with reports on open/closed cases, assumptions, and insight into areas that may improve ACTA's business operations.

EXHIBIT B

<u>SMALL BUSINESS ENTERPRISE PROGRAM</u>

The Alameda Corridor Transportation Authority ("ACTA") is committed to creating an environment that provides all individuals and businesses open access to the business opportunities available at ACTA. ACTA's Small Business Enterprise (SBE) Program was created to provide opportunities for small businesses to participate in professional service and construction contracts. It is the policy of ACTA to solicit participation in the performance of all service contracts by all individuals and businesses, including, but not limited to, SBEs, women-owned business enterprises (WBEs), minority-owned business enterprises (MBEs), and disabled veteran business enterprises (DVBEs). The SBE Program allows ACTA to target small business participation, including MBEs, WBEs, and DVBEs, more effectively.

An overall ACTA goal of 25% SBE participation by total contract value and/or by total number of contracts awarded to SBE prime consultants or contractors has been established for the Program. The specific goal or requirement for each contract opportunity may be higher or lower based on the scope of work, and will be stated in the specific request for proposals or bids. **Based on the work to be performed under this Agreement, it has been determined that the percentage of required small business participation will be 0%**.

Consultant shall be responsible for determining the SBE status of its subconsultants for purposes of meeting the small business requirement, where required, and for reporting to ACTA. Subconsultants must qualify as an SBE based on the type of services that they will be performing under the Agreement. All business participation will be determined by the percentage of the total amount of compensation under the agreement paid to SBEs.

AFFIDAVIT OF COMPANY STATUS

"The undersigned declares under penalty of perjury pursuant to the laws of the State of California that the following information and information contained on **the attached Contractor Description Form** is true and correct and include all material information necessary to identify and explain the operations of

_____
Name of Firm

as well as the ownership thereof. Further, the undersigned agrees to provide either through the prime consultant or, directly to ACTA, complete and accurate information regarding ownership in the named firm, any proposed changes of the ownership and to permit the audit and examination of firm ownership documents in association with this agreement."

Small/Very Small Business Enterprise Program: Please indicate the ownership of your company. Please check <u>all</u> that apply. At least <u>one</u> box <u>must</u> be checked:

☐SBE ☐VSBE ☐MBE ☐WBE ☐DVBE ☐OBE

Signature _____   Title _____
Printed Name _____   Date Signed _____

NOTARY

STATE OF CALIFORNIA   )
) ss
COUNTY OF LOS ANGELES   )
 	
Place Notary Seal and/or Stamp Above
	Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20___ by
	
	(1) _____
	              Name of Signer (1)
	
	Who proved to me on the basis of satisfactory evidence to be the person who appeared before me (.)(,)
	
	(and)
	
	(2) _____
	              Name of Signer (2)
	
	Who proved to me on the basis of satisfactory evidence to be the person who appeared before me.)
	
	Signature _____

Contractor Description Form

For the Prime Contractor and each Subcontractor, state the type of SBE certification claimed and, if available, return documentation with this form to ACTA evidencing the declared SBE certification.

PRIME CONTRACTOR

Contract #: _____   Award Date: _____   Contract Term: _____
Contract Title: _____
Business Name: _____ Award Total: $ _____
Owner's Ethnicity: _____ Gender _____Group: <u>SBE   VSBE   MBE   WBE   DVBE   OBE</u>
                                                      (Circle all that apply)
If claimed, state SBE certification type: _____

Address: _____
City/State/Zip: _____
Telephone: (   ) _____   FAX: (   ) _____
Contact Person/Title: _____
Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: $ _____
Services to be provided: _____
Owner's Ethnicity: _____ Gender _____ Group: <u>SBE   VSBE   MBE   WBE   DVBE   OBE</u>
                                                      (Circle all that apply)
If claimed, state SBE certification type: _____

Address: _____
City/State/Zip: _____
Telephone: (   ) _____   FAX: (   ) _____
Contact Person/Title: _____
Email Address: _____

SUBCONTRACTOR

Business Name: _____ Award Total: $ _____
Services to be provided: _____
Owner's Ethnicity: _____ Gender _____ Group: <u>SBE   VSBE   MBE   WBE   DVBE   OBE</u>
                                                      (Circle all that apply)
If claimed, state SBE certification type: _____

Address: _____
City/State/Zip: _____
Telephone: (   ) _____   FAX: (   ) _____
Contact Person/Title: _____
Email address: _____