

SERVICES AGREEMENT—Active Cycle Procurement™

This Services Agreement (“Agreement”) is entered into as of _____, 20__ (“Effective Date”) between ERP Solutions & Auditing, LLC (“Service Provider”) and _____ (“Client”), (each a "Party" and collectively "Parties").

Whereas Client has made an internal financially justified and binding decision (“Commitment”) to move forward with the procurement of Mission Critical Business Applications, or Client has begun an active sales cycle which will result in a Committed Procurement for **new** mission critical business applications; Tier I Enterprise Resource Planning ("ERP") or an **existing** Tier I ERP Client is adding to their footprint (collectively “Enterprise Software”);

Whereas Service Provider has highly specialized knowledge respecting the procurement of Enterprise Software in reducing net license and 1st. year support, as well as reducing long-term support and ensuring Client favorable Software License and Service Agreement ("SLSA"), Legal Amendments, and Terms and Conditions;

Whereas Client wishes to hire Service Provider to assist in Client’s purchase of Enterprise Software, where Service Provider charges no **upfront fees** of any kind; based on the terms and conditions set forth herein.

Now Therefore: the Parties agree as follows:

1. Definitions

1.1 **Best Negotiated Tier I Vendor Offer** is defined as the lowest possible **Committed** net license a Client, and or their representative, have negotiated with their Tier I ERP Vendor, as amended in **Writing** on this agreement or in the form of Client's Executable Ordering Document(s) attached hereto as Exhibit I, either of which reflect "**Client's Final and Binding Best Negotiated Tier I Vendor Offer.**"

1.2 The Five Year Total Cost of Ownership ("**5-Yr. TCO**") is the sum of a) the **Net License** as defined in (1.1) and b) the **Annual Support costs** for the first 5 years, (including any post first yr. support increases).

1.3 The Final **Executable** Ordering Document(s) reflecting Service Provider's **Reduced 5-Yr. TCO**, as defined in (1.2) and provided by Client's Tier I Vendor reflect "**Service Provider's Final and Binding Tier I Vendor Executable Ordering Document(s)**." The Service Provider's Final and Binding Tier I Vendor Executable Ordering Document(s), will reflect at minimum, the exact same, or added Enterprise Software Modules, and or, added License Rights as were first obtained in Client's Final and Binding Best Negotiated Tier I Vendor Offer.

1.4 "Confidential Information" means each Party's intellectual property and all non-public information (*whether prepared by the disclosing Party, its advisors, or otherwise and irrespective of the form of communication*) that is disclosed to a Party or its representatives in respect of this Agreement, including information related to products, services, technologies, business plans, forecasts, financial condition, operations, assets, liabilities, business strategies, pricing, costs, and manufacturing processes, in each case by or on behalf of the disclosing Party, and any information that is otherwise designated as confidential or, by the nature of circumstances surrounding disclosure, ought in good faith to be treated as confidential.

2.Services

2.1 Service Provider will work with Client, and or, their Tier I ERP Vendor to reduce the **5-Year TCO** as defined in (1.2) and **resulting** from the Client's Final and Binding Best Negotiated Tier I Vendor Offer as defined in (1.1).

2.2 Both Parties agree each have existing demands on their time, in addition to those created by an Active Enterprise Software Sales Cycle and each Party agrees to assist the other with scheduling.

3. Payment of fee to Service Provider

3.1 Client will pay Service Provider a fee equal to ____% of the final **Total Savings** in the 5-Yr. TCO as defined in (2.1) and as amended in writing or bound in Exhibit I, as defined in (1.1) and the 5-Yr. TCO delivered by Service Provider's Reduction to Client's 5-Yr. TCO as reflected in Service Provider's Final and Binding Tier I Vendor Executable Ordering Document(s), as defined in (1.3).

3.2 Payment of the fee will be due Net 30 days from the Client's receipt of Service Provider's invoice reflecting the whole dollar amount of the pre-agreed to percentage of the 5-Yr. TCO Savings as reflected in (3.1).

4. Termination of this Agreement

4.1 If Client's Tier I ERP Vendor does not deliver the Service Provider's Final and Binding Tier I Vendor Executable Ordering Document(s), which reflect the Reduction to the Client's initial 5-Yr TCO as defined in (2.1) by the date set forth herein: _____, 20__ ("Delivery Date") then this Agreement will terminate and client would not owe Service Provider any fees as reflected in (3.1). Based on any mutually agreed to extenuating circumstances, should the Client and Service Provider both agree, the Delivery Date may be extended in writing, as amended on this agreement and initialed by both the Client and Service Provider.

4.2 This Agreement shall terminate immediately after Service Provider's receipt of Client's fee paid in full as reflected in (3.2).

5. Client and Service Provider Books and Records

5.1 Both Parties, if needed, will, after the termination of this Agreement make available to each other all relevant books and records for the purpose of determining each Parties compliance with its obligations hereunder.

6. Client Representation

6.1 Client represents and warrants to Service Provider that all information relevant to the operation of this Agreement will be fully disclosed and, to the best of Client's knowledge, will accurately reflect the position of their Tier I ERP Vendor.

7. General Provisions

7.1 Each Party shall comply with all applicable laws in the performance of this Agreement.

7.2 Each Party undertakes to retain in confidence the terms of this Agreement and all Confidential Information it receives from the other Party; provided that each receiving Party may disclose the terms and conditions of this Agreement to its legal and financial consultants in the ordinary course of its business and to its employees who have a need to know the Confidential Information in order for the receiving Party to perform its obligations or to exercise its rights under this Agreement and who have been apprised of the confidential nature of the Confidential Information in advance. Each receiving Party will only use the other party's Confidential Information to perform obligations and exercise rights under this Agreement. Each receiving Party agrees to use commercially reasonable efforts to protect confidential information of the other Party and, in any event, to take precautions at least as great as those taken to protect its own Confidential Information of a similar nature. The foregoing restrictions shall not apply to any information that: (a) was known by the receiving Party prior to disclosure thereof by the other Party; (b) is in or entered the public domain through no fault of the receiving Party; (c) is disclosed to the receiving Party by a third Party legally entitled to make such

disclosure without violation of any obligation of confidentiality; (d) is required to be disclosed by applicable laws or regulations (but in such event, only to the extent required to be disclosed); or (e) is independently developed by the receiving Party without reference to any Confidential Information of the other Party. Upon request of the other Party, after the termination of this Agreement, each Party shall destroy or return to the other Party all materials, in any medium, which contain, embody, reflect or reference any Confidential Information. Each Party acknowledges that breach of this provision would result in irreparable harm to the other Party, for which money damages would be an insufficient remedy, and therefore that the other Party shall be entitled to injunctive relief to enforce the provisions of this Section.

7.3 This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts without reference to its choice of law rules.

7.4 No waiver of any breach of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision. No waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

7.5 In the event of any legal action with respect to this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and other costs and expenses incurred in resolving such action.

Authorized Signatories:

Service Provider:

Company: ERP Solutions & Auditing, LLC

By: _____

Printed name: Dean Poulos

Title: President & CEO

Date: _____

Client:

Company: _____

By: _____

Printed name: _____

Title: _____

Date: _____