

MILES ELECTRIC
COMPANY INC.

7210A Rutherford Road • Baltimore, Maryland 21244
Phone: (410) 597-8219 Fax: (410) 597-8242

Electrical Contractors
Residential
Industrial
Commercial

August 29, 2011

ATTN: Bill Thomas
38 Studios Baltimore, LLC
DBA Big Huge Games
1954 Greenspring Drive
Timonium, MD 21093

Dear Mr. Thomas:

We herewith submit our proposal to complete the following:

1. To install one 12 circuit single phase panel off of the ups system in IT office.
2. To install four quad outlets for computer equipment surface mounted on wall behind equipment rack.
3. Remove and blank off two hanging lights in open area.

Total Cost...\$745.00

All workmanship and material (except lamps and batteries) to be guaranteed for one (1) year from date of installation.

Payment due thirty (30) days after receipt of invoice. If an account is placed with an agency or an attorney for collection of an undisputed debt, debtor agrees to assume responsibility for and pay any and all related expenses incurred.

The signing and returning of the original of this proposal will be deemed a contract. (A fax-returned proposal will get the work on the schedule, but the original must be mailed back in order for the work to be done.) A countersigned original of this proposal will be returned to you. This proposal may be withdrawn if not accepted within 30 days from the above date.

Respectfully,



Greg A. Hartzell
Service Supervisor

Accepted by:



William C. Thomas, President
9/7/11

MILES ELECTRIC COMPANY INC.
7210A Rutherford Road • Baltimore, Maryland 21244
Phone: (410) 597-8219 Fax: (410) 597-8242

Electrical Contractors
Residential
Industrial
Commercial

November 10, 2011

ATTN: Bill Thomas
38 Studios Baltimore, LLC
DBA Big Huge Games
1954 Greenspring Drive
Timonium, MD 21093

Dear Mr. Thomas:

We herewith submit our proposal to complete the following:

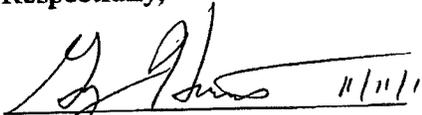
1. To provide testing of electrical loads in office areas in need of power upgrades. This work will be completed during regular working hours 7:30 am to 4 pm at a rate of \$95.00 per hour.

All workmanship and material (except lamps and batteries) to be guaranteed for one (1) year from date of installation.

Payment due thirty days after receipt of invoice. If an account is placed with an agency or an attorney for collection of an undisputed debt, debtor agrees to assume responsibility for and pay any and all expenses incurred.

The signing and returning of the original of this proposal will be deemed a contract. (A fax-returned proposal will get the work on the schedule, but the original must be mailed back in order for the work to be done.) A countersigned original of this proposal will be returned to you. This proposal may be withdrawn if not accepted within 30 days from the above date.

Respectfully,



Greg A. Hartzell
Service Supervisor



Accepted William C. Thomas Date 11/10/11

Scott Edelstein

From: info@fonts.com
Sent: Wednesday, March 23, 2011 2:14 PM
To: Bobby Fisher
Subject: Invoice for Fonts.com Order # 10150769



Monotype Imaging Inc.
500 Unicorn Park Drive
Woburn, MA 01801
VAT ID: EU826009166

For questions, comments or support for your order, please visit
<http://www.fonts.com/Contact.htm>

Order number 10150769

Received on 3/23/2011 11:13:54 AM (PST)

Please print this receipt for your records. If your order included any items to be delivered via email, they will be listed below and attached to this message. For [installation instructions](#) or other questions, please visit the [FAQ section](#) of Fonts.com.

Billing Information

Brandon Franks
38 Studios LLC
5 Clock Tower Place
Ste 140
maynard, MA 01754
USA
9783105100
bfisher@38studios.com

Payment Method

MasterCard
Expiration Date:01/2014
Email Newsletter
No

ORDER CONTENTS

Draylon Std Regular

From: Virus Fonts
Format: Mac & Win OpenType - PostScript Flavor (.otf)
Delivery: Download
Contains: 1 item(s)

\$30.00 USD
Licensed users:
1 - 5

SubTotal:	\$30.00
Discounts:	\$0.00
Tax:	\$1.88
Order Total (USD):	\$31.88

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fonts.com

by Monotype Imaging



End User License Agreement

Monotype Imaging End User License Agreement

We recommend that you print this End User Agreement for further reference.

This Monotype Imaging Inc. End User Agreement (the "Agreement") becomes a binding contract between you and Monotype Imaging Inc. (a) when you click on the area marked "ACCEPT LICENSE AGREEMENT", or, (b) if you are acquiring Font Software on a floppy disk, when you open the package in which the font is contained. If you do not wish to be bound by the Agreement, you cannot access, use or download the Font Software. Please read all of the Agreement before you agree to be bound by its terms and conditions. You hereby agree to the following:

1. You are bound by the Agreement and you acknowledge that all Use (as defined herein) of the Font Software (as defined herein) supplied to you by MTI is governed by the Agreement.
2. "MTI" as used herein shall mean collectively Monotype Imaging Inc., its successors and assigns, its parent and affiliated corporations, its authorized distributors, and any third party which has licensed to MTI any or all of the components of the Font Software supplied to you pursuant to the Agreement.
3. "Font Software" as used herein shall mean software which, when used on an appropriate device or devices, generates typeface and typographic designs and ornaments. Font Software shall include all bitmap representations of typeface and typographic designs and ornaments created by or derived from the Font Software. Font Software includes upgrades, updates, related files, permitted modifications, permitted copies, and related documentation.
4. "Basic Licensed Unit" as used herein shall mean up to five (5) Workstations (as defined herein) connected to no more than one (1) printer with a non-volatile memory (for example, a hard drive), all located at a single geographic location. If you intend to use the Font Software on more equipment than permitted by a Basic Licensed Unit, you must create an "Expanded Licensed Unit" by obtaining from MTI, for an additional fee, a site license for all such equipment. "Licensed Unit" as used herein shall mean a Basic Licensed Unit or an Expanded Licensed Unit as is appropriate to the context in which the term is used. If you have acquired an entire Font Software Library (that is, a single license for Font Software for 500 or more different typeface designs) and you use such Font Software Library only at a single geographic location, then "Licensed Unit" shall mean up to twenty (20) Workstations connected to no more than two (2) printers with non-volatile memories at such geographic location.
5. "Use" of the Font Software shall occur when an individual is able to give commands (whether by keyboard or otherwise) that are followed by the Font Software, regardless of the location in which the Font Software resides.

6. "Derivative Work" shall mean binary data based upon or derived from Font Software (or any portion of Font Software) in any form in which such binary data may be recast, transformed, or adapted including, but not limited to, binary data in any format into which Font Software may be converted.

7. "Personal or Internal Business Use" shall mean Use of the Font Software for your customary personal or internal business purposes and shall not mean any distribution whatsoever of the Font Software or any component or Derivative Work thereof. "Personal or Internal Business Use" shall not include any Use of the Font Software by persons that are not members of your immediate household, your authorized employees, or your authorized agents. All such household members, employees and agents shall be notified by you as to the terms and conditions of the Agreement and shall agree to be bound by it before they can have Use of the Font Software.

8. "Workstation" as used herein shall mean a component in which an individual is able to give commands (whether by keyboard or otherwise) that are followed by the Font Software, regardless of the location in which the Font Software resides.

9. "Commercial Product" as used herein shall mean an electronic document or data file created by Use of the Font Software which is offered for distribution to the general public (or to some subset of the general public) as a commercial product in exchange for a separate fee or other consideration. By way of illustration and not by way of limitation, an electronic book or magazine distributed for a fee shall be considered a Commercial Product; a document distributed in connection with a commercial transaction in which the consideration is unrelated to such document (for example, a business letter, a ticket for an event, or a receipt for purchase of tangible goods such as clothing) shall not be considered a Commercial Product

10. You are hereby granted a non-exclusive, non-assignable, non-transferable (except as expressly permitted herein) license to access the Font Software (i) only in a Licensed Unit, (ii) only for your Personal or Internal Business Use, and (iii) only subject to all of the terms and conditions of the Agreement. You have no rights to the Font Software other than as expressly set forth in the Agreement. You agree that MTI owns all right, title and interest in and to the Font Software, its structure, organization, code, and related files, including all property rights therein such as copyright, design and trademarks rights. You agree that the Font Software, its structure, organization, code, and related files are valuable property of MTI and that any intentional Use of the Font Software not expressly permitted by the Agreement constitutes a theft of valuable property. All rights not expressly granted in the Agreement are expressly reserved to MTI. You may not use the Font Software to electronically distribute a Commercial Document without a separate license from MTI authorizing you to do so.

11. You may install and Use the Font Software on a single file server for Use on a single local area network ("LAN") only when the Use of such Font Software is limited to the Workstations and printers that are part of the Licensed Unit of which the server is a part. For the purpose of determining the proper number of Workstations for which a license is needed, the following example is supplied for illustration purposes only: If there are 100 Workstations connected to the server, with no more than 15 Workstations ever using the Font Software concurrently, but the Font Software will be used on 25 different Workstations at various points in time, a site license must be obtained creating a Licensed Unit for 25 Workstations. The Font Software may not be installed or Used on a server that can be accessed

via the Internet or other external network system (a system other than a LAN) by Workstations which are not part of a Licensed Unit.

12. You may electronically distribute Font Software embedded in a "Personal or Internal Business Use" document (that is, a document other than a "Commercial Product" as defined herein) only when the Font Software embedded in such document (i) is in a static graphic image (for example, a "gif") or an embedded electronic document, and (ii) is distributed in a secure format that permits only the viewing and printing (and not the editing, altering, enhancing, or modifying) of such static graphic image or embedded document. You may not embed Font Software in a Commercial Product without a separate written license from MTI, and you may not embed Font Software in an electronic document or data file for any reason other than your own Personal or Internal Business Use.

13. You may not alter Font Software for the purpose of adding any functionality which such Font Software did not have when delivered to you by MTI. If the Font Software contains embedding bits that limit the capabilities of the Font Software, you may not change or alter the embedding bits. Font Software may not be used to create or distribute any electronic document in which the Font Software, or any part thereof, is embedded in a format that permits editing, alterations, enhancements, or modifications by the recipient of such document. If you have reason to believe that a recipient of an electronic document possesses the capability to edit, alter, enhance, or modify such electronic document even though you have distributed it in a format which does not permit such editing, alteration, enhancement, or modification, you shall not transmit such document to such person.

14. You may take a digitized copy of the Font Software used for a particular document, or Font Software embedded in an electronic document, to a commercial printer or service bureau for use by the printer or service in printing such document but only if the printer or service bureau represents to you that it has purchased or been granted a license to use that particular Font Software.

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Trademarks can only be used to identify printed output produced by the Font Software. The use of any trademark as herein authorized does not give you any rights of ownership in that trademark and all use of any trademark shall inure to the sole benefit of MTI. You may not change any trademark or trade name designation for the Font Software.

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17. You may make one back-up copy of Font Software for archival purposes only, and you shall retain exclusive custody and control over such copy. Upon termination of the Agreement, you must destroy the original and any and all copies of the Font Software.

18. MTI warrants to you that the Font Software will perform substantially in accordance with its documentation for the ninety (90) day period following delivery of the Font Software. To make a warranty claim, you must, within the ninety (90) day warranty period, return the Font Software to the location from which you obtained it along with a copy of your receipt or, if such Font Software is acquired on-line, contact the on-line provider with sufficient information regarding your acquisition of the Font Software so as to enable MTI to verify the existence and date of the transaction. If the Font Software does not perform substantially in accordance with its documentation, the entire, exclusive, and cumulative liability and remedy shall be limited to the refund of the license fee you paid to MTI to obtain delivery of the Font Software.

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implied warranties not effectively excluded by the Agreement are limited to ninety (90) days. Some jurisdictions do not permit a limitation of implied warranties where the product results in physical injury or death so that such limitations may not apply to you. In those jurisdictions, you agree that MTI's liability for such physical injury or death shall not exceed One Hundred Thousand Dollars (U.S. \$100,000), provided that such jurisdictions permit a limitation of such liability. This warranty gives you specific legal rights. You may have other rights that vary from state to state or jurisdiction to jurisdiction. The Font Software is non-returnable and nonrefundable.

19. The Agreement will be governed by the laws of Illinois applicable to contracts wholly entered and performable within such state. All disputes related to the Agreement shall be heard in the Circuit Court of Cook County, Illinois, U.S.A. or the United States District Court for the Northern District of Illinois, Chicago, Illinois U.S.A. Both you and MTI agree to the personal jurisdiction and venue of these courts in any action related to the Agreement. The Agreement will not be governed by the United Nations Convention of Contracts for the International Sale of Goods, the application of which is expressly excluded. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms.

20. The Agreement shall automatically terminate upon failure by you (or any authorized person or member of your immediate household to whom you have given permission to Use the Font Software) to comply with its terms. The termination of the Agreement shall not preclude MTI from suing you for damages of any breach of the Agreement. The Agreement may only be modified in writing signed by an authorized officer of MTI. You agree that the Font Software will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration or any applicable export laws, restrictions or regulations.

21. You have the rights expressly set forth in the Agreement and no other. All rights in and to the Font Software, including unpublished rights, are reserved under the copyright laws of the United States and other jurisdictions. All rights reserved. Notwithstanding the foregoing, to the extent that any law, statute, treaty, or governmental regulation shall be deemed by a court of competent jurisdiction to provide you with any additional or different rights from those provided herein and such rights shall be deemed non-waiveable as a matter of law and to supersede the rights specifically provided herein, then such law, statute, treaty, or governmental regulation shall be deemed to be made a part of the Agreement. To the extent that any such rights created by any law, statute, treaty or governmental regulation are waiveable, you agree that your acceptance of the Agreement shall constitute an effective and irrevocable waiver of such rights. The Agreement may be enforced by MTI or by an authorized dealer acting on behalf of MTI.

22. If this product is acquired under the terms of a (i) GSA contract - use, reproduction or disclosure is subject to the restrictions set forth in the applicable ADP Schedule contract, (ii) DOD contract - use, duplication or disclosure by the Government is subject to the applicable restrictions set forth in DFARS 252.277-7013; (iii) Civilian agency contract - use, reproduction, or disclosure is subject to FAR 52.277-19(a) through (d) and restrictions set forth in the Agreement. "Monotype" is a trademark of Monotype Imaging Limited registered in the U.S. Patent and Trademark Office and elsewhere.

23. Shipping - All Software will be shipped F.O.B. Origin by customary industry

methods of shipment.

All other trademarks are the property of their respective owners. MTI's mailing address is: 500 Unicorn Park Dr., Woburn, Massachusetts 01801 All inquiries may be sent via e-mail to: info@monotypeimaging.com Monotype Imaging's website is located at www.fonts.com



Terms of Business

TERMS AND CONDITIONS

- 1. Scope.** The following Terms and Conditions will apply exclusively to the current and future business relationships between Monotype Imaging Inc., Monotype Imaging Ltd., International Typeface Corporation and/or any of their affiliated entities that have provided these terms and conditions (collectively, "Monotype Imaging") and you ("you" or the "customer"). Any additional or inconsistent terms issued by customer, including any such terms and conditions set forth on a purchase order that may be provided by you shall not be binding upon Monotype Imaging, unless Monotype Imaging gives its express agreement in writing.
- 2. Entire Agreement for Order and or Contract.** Any offer made by Monotype Imaging is without obligation and subject to change without notice unless the offer has been designated as binding in the text of the offer. A contract will only become valid when it has been accepted in writing by Monotype Imaging (confirmation of order) or until the order is performed (e.g. delivery, download or connection). Written confirmation of the order will be final for the contents of the contract. Oral understandings related to arrangements will require written confirmation by Monotype Imaging to be valid. Monotype Imaging reserves the right to correct errors in its offers, invoices and communications such as spelling or arithmetical errors. Neither this agreement nor your rights hereunder may be assigned to any third party without Monotype Imaging's prior written consent. Customer acknowledges that all products purchased are subject to separate license agreements and agrees to be bound thereby.
- 3. Delivery.** The quoted delivery times will begin on the date of the confirmation of the order. It is in Monotype Imaging's best interest to provide the most accurate information regarding delivery times but stated delivery times will not be binding. Circumstances beyond Monotype Imaging's customary commercial control will also release Monotype Imaging from all liability, even in the case of expressly guaranteed delivery deadlines. Customer agrees to accept partial shipments, and for such shipments, shall be responsible for paying the partial amounts due. The freight costs of delivery or any partial delivery will normally be borne by the customer. Delivery is FOB origin.
- 4. Prices.** All prices are quoted in US dollars, unless otherwise indicated in writing, and are exclusive of all taxes and duties imposed by any governmental authority, all

freight and shipping charges, and any insurance premiums, all of which shall be paid by Customer .

5. **Payment.** Payment for goods or services from Monotype Imaging is net thirty (30) days from the date of invoice, unless other credit terms have been specifically agreed in writing. Payments by card systems, such as MasterCard and Visa, will be accepted. Monotype Imaging's invoices are to be paid without the deductions of any kind. Overdue payments shall bear interest from the due date at the rate of the lower of one and half percent per month (1.5%) or the maximum rate permissible under applicable law.

6. **Warranty.** Unless otherwise agreed in writing between you and Monotype Imaging or as required by law, the goods and services purchased by you are provided by Monotype Imaging "as is" without any representation or warranty of any kind, including without limitation, any warranty of non-infringement or fitness for a particular purpose.

7. **Partial Nullity.** Should one or more provisions in these terms and conditions be or become wholly or partially invalid, the validity of the other provisions in these terms and conditions will not be affected. A correspondingly invalid clause will be replaced by a clause that comes as close as possible to the intention of the invalid provision; the same will apply in the case of an omission.

8. **Place of Performance and Jurisdiction.** The principal business premises of Monotype Imaging Inc., or the affiliate entity that provided you with these terms and conditions, will be the place of performance for both parties. Legal proceedings may only be instituted in this jurisdiction.

Scott Edelstein

From: info@fonts.com
Sent: Wednesday, March 23, 2011 2:55 PM
To: Bobby Fisher
Subject: Invoice for Fonts.com Order # 10150805



Monotype Imaging Inc.
500 Unicorn Park Drive
Woburn, MA 01801
VAT ID: EU826009166

For questions, comments or support for your order, please visit
<http://www.fonts.com/Contact.htm>

Order number 10150805
Received on 3/23/2011 11:55:13 AM (PST)

Please print this receipt for your records. If your order included any items to be delivered via email, they will be listed below and attached to this message. For [installation instructions](#) or other questions, please visit the [FAQ section](#) of Fonts.com.

Billing Information

Brandon Franks
38 Studios LLC
5 Clock Tower Place
Ste 140
maynard, MA 01754
USA
9783105100
bfisher@38studios.com

Payment Method

MasterCard
Expiration Date:01/2014
Email Newsletter
No

ORDER CONTENTS

Carter Sans™ Pro Regular

From: ITC - International Typeface Corp.
Format: Mac & Win OpenType - PostScript Flavor (.otf)
Delivery: Download
Contains: 1 item(s)

\$65.00 USD
Licensed users:
1 - 5

SubTotal:	\$65.00
Discounts:	\$0.00
Tax:	\$4.06
Order Total (USD):	\$69.06

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by Monotype Imaging



End User License Agreement

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4. "Basic Licensed Unit" as used herein shall mean up to five (5) Workstations (as defined herein) connected to no more than one (1) printer with a non-volatile memory (for example, a hard drive), all located at a single geographic location. If you intend to use the Font Software on more equipment than permitted by a Basic Licensed Unit, you must create an "Expanded Licensed Unit" by obtaining from MTI, for an additional fee, a site license for all such equipment. "Licensed Unit" as used herein shall mean a Basic Licensed Unit or an Expanded Licensed Unit as is appropriate to the context in which the term is used. If you have acquired an entire Font Software Library (that is, a single license for Font Software for 500 or more different typeface designs) and you use such Font Software Library only at a single geographic location, then "Licensed Unit" shall mean up to twenty (20) Workstations connected to no more than two (2) printers with non-volatile memories at such geographic location.
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10. You are hereby granted a non-exclusive, non-assignable, non-transferable (except as expressly permitted herein) license to access the Font Software (i) only in a Licensed Unit, (ii) only for your Personal or Internal Business Use, and (iii) only subject to all of the terms and conditions of the Agreement. You have no rights to the Font Software other than as expressly set forth in the Agreement. You agree that MTI owns all right, title and interest in and to the Font Software, its structure, organization, code, and related files, including all property rights therein such as copyright, design and trademarks rights. You agree that the Font Software, its structure, organization, code, and related files are valuable property of MTI and that any intentional Use of the Font Software not expressly permitted by the Agreement constitutes a theft of valuable property. All rights not expressly granted in the Agreement are expressly reserved to MTI. You may not use the Font Software to electronically distribute a Commercial Document without a separate license from MTI authorizing you to do so.

11. You may install and Use the Font Software on a single file server for Use on a single local area network ("LAN") only when the Use of such Font Software is limited to the Workstations and printers that are part of the Licensed Unit of which the server is a part. For the purpose of determining the proper number of Workstations for which a license is needed, the following example is supplied for illustration purposes only: If there are 100 Workstations connected to the server, with no more than 15 Workstations ever using the Font Software concurrently, but the Font Software will be used on 25 different Workstations at various points in time, a site license must be obtained creating a Licensed Unit for 25 Workstations. The Font Software may not be installed or Used on a server that can be accessed

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13. You may not alter Font Software for the purpose of adding any functionality which such Font Software did not have when delivered to you by MTI. If the Font Software contains embedding bits that limit the capabilities of the Font Software, you may not change or alter the embedding bits. Font Software may not be used to create or distribute any electronic document in which the Font Software, or any part thereof, is embedded in a format that permits editing, alterations, enhancements, or modifications by the recipient of such document. If you have reason to believe that a recipient of an electronic document possesses the capability to edit, alter, enhance, or modify such electronic document even though you have distributed it in a format which does not permit such editing, alteration, enhancement, or modification, you shall not transmit such document to such person.

14. You may take a digitized copy of the Font Software used for a particular document, or Font Software embedded in an electronic document, to a commercial printer or service bureau for use by the printer or service in printing such document but only if the printer or service bureau represents to you that it has purchased or been granted a license to use that particular Font Software.

15. You acknowledge that the Font Software is protected by the copyright and other intellectual property law of the United States and its various States, by the copyright and design laws of other nations, and by international treaties. You agree to treat the Font Software as you would any other copyrighted material, such as a book. You may not copy the Font Software, except as expressly provided herein. Any copies that you are expressly permitted to make pursuant to the Agreement must contain the same copyright, trademark, and other proprietary notices that appear on or in the Font Software. You agree not to adapt, modify, alter, translate, convert, or otherwise change the Font Software, or to create Derivative Works from Font Software or any portion thereof. You further agree not to use Font Software in connection with software and/or hardware which create Derivative Works of such Font Software. You agree not to reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of the Font Software, provided, however, that if you are located in a European Community member country or any other country which provides rights materially similar to the rights set forth in this proviso, you may reverse engineer or decompile the Font Software only to the extent that sufficient information is not available for the purpose of creating an interoperable software program (but only for such purpose and only to the extent that sufficient information is not provided by MTI upon written request). You agree to use trademarks associated with the Font Software according to accepted trademark practice, including identification of the trademark owner's name.

Trademarks can only be used to identify printed output produced by the Font Software. The use of any trademark as herein authorized does not give you any rights of ownership in that trademark and all use of any trademark shall inure to the sole benefit of MTI. You may not change any trademark or trade name designation for the Font Software.

16. You may not rent, lease, sublicense, give, lend, or further distribute the Font Software, or any copy thereof, except as expressly provided herein. You may transfer all your rights to use the Font Software to another person or legal entity provided that (i) the transferee accepts and agrees to be bound by all the terms and conditions of the Agreement, and (ii) you destroy all copies of the Font Software, including all copies stored in the memory of a hardware device. If you are a business or organization, you agree that upon request from MTI or MTI's authorized representative, you will within thirty (30) days fully document and certify that use of any and all MTI Font Software at the time of the request is in conformity with your valid licenses from MTI.

17. You may make one back-up copy of Font Software for archival purposes only, and you shall retain exclusive custody and control over such copy. Upon termination of the Agreement, you must destroy the original and any and all copies of the Font Software.

18. MTI warrants to you that the Font Software will perform substantially in accordance with its documentation for the ninety (90) day period following delivery of the Font Software. To make a warranty claim, you must, within the ninety (90) day warranty period, return the Font Software to the location from which you obtained it along with a copy of your receipt or, if such Font Software is acquired on-line, contact the on-line provider with sufficient information regarding your acquisition of the Font Software so as to enable MTI to verify the existence and date of the transaction. If the Font Software does not perform substantially in accordance with its documentation, the entire, exclusive, and cumulative liability and remedy shall be limited to the refund of the license fee you paid to MTI to obtain delivery of the Font Software.

MTI DOES NOT WARRANT THE PERFORMANCE OR RESULTS YOU MAY OBTAIN BY USING THE FONT SOFTWARE. THE FOREGOING STATES THE SOLE AND EXCLUSIVE REMEDIES FOR MTI'S BREACH OF WARRANTY. EXCEPT FOR THE FOREGOING LIMITED WARRANTY, MTI MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT WILL MTI BE LIABLE TO YOU OR ANYONE ELSE (I) FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, LOST DATA, LOST BUSINESS OPPORTUNITIES, OR LOST SAVINGS, EVEN IF MTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (II) FOR ANY CLAIM AGAINST YOU BY ANY THIRD PARTY SEEKING SUCH DAMAGES EVEN IF MTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some states or jurisdictions do not allow the exclusions of limitations of incidental, consequential or special damages, so the above exclusion may not apply to you. Also, some states or jurisdictions do not allow the exclusions of implied warranties or limitations on how long an implied warranty may last, so the above limitations may not apply to you. To the greatest extent permitted by law, any

implied warranties not effectively excluded by the Agreement are limited to ninety (90) days. Some jurisdictions do not permit a limitation of implied warranties where the product results in physical injury or death so that such limitations may not apply to you. In those jurisdictions, you agree that MTI's liability for such physical injury or death shall not exceed One Hundred Thousand Dollars (U.S. \$100,000), provided that such jurisdictions permit a limitation of such liability. This warranty gives you specific legal rights. You may have other rights that vary from state to state or jurisdiction to jurisdiction. The Font Software is non-returnable and nonrefundable.

19. The Agreement will be governed by the laws of Illinois applicable to contracts wholly entered and performable within such state. All disputes related to the Agreement shall be heard in the Circuit Court of Cook County, Illinois, U.S.A. or the United States District Court for the Northern District of Illinois, Chicago, Illinois U.S.A. Both you and MTI agree to the personal jurisdiction and venue of these courts in any action related to the Agreement. The Agreement will not be governed by the United Nations Convention of Contracts for the International Sale of Goods, the application of which is expressly excluded. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms.

20. The Agreement shall automatically terminate upon failure by you (or any authorized person or member of your immediate household to whom you have given permission to Use the Font Software) to comply with its terms. The termination of the Agreement shall not preclude MTI from suing you for damages of any breach of the Agreement. The Agreement may only be modified in writing signed by an authorized officer of MTI. You agree that the Font Software will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration or any applicable export laws, restrictions or regulations.

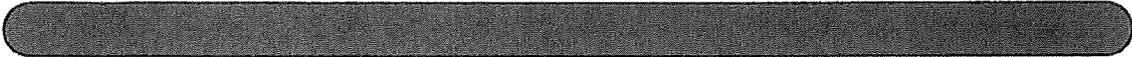
21. You have the rights expressly set forth in the Agreement and no other. All rights in and to the Font Software, including unpublished rights, are reserved under the copyright laws of the United States and other jurisdictions. All rights reserved. Notwithstanding the foregoing, to the extent that any law, statute, treaty, or governmental regulation shall be deemed by a court of competent jurisdiction to provide you with any additional or different rights from those provided herein and such rights shall be deemed non-waiveable as a matter of law and to supersede the rights specifically provided herein, then such law, statute, treaty, or governmental regulation shall be deemed to be made a part of the Agreement. To the extent that any such rights created by any law, statute, treaty or governmental regulation are waiveable, you agree that your acceptance of the Agreement shall constitute an effective and irrevocable waiver of such rights. The Agreement may be enforced by MTI or by an authorized dealer acting on behalf of MTI.

22. If this product is acquired under the terms of a (i) GSA contract - use, reproduction or disclosure is subject to the restrictions set forth in the applicable ADP Schedule contract, (ii) DOD contract - use, duplication or disclosure by the Government is subject to the applicable restrictions set forth in DFARS 252.277-7013; (iii) Civilian agency contract - use, reproduction, or disclosure is subject to FAR 52.277-19(a) through (d) and restrictions set forth in the Agreement. "Monotype" is a trademark of Monotype Imaging Limited registered in the U.S. Patent and Trademark Office and elsewhere.

23. Shipping - All Software will be shipped F.O.B. Origin by customary industry

methods of shipment.

All other trademarks are the property of their respective owners. MTI's mailing address is: 500 Unicorn Park Dr., Woburn, Massachusetts 01801 All inquiries may be sent via e-mail to: info@monotypeimaging.com Monotype Imaging's website is located at www.fonts.com



Terms of Business

TERMS AND CONDITIONS

- 1. Scope.** The following Terms and Conditions will apply exclusively to the current and future business relationships between Monotype Imaging Inc., Monotype Imaging Ltd., International Typeface Corporation and/or any of their affiliated entities that have provided these terms and conditions (collectively, "Monotype Imaging") and you ("you" or the "customer"). Any additional or inconsistent terms issued by customer, including any such terms and conditions set forth on a purchase order that may be provided by you shall not be binding upon Monotype Imaging, unless Monotype Imaging gives its express agreement in writing.
- 2. Entire Agreement for Order and or Contract.** Any offer made by Monotype Imaging is without obligation and subject to change without notice unless the offer has been designated as binding in the text of the offer. A contract will only become valid when it has been accepted in writing by Monotype Imaging (confirmation of order) or until the order is performed (e.g. delivery, download or connection). Written confirmation of the order will be final for the contents of the contract. Oral understandings related to arrangements will require written confirmation by Monotype Imaging to be valid. Monotype Imaging reserves the right to correct errors in its offers, invoices and communications such as spelling or arithmetical errors. Neither this agreement nor your rights hereunder may be assigned to any third party without Monotype Imaging's prior written consent. Customer acknowledges that all products purchased are subject to separate license agreements and agrees to be bound thereby.
- 3. Delivery.** The quoted delivery times will begin on the date of the confirmation of the order. It is in Monotype Imaging's best interest to provide the most accurate information regarding delivery times but stated delivery times will not be binding. Circumstances beyond Monotype Imaging's customary commercial control will also release Monotype Imaging from all liability, even in the case of expressly guaranteed delivery deadlines. Customer agrees to accept partial shipments, and for such shipments, shall be responsible for paying the partial amounts due. The freight costs of delivery or any partial delivery will normally be borne by the customer. Delivery is FOB origin.
- 4. Prices.** All prices are quoted in US dollars, unless otherwise indicated in writing, and are exclusive of all taxes and duties imposed by any governmental authority, all

freight and shipping charges, and any insurance premiums, all of which shall be paid by Customer .

5. Payment. Payment for goods or services from Monotype Imaging is net thirty (30) days from the date of invoice, unless other credit terms have been specifically agreed in writing. Payments by card systems, such as MasterCard and Visa, will be accepted. Monotype Imaging's invoices are to be paid without the deductions of any kind. Overdue payments shall bear interest from the due date at the rate of the lower of one and half percent per month (1.5%) or the maximum rate permissible under applicable law.

6. Warranty. Unless otherwise agreed in writing between you and Monotype Imaging or as required by law, the goods and services purchased by you are provided by Monotype Imaging "as is" without any representation or warranty of any kind, including without limitation, any warranty of non-infringement or fitness for a particular purpose.

7. Partial Nullity. Should one or more provisions in these terms and conditions be or become wholly or partially invalid, the validity of the other provisions in these terms and conditions will not be affected. A correspondingly invalid clause will be replaced by a clause that comes as close as possible to the intention of the invalid provision; the same will apply in the case of an omission.

8. Place of Performance and Jurisdiction. The principal business premises of Monotype Imaging Inc., or the affiliate entity that provided you with these terms and conditions, will be the place of performance for both parties. Legal proceedings may only be instituted in this jurisdiction.

Office Movers, Inc.
 6500 Kane Way
 Elkridge, MD 21075
 (410) 799-7704
 www.officemovers.com

PROPOSAL

No. BA-72585-3

DATE 10/4/2011

MOVE DATE SUBJECT TO CUSTOMER APPROVAL		F R O M	Ms. Gayle Keidel 1954 Greenspring Dr. # 520 Timonium, MD 21093 (443) 279-1567
SERVICE COMMENCEMENT	10/5/2011 9:00 AM		
B I L L T O	38 Studios Baltimore, LLC Big Huge Games DBA Big Huge Games Ms. Gayle Keidel Attn: Gayle Keidel 1954 Greenspring Dr. # 520 Timonium, MD 21093	T O	Ms. Gayle Keidel 1966 Greenspring Dr. Bsmt Timonium, MD 21093 (443) 632-8536

MOVE SPECIFICATIONS: *(including file cabinets)*

General relocation of cubicle components from basement storage room in Timonium Two Building to similar storage in Timonium One Building and place as directed \$ 1,000.00

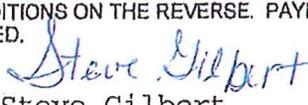
Price Breakdown as follows:
 (1) Truck/Driver @ \$40.00/hr X 6.5 hours = \$260.00
 (1) Supervisor @ \$35.00/hr X 6.5 hours = \$227.50
 (2) Movers @ \$32.50/hr X 6.5 hours = \$422.50
 Energy Surcharge 10.5% = \$95.55

Price includes (1) hour travel time

Calvin Drummond
 Senior Account Manager
 410-9814-0434 Cell
 410-796-5992 Fax

GENERAL RELOCATION COST, EXCLUSIVE OF OPTIONS	\$1,000.00	Payment is due upon submission of the bill in accordance with the terms of payment. Accounts outstanding for more than thirty days will bear interest at the rate of one-and-one-half percent per month (18% APR) on the unpaid balance. Should it be necessary for Office Movers, Inc. to engage an attorney or agency to enforce its right of payment under this contract, the customer agrees to pay all costs and expenses of collection, including 33% attorney's fees. Final invoice is subject to applicable surcharges.
TERMS OF PAYMENT: Payment is expected at time of service. MasterCard or Visa honored with prior approval		

ACCEPTANCE OF PROPOSAL - THE ABOVE PRICES, SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. WORK WILL BE PERFORMED AS ABOVE AND SUBJECT TO THE TERMS AND CONDITIONS ON THE REVERSE. PAYMENT WILL BE MADE AS OUTLINED ABOVE. PLEASE SIGN AND RETURN ORIGINAL AS NOTICE TO PROCEED.

AUTHORIZED SIGNATURE		AUTHORIZED SIGNATURE	
TITLE	President	TITLE	Steve Gilbert
PRINT NAME	William C. Thomas	TITLE	VP of Special Services
	DATE 10/05/11		

STANDARD TERMS

The following terms and conditions cover only the loading, transportation, and unloading of those items identified for moving and/or the services specified in this proposal. Office Movers, Inc.'s services are offered subject to the following:

Section 1: The Work

- 1. All work will be completed in a professional manner according to standard industry practices
2. Office Movers, Inc. is due all monies as contracted unless termination of said contract is agreed to, in writing, by both parties.
3. Total charges apply only for quantities and/or services or any part thereof set forth in the proposal. Office Movers, Inc. reserves the right to make additional billings for delays that are not caused by Office Movers, Inc., including but not limited to fire alarms, bomb scares, directions of governmental agencies, extreme weather conditions, trade union jurisdictional disputes, strikes, or other similar unforeseen delays. Office Movers, Inc. will make its best efforts to minimize the cost of any such delays.
4. Any alterations or deviations from specifications listed in this proposal that involve extra labor, equipment, or additional time may result in an adjustment of the quoted price in the form of additional charges. Such charges will be due and payable in accordance with the terms of payment listed in this proposal.
5. At the time of the move, if the customer requests additional items to be moved or additional services, charges for such will be assessed at Office Movers, Inc.'s applicable rate schedule in effect at the time.
6. Storage is available at prevailing rates under the "California" Plan. Accounts brought in through the fifteenth of the month will be assessed a full month's charges, accounts arriving on the sixteenth through the thirty-first will be charged one-half a month's rent. Thereafter, storage, based on a minimum 30-day period, will be billed on items in storage on the first day of each month. There will be a one-time handling charge equal to the first month's rent for receiving items into the warehouse. All other warehouse charges are based on hourly rates.
7. The contract will apply only when the following conditions exist at both origin(s) and destination(s) for the entire duration of the move(s):
A. There must be adequate light, heat, air and power.
B. Office Movers, Inc. must have the exclusive and uninterrupted use of the agreed upon number of elevators.
C. Adequate loading and unloading areas must be made available and free of trash, construction equipment, other non-related furniture, or similar obstructions.
D. Construction, renovation, or decorating work must not be in such a state as to impede the move. This includes, but is not limited to, carpet laying, tiling, painting, and carpentry work.
E. The doors, agreed upon prior to execution of the contract, to be used for loading and unloading must be available.
8. All furniture shall be placed once at the destination(s) as directed by the customer or in accordance with the floor plans.
9. Cancellation, or any changes, must be made at least 24 hours prior to the move. Should a crew be dispatched due to the lack of notice, the customer will be charged according to the hourly rates and minimums in effect at the time.
10. The customer or their designate will be present at origin and destination during the actual move. Such personnel shall be authorized to make changes, should changes be necessary, during the actual move.
11. Fees for electrical work and/or permits necessary for same are in addition to prices quoted.

caused by blocked usage of the loading dock.

Section 2: Personnel

- 1. Our employees represent our inventory of skilled professionals. In consideration of the furnishing of our employees to perform work on behalf of your company, you agree not to employ any of our employees for a period of one (1) year from the date they performed work for your organization, or any related organization. In the event you wish to hire one of our employees directly during the one (1) year period, you agree to pay our Company a ten thousand (\$10,000) dollar conversion fee, which shall be payable within ten (10) days from the date you hire our employee. Failure to pay timely may result in legal action for recovery including but not limited to related legal expenses and interest on the unpaid balance at 18% per annum. Our Company shall be defined as The Kane Company or any of its subsidiaries.

Section 3: Payment Terms

- 1. Payment is due upon submission of the invoice in accordance with the above stated terms. Accounts outstanding for more than 30 days will bear interest at the rate of 1-1/2 percent per month (18% APR) on the unpaid balance.
2. Should it be necessary for Office Movers, Inc. to engage an attorney or agency to enforce its right of payment under this contract, the customer agrees to pay all costs and expenses of collection, including attorney's fees of up to 33% of the invoice totals.

Section 4: Insurance - Storage

- 1. The responsibility of the warehouseman, as bailee, is to exercise that degree of care which a reasonably careful person would exercise in regard to similar goods of his own. Accordingly, we assume no liability whatsoever for the loss or destruction of any damage to goods or property occasioned by fire, theft, water, leakage, shrinkage, breakage, ratage, vermin, heat, cold, frost, chance of weather, or from inherent qualities of the goods from strikes, work stoppages, riot, civil commotion, accident, acts of God, or any other cause whatsoever, unless due to this company's negligence.
2. Claims will not be valid unless:
A. A complete and accurate inventory has been prepared by Office Movers, Inc. and signed by the customer when items are placed in storage.
B. Noted in writing on the delivery ticket at time of delivery out of storage.
C. Payment is made in full prior to any settlement agreement of claims.
3. Office Movers, Inc. reserves the right of first refusal to make all repairs.
4. Office Movers, Inc. assumes no liability on articles packed or unpacked by anyone other than ourselves, nor does the company assume any liability for any concealed item, unless caused and accompanied by external damage.

Section 5: Insurance - Transit/Cargo

- 1. Comprehensive liability insurance coverage is carried by Office Movers, Inc. for all items handled by us while performing a move and while under our complete and total control.
2. Items of value (i.e., electronic equipment, artwork, high-value furniture, etc.) exceeding \$5,000 per piece must be declared prior to being moved. Failure to provide this itemized list of high value items will limit our liability.
3. Claims will not be valid unless:
A. Presented in writing within five (5) working days after completion of the job.
B. Payment is made according to the terms of the proposal.
4. Office Movers, Inc. reserves the right of first refusal to make all repairs.
5. Should one or more items suffer breakage that is not settled per the valuation selection made below, twice the estimated repair cost may be withheld from the total payment due until the claim is resolved. Once resolved per the valuation selection, balance will be due.
6. Office Movers, Inc. assumes no liability on articles packed or unpacked by anyone other than ourselves, nor does the company assume any liability for any concealed item, unless caused and accompanied by external damage.
7. Office Movers, Inc., will not accept liability for missing items unless such items are considered missing while they are in our complete and total control, or if it can be proven that there was gross negligence on the part of our personnel. Should either and/or both possibilities exist, claims for missing items will only be honored provided they are presented in writing within five (5) working days following completion of the job.
8. Our employees are covered by workers' compensation insurance.

Office Movers, Inc. assumes liability for damages to all items handled by our personnel during the course of providing your moving and storage services. Our liability is limited to the sum of \$.60 per pound per item for furniture and \$.50 per pound per item for electronics unless the owner has requested greater valuation at the agreed upon rate for Full Market Valuation. Costs related to valuation selection are in addition to quoted prices.

Please select and initial your valuation choice. (If neither is elected, standard valuation will be included.)

q Standard Valuation: I hereby release my property at the declared value of \$.60 per pound per item for furniture and \$.50 per pound per item for electronics at no additional charge per the terms and conditions of this contract. (Initial)

q Full Market Valuation: Loss or damage will be adjusted up to the market value of your property at the time of loss, based on the lesser cost to repair or replace with property of like kind and quality. Adjustment will not exceed the declared value listed below.

Minimum premium is \$100.00. (Initial) Declared Value \$ Premium \$ 8.50 / \$1,000 of coverage

q Full Replacement Valuation: Loss or damage will be adjusted up to the replacement value of your property at the time of loss, based on the lesser cost to repair or replace with new property of like kind and quality. Adjustment will not exceed the declared value listed below.

Minimum premium is \$500.00. (Initial) Declared Value \$ Premium \$ 12.50 / \$1,000 of coverage



200 Quannapowitt Parkway
 Wakefield, MA 01880
 Tel: 617-947-7004
 Fax: 617-249-1924

Quote: 4002B- Vertica Appliance

To: **Joe Molinaro**
 38 Studios
 One Empire Plaza
 Providence, RI 02903

Par 4 Rep: **Matt Cavanagh**
 508-269-7549
 Sales Support: **Bryan Tatro**
btatro@par4tech.com
 Quote Date: **28-Dec-11**
 Quote Expiration Date: **12-Jan-12**

Qty	Part Number	Description	Unit List Price	Price	Extended
Vertica 5TB					
1	A2E56A	HP Vertica V2400 5TB Analytics 3yr Sys	\$631,530.00	\$397,875.12	\$397,875.12
1	HA110A3	HP 3y Support Plus 24 SVC	\$0.00	\$0.00	\$0.00
1	HA110A3#QB7	Vertica V2400 5TB Analytics Sys JW Supp	\$151,151.00	\$0.00	\$0.00
1	SERVICES	HP Vertica FastStart Services - See attached FastStart Datasheet for details	\$20,000.00	\$20,000.00	\$20,000.00
Additional Discount:					-\$30,000.00

HP Vertica V2400 5TB Analytics 3yr System A2E56A HP Vertica V2400 10TB Analytics 3yr System
 HP Vertica Analytics System quarter rack configuration includes the following:

- One (1) HP Universal Rack 10642 G2 1200mm deep Shock Rack includes:
- One (1) HP BladeSystem c7000 enclosure, single phase with 6 power supplies, 10 fans with:
 - Eight (8) HP ProLiant BL460c G7 server blades, processor X5670
 - Ninety six (96) HP 8GB 2Rx4 PC3-10600R-9 Memory Kit
 - Sixteen (16) HP 72GB 6G SAS 15K 2.5in Hard Drives
 - Two (2) HP 6120XG Blade Switches
 - Two (2) HP 3GB SAS BL Switches
 - One (1) HP 6X 2400W Platinum Power Supply HP Insight Control, Factory-Integration License Option for HP c-Class
 - Twelve (12) 1Gb RJ-45 copper SFP modules
 - Four (4) 1Gb SX fiber SFP modules
 - Sixteen (16) 10Gb LC SR fiber SFP+ modules
 - Two (2) 2m multi-mode OM3 LC/LC fiber cables
- One (1) HP 10K Rack Airflow Optimization Kit
- One (1) HP 10642 G2 1200mm Rack Side Panel Kit
- Two (2) HP 17.3 kVA S348 Monitored PDU- single input, 3Ø, 48A (NA/JPN) PN AF916A or Two (2) HP 22 kVA S332 Monitored PDU- single input, 3Ø, 32A (EMEA and AP) PN AF917A
- Red Hat Enterprise Linux, Embedded
- HP Vertica Analytics Platform, 5TB (A2E56A) license
- One (1) HP MDS600 with two Dual Port I/O Module System each with:
 - Seventy (70) HP 600GB 6G SAS 15K LFF (3.5 inch) Hard Drives
- Factory Integration
- Onsite installation and startup
- 3 year HP Support Plus 24

Subtotal	\$387,875.12
Solution Total	\$387,875.12

Again, thank you for the opportunity to provide you this quotation.

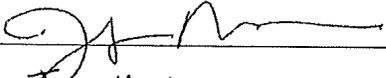
Best Regards,

Terms & Conditions:

The terms of this Quote are valid for 10 calendar days from the above-referenced Quote Date. By Signing below, you are authorizing the purchase of all equipment listed above plus all applicable taxes and shipping charges.

Freight Terms: F.O.B. PAR4 or PAR4s' supplier's shipping dock, shipped ground unless otherwise requested in writing by you. You will reimburse PAR4 for transportation charges as specified on invoice. Appropriate taxes will be added on invoice unless otherwise specified.

Payment Terms are 50% due Net60, 50% due Net 180

Accepted By: 

Date: 12/28/11 PO# 686

Printed Name: Jen MacLean

Terms: _____

Title: CEO

Ship Via: _____

Ship To Contact and Address: Joe Molinaro, 38 Studios, LLC, 1 Empire Plaza, Providence, RI 02903

Bill To Contact and Address: Eric Valentine, ATTN: Accounts Payable, 38 Studios, LLC, 1 Empire Plaza, Providence, RI 02903

Scott Edelstein

From: Adam Kahn
Sent: Friday, December 09, 2011 10:55 AM
To: Scott Edelstein
Subject: FW: PR Newswire Application (OMF-10040855)

Couldn't find a way to get a copy of the terms and conditions, but I'll keep looking. Below is the email I got from the site after I submitted.



Adam Kahn
PR Director
Office: 401.243.8373
Mobile: 310.460.8095
akahn@38studios.com
<http://www.38studios.com>

From: PR Newswire [<mailto:prncs@prnewswire.com>]
Sent: Friday, December 09, 2011 9:41 AM
To: Adam Kahn
Subject: PR Newswire Application (OMF-10040855)



ONLINE MEMBER CENTER

Thank you for your PR Newswire membership application. Please find below a copy of your application details. Please do not h to contact PR Newswire using any of the methods below if you have any queries.

Please quote your application number OMF-10040855 in any correspondence.

Your Details

First Name	Adam
Last Name	Kahn
Job title	PR Director
Organization	38 Studios
E-mail	akahn@38studios.com
Business Phone	4012438373
Mobile number	3104608095
How did you hear about PR Newswire	Other
Will you send releases on behalf of another organization or different division of your own organization?	No

Organization Details

Organization	38 Studios
Were you ever a PR Newswire member?	Yes
Address	One Empire Plaza
City	Providence
State	Rhode Island
Zip	02903
Country	USA
Web site URL	www.38studios.com
Founded	2006
Industry / Specialty	Entertainment
Type of organization	Private Company
We give stock recommendations	No

Primary Contact

First Name	Adam
Last Name	Kahn
Job title	PR Director
E-mail	akahn@38studios.com
Business Phone	4012438373

News Release Details

Anticipated releases annually	4
Distribution	US
Do not link to PR Newswire	Include a Web site link on all releases.
Include primary contact information sent to public Web sites and databases.	Yes
Archive logo and executive head-shot	No

Billing Contact

First Name	Adam
Last Name	Kahn
Business Phone	4012438373
Billing email address	akahn@38studios.com

Billing Address

Address	One Empire Plaza
City	Providence
State	Rhode Island
Zip	02903
Country	USA

Billing Requirements

Would you like to charge all future PR Newswire fees to a credit card?	Yes
Would you like to receive your invoices electronically?	Yes
PO required	No

Representation

Will you be working with PR Newswire directly
or is an agency representing you?

Directly

Authorized Senders

Sender 1

First Name

Last Name

Job title

Business Phone

E-mail

Adam

Kahn

PR Director

4012438373

akahn@38studios.com

Special Instructions

Additional Comments

For any assistance with this application, please contact the Helpdesk at 1-888-776-8598 or e-mail helpdesk@prnewswire.com

New York Headquarters
350 Hudson Street, Suite 300
New York, NY 10014
Tel: 1-800-776-8090
Fax: 1-800-793-9313



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7. By its submission of copy and/or other information to PR Newswire, Member agrees to be bound by these Conditions of Service. Member represents and warrants that the undersigned has full right, power and authority to execute these Conditions of Service.

I have read and agree to the full Conditions of Service

Company Name: 38 Studios, LLC

Authorizer's Name (Please print): William C. Thomas

Title: President Telephone: 401-243-8300

Signature: [Handwritten Signature] Date: _____



April 8, 2011

Mr. Rick Wester
Chief Financial Officer
38 Studios, LLC
One Empire Plaza
Providence, RI 02903

**Subject: 38 Studios, LLC
For the Year Ended December 31, 2010
EIN # 20-5583235**

Dear Rick:

This engagement letter confirms that 38 Studios, LLC ("you" or "38 Studios") has engaged PricewaterhouseCoopers LLP ("we" or "us" or "PwC") to provide the services described below.

Scope of Our Services

You have requested that PwC perform the following services (the "Services"):

PwC will prepare and sign as preparer the U.S. federal and state income tax returns, as requested by 38 Studios and as listed in Exhibit I. Entities listed in Exhibit I are also bound to the terms of this engagement letter. Specific detail, responsibilities and scope regarding the nature of exact deliverables agreed to and or impacting the Services are also included in Exhibit I.

Unless otherwise agreed with PwC, 38 Studios will be responsible for preparation and filing of all other tax or information returns required to be filed with the authorities including, for example, city and county income or gross receipts filings, payroll tax filings, sales and use tax filings, information reporting filings, etc.

Most of the tax returns that we will prepare require signatures, under the penalties of perjury, of a partner of 38 Studios affirming that the tax returns and the accompanying schedules and statements are true, correct, and complete to the best of his or her knowledge. 38 Studios is responsible for understanding and agreeing with the various amounts, computations, and statements made in the tax returns before they are filed with the taxing authorities.

It is our understanding that you will file returns as prepared by PwC unless you inform us otherwise.

38 Studios is required to maintain and retain adequate documentation to support the tax returns as filed as penalties can be imposed by taxing authorities for the failure to produce adequate documentation supporting the items included in a tax return.

We will complete the preparation of the tax returns so they can be timely filed by the extended due date for the federal and state returns of September 15, 2011. In the event the agreed timetable requires that 38 Studios provide us with needed information or assistance within a specified period of time, the failure to timely provide this assistance may require adjustment to our completion date. In addition, in the event unforeseen circumstances occur that impact our ability to meet the final completion date, we will contact 38 Studios to discuss an acceptable revised completion date.

Use of the PricewaterhouseCoopers LLP WebDMS system ("WebDMS")

Access to WebDMS system may be provided as a convenience to 38 Studios personnel to facilitate performance of the Services. In the event that WebDMS is used to facilitate performance of the Services, you agree to notify us of the names of your personnel who are authorized to have access to the WebDMS system and to notify us timely of any changes thereto. 38 Studios will notify us of any documents that should not be accessible to all your authorized users. In addition, it is understood that your access to WebDMS shall be subject to the standard terms and conditions required upon registration for use of the WebDMS system.

Form TD F 90-22.1 (FBAR)

Federal law requires that certain individuals and entities report financial interests in, and signatory authority or certain other authority over, foreign financial accounts with more than \$10,000 in aggregate value in a calendar year on Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts. The form is not a tax form and is not filed with a tax return. Instead the form must be filed separately with the IRS by June 30 of the year following the calendar year in which aggregate amounts held in the foreign financial accounts meet the threshold. The definition of financial accounts is broadly defined and includes certain interests held indirectly. Failure to comply with these laws could result in significant civil and criminal penalties. Unless otherwise specifically agreed in writing, PwC will not prepare, file, or provide assistance with respect to the Form TD F 90-22.1.

Electronic Filing

The Internal Revenue Service and some states offer or require electronic filing for certain tax returns. As part of the services covered by this engagement letter, PwC will be the Electronic Return Originator (ERO) with respect to the returns indicated with an asterisk on Exhibit I. Your designation of PwC as the ERO allows the taxing authorities to disclose to us the following: 1) any acknowledgement that return(s) have been accepted, 2) the reason(s) for any delay in processing a return or refund, and 3) information regarding any refund offset. If a particular return is ineligible or unable to be processed electronically after making reasonable efforts to do so pursuant to the procedures established by the appropriate tax authority, PwC will provide you with a paper return that must be filed in accordance with the terms noted in this engagement letter.

Additional Services

From time to time, 38 Studios may request PwC to provide services outside the scope of these tax return preparation services that may not be significant enough to require a separate engagement letter ("Additional Services"). Subject to our acceptance, PwC will provide Additional Services necessary to respond to matters presented to PwC by 38 Studios, or matters PwC brings to the attention of 38 Studios for which 38 Studios agrees PwC should provide assistance. The following illustrates the nature of the Additional Services intended to be covered by this engagement letter:

- **Recurring tax consulting services**

We will provide advice, answers to questions and/or opinions on tax planning or reporting matters, including research, discussions, preparation of memoranda, and attendance at meetings relating to such matters, as mutually determined to be necessary.

Mr. Rick Wester
38 Studios, LLC
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▪ **Matters involving tax authorities**

We will provide advice and/or assistance with respect to matters involving the Internal Revenue Service ("IRS") or other tax authorities on an as-needed or as-requested basis.

These examples are not meant to limit the Additional Services we may provide to 38 Studios under the terms of this engagement letter. We will keep you fully apprised of the nature of any Additional Services we are providing under this engagement letter. All related periodic billings (see discussion below) will describe the Additional Services rendered during the period.

Other PricewaterhouseCoopers Firms

PwC is the U.S. firm of the global network of separate and independent PricewaterhouseCoopers firms (exclusive of PwC, the "Other PwC Firms"). While performing the Services hereunder, PwC may, in its discretion, draw on the resources of and subcontract to its subsidiaries and/or the Other PwC Firms (each a "PwC Firm Subcontractor"). You agree that PwC may provide information PwC receives in connection with this engagement letter, including your entire tax return information, to its subsidiaries and/or the Other PwC Firm(s) located outside the United States to perform the Services and/or for internal administrative and regulatory compliance purposes.

We will be solely responsible for the provision of the Services (including those performed by each PwC Firm Subcontractor) and no Other PwC Firm shall have any liability or obligations arising out of this engagement letter. Consequently, you agree (a) to bring any claim or other legal proceeding of any nature arising from the Services against us and not against any PwC Firm Subcontractors or their or PwC's respective partners, principals or employees (collectively the "Beneficiaries") and (b) ensure or procure that your subsidiaries and affiliates will not assert any such claim or other legal proceeding against us or the Beneficiaries. If any of your subsidiaries and affiliates receive Services under this engagement letter, you agree to provide a copy of this engagement letter to such entities, and you will notify them that although PwC Firm Subcontractors may interact with them, the delivery of Services under this engagement letter is governed by the terms of this engagement letter (including the liability limitations herein), and they should notify you of any disputes or potential claims arising from the Services.

While we are entering into this engagement letter on our own behalf, this section is intended for the benefit of each PwC Firm Subcontractor that provides services under this engagement letter.

Other Subcontractors

We may engage (a) subcontractor(s), other than Other PwC Firms, to perform services in connection with this engagement. You agree that we may subcontract any of the Services hereunder provided that we shall be responsible for the fulfillment of our obligations under this engagement letter. You acknowledge that we may disclose your information, including your entire tax return information, to such subcontractor involved in the provision of the Services, including any subcontractor located outside of the United States.

Upon request, we will be happy to provide details on the supervision and billing arrangements we use in connection with these professionals.

Consents to Disclose Client Information

38 Studios authorizes PwC to participate in discussions with and to disclose your information, including your tax return information, to your agents, representatives, administrators or

Mr. Rick Wester
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professional advisors (including accountants, attorneys, financial and other professional advisors), their respective officers, directors or employees, and other parties as you may direct.

You have the ability to request a more limited disclosure than that authorized by the Other PricewaterhouseCoopers Firms, Other Subcontractors and Consents to Disclose Client Information provisions of this engagement letter, as you may direct. This consent is valid until the later of three years following receipt of your information or completion of the Services covered by this engagement letter.

Confidentiality

Notwithstanding anything to the contrary in this engagement letter, PwC agrees that it shall (1) hold with the same degree of care which PwC uses to protect its own Confidential Information, but in any event not less than reasonable care, and shall not disclose to others except as permitted by this engagement letter any of the Confidential Information that 38 Studios discloses to PwC; (2) only disclose such Confidential Information to a PwC Firm Subcontractor, a third party contractor and a third party subcontractor who are bound to PwC by a duty of confidentiality; (3) be primarily liable for any breaches of confidentiality and non-use obligations by a PwC Firm Subcontractor, a third party contractor and a third party subcontractor to whom it has disclosed Confidential Information. All non-confidentiality and non-use obligations in this section shall survive termination of this engagement letter regardless of the reason for such termination for a period of three (3) years.

The term "Confidential Information" as used throughout this engagement letter shall mean all trade secrets, confidential or proprietary information and other data or information (and any tangible evidence, record or representation thereof), whether prepared, conceived or developed by an employee of 38 Studios or received by 38 Studios from an outside source, which is in the possession of 38 Studios (whether or not the property of 38 Studios) and which is maintained in secrecy or confidence by 38 Studios or which might permit 38 Studios to obtain a competitive advantage over competitors who do not have access to such trade secrets, confidential or proprietary information, or other data or information. However, Confidential Information shall not include information that: (a) is or becomes publicly available other than by a breach of this engagement letter by PwC; (b) is acquired by PwC from a third party that is not, to PwC's knowledge, under any confidentiality obligation to 38 Studios regarding such information; (c) is known to PwC prior to the date of this engagement letter, or that PwC develops independently without use of the Confidential Information; and (d) 38 Studios discloses to any person or entity without confidentiality restrictions. Notwithstanding anything to the contrary in this engagement letter, PwC may disclose Confidential Information as may be required by law, statute, rule, regulation or applicable professional standard, including any subpoena or other similar form of process. PwC will provide 38 Studios with prompt notice of any request that PwC disclose Confidential Information (so long as such notice is not prohibited by law), so that 38 Studios may object to the request and/or seek an appropriate protective order. It is understood and agreed that any objection by 38 Studios to such a request shall not affect PwC's obligations to produce materials called for by appropriate legal process.

Ownership and Use

We are providing these Services and deliverables solely for your use and benefit and pursuant to a client relationship exclusively with you. We disclaim any contractual or other responsibility or duty of care to others based upon these Services or upon any deliverables or advice we provide.

You will own all tangible written material prepared for and delivered to you under this engagement letter, except as follows: we own our working papers, preexisting materials and any general skills, know-how, processes, or other intellectual property (including a non-client specific version of any deliverables) which we may have discovered or created as a result of the Services. You have a

Mr. Rick Wester
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nonexclusive, non-transferable license to use such materials included in the deliverables for your own use as part of such deliverables.

In addition to deliverables, we may develop software or electronic materials (including spreadsheets, documents, databases and other tools) to assist us with an engagement. If we make these available to you, they are provided "as is" and your use of these materials is at your own risk. For the avoidance of doubt, PwC does not own or purport to own any such materials referenced in this section unless such materials were created, discovered, or developed independently by PwC without any reference to or use whatsoever of 38 Studios Confidential Information (as evidenced by PwC written records or other sufficient evidence).

Our Responsibilities

We will perform the Services in accordance with the Statements on Standards for Tax Services established by the American Institute of Certified Public Accountants. Accordingly, we will not provide an audit or attest opinion or other form of assurance, and we will not verify or audit any information provided to us.

Your Responsibilities

To facilitate our work, you will need to provide the following assistance:

Provide the information requested in the Tax Compliance Request for Information (Exhibit II) before April 15, 2010.

You are responsible for all management functions and decisions relating to this engagement, including evaluating and accepting the adequacy of the scope of the Services in addressing your needs. You are also responsible for the results achieved from using any Services or deliverables, and it is your responsibility to establish and maintain your internal controls. You will designate a competent member of your management to oversee the Services.

We expect that you will provide timely, accurate and complete information and reasonable assistance, and we will perform the engagement on that basis.

Fees and Expenses

The fee for services relative to this project as described in the "Scope of Our Services" section of this engagement letter will be \$10,000. Also if additional state tax returns are required, the fee will be adjusted at a rate of \$1,000 per return.

Additional Services

For any Additional Services covered by this engagement letter, 38 Studios will pay PwC a fee based on agreed-upon rates.

We also will bill 38 Studios for our reasonable out-of-pocket expenses and our internal per ticket charges for booking travel. You agree to reimburse us for sales, use or value added tax, if applicable, which will be included in the invoices for Services or at a later date if it is determined that such taxes should have been collected.

The amount of our fee is based on the assumption that we will receive the information and assistance as detailed throughout this engagement letter. In the event we believe an additional fee

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is required as the result of the failure of 38 Studios to meet any of these requests or for any other reason, we will inform you promptly.

Payment Schedule

The first payment is due with the signing of this engagement letter and subsequent payments are due on the first day of each month in accordance with the following schedule of payments:

Upon signing of engagement letter	\$5,000
Upon completion of the Services	<u>\$5,000</u>
Total	<u>\$10,000</u>

Termination and Dispute Resolution

This engagement letter has a term of one year. Either party may terminate the Services by giving notice to that effect. Any unresolved dispute relating in any way to the Services or this engagement letter shall be resolved by arbitration. The arbitration will be conducted in accordance with the Rules for Non-Administered Arbitration of the International Institute for Conflict Prevention and Resolution then in effect. The arbitration will be conducted before a panel of three arbitrators. The arbitration panel shall have no power to award non-monetary or equitable relief of any sort. It shall also have no power to award damages inconsistent with the Limitations on Liability provisions below. You accept and acknowledge that any demand for arbitration arising from or in connection with the Services must be issued within one year from the date you became aware or should reasonably have become aware of the facts that give rise to our alleged liability and in any event no later than two years after any such cause of action accrued.

This engagement letter and any dispute relating to the Services will be governed by and construed, interpreted and enforced in accordance with the laws of the State of New York, without giving effect to any provisions relating to conflict of laws that would require the laws of another jurisdiction to apply.

Limitations on Liability

Except to the extent finally determined to have resulted from our gross negligence or intentional misconduct, our aggregate liability for all claims, losses, liability or damages in connection with this engagement letter or the Services, whether as a result of breach of contract, tort (including negligence) or otherwise, regardless of the theory of liability asserted, is limited to no more than the total amount of annual fees paid to us for the particular Service giving rise to the liability under this engagement letter. In addition, we will not be liable in any event for lost profits, consequential, indirect, punitive, exemplary or special damages. Also, we shall have no liability to you arising from or relating to any third party hardware, software, information or materials selected or supplied by you. The limitations and exclusions set forth in this section shall not be construed to limit a party's liabilities (a) pursuant to its indemnification obligations, (b) for infringement of the other party's intellectual property rights and (c) for breaches of its confidentiality obligations.

Indemnification

You agree to indemnify and hold us and each PwC Firm Subcontractor and our respective partners, principals and employees harmless from and against any and all third party claims resulting from any of the Services or deliverables under this engagement letter, except to the extent determined to have resulted from our gross negligence or intentional misconduct relating to such Services and/or deliverables.

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Regulatory Matters

Notwithstanding anything to the contrary in this engagement letter, you have no obligation of confidentiality with respect to any materials, advice or portions of deliverables to the extent they concern the tax structure or tax treatment of any transaction.

Codification of Economic Substance

Federal law (IRC Section 6662(b)) subjects taxpayers to a strict liability penalty equal to 40% (or 20% if adequately disclosed in a tax return) of any underpayment of tax attributable to that portion of a transaction which is determined to lack economic substance under IRC Section 7701(o) or fails to satisfy any other similar rule of law. The higher penalty will be due if a transaction that is determined to lack economic substance is not "adequately disclosed" in the taxpayer's return. Penalties can also be imposed by states to the extent that state laws have adopted similar provisions.

You are responsible for identifying transactions to which the economic substance doctrine applies and determining whether disclosure should be made, and if so, the adequacy of any disclosure. Any additional PwC time spent preparing such disclosures is outside the scope of the Services set forth in this engagement letter. There is no guidance on disclosure requirements or other aspects of the codified economic substance doctrine. To the extent that we prepare disclosures and/or provide any advice with respect to 38 Studios' determination of the economic substance of a transaction and any related penalties that might be imposed, such disclosures prepared and/or advice rendered as part of our Services will be based on applicable case law, reasonable interpretation of newly enacted legislation and available guidance.

The strict liability penalty is not affected by whether the position taken on the return meets standards regarding levels of confidence. Moreover, under IRC Section 6664(c), no exceptions (including the reasonable cause exception) to the imposition of such penalties are available and therefore no advice will protect you from any of such penalties. Therefore, PwC shall not be liable for any federal or state penalties imposed on you if any portion of a transaction is determined to lack economic substance or fails to satisfy any similar rule of law or if the disclosure of such transaction is determined to be inadequate.

Other Written Advice

Based on our discussions, it is anticipated that the written advice PwC provides during the course of this engagement will be Other Written Advice as defined by Circular 230. Accordingly, unless otherwise prohibited or we agree to issue a Covered Opinion as defined by Circular 230, our written advice may include a disclosure stating that the advice was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed, including, but not limited to penalties that may apply if the transaction that is the subject of our engagement is found to lack economic substance or fails to satisfy any other similar rule of law. Our advice will contain any other disclosures required by Circular 230.

Tax Return Disclosure and Tax Advisor Listing Requirements

Certain federal and state regulations require taxpayers to disclose their participation in certain reportable transactions to the taxing authorities. 38 Studios shall advise PwC if 38 Studios determines that any matter covered by this engagement letter is a reportable transaction that is required to be disclosed. This advice will take the form of your written responses in the Reportable Transaction Compliance Checklist. Your responses will form the basis for Form 8886 disclosures. We will explain this checklist to you and complete up to one of Forms 8886 for your review and submission. Any additional PwC time spent: (1) reviewing or assessing related information flows;

Mr. Rick Wester
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(2) reviewing or assessing current related policies, procedures or systems; (3) analyzing or identifying reportable transactions; (4) gathering or retaining required documentation; or (5) preparing additional Forms 8886, would be performed outside the scope of the arrangements set forth in this engagement letter and would necessitate an addendum to this engagement letter.

Certain federal and state regulations also require PwC to submit information returns and maintain lists of certain client engagements if PwC is a material advisor to clients that have participated in a reportable transaction. Therefore, if PwC determines, after consultation with 38 Studios, that 38 Studios has participated in a transaction causing PwC to have a registration and/or list maintenance obligation, PwC will place 38 Studios' name and other required information on a list. PwC will contact 38 Studios if PwC is required to provide 38 Studios' name to the U.S. Internal Revenue Service or any state in connection with any matter under this engagement letter.

Federal (Internal Revenue Code Section 6694) and State Preparer Standards

Federal law and certain state laws impose obligations on tax return preparers with respect to a position reported on a tax return or claim for refund that does not meet certain standards regarding levels of confidence. If during the course of this engagement we identify a position that does not meet these standards, we will advise you about your penalty exposure and whether you can avoid penalty through disclosure. If we are preparing the return or claim for refund and it is concluded that disclosure is required, we will prepare the disclosure and provide it to you.

Our work may require consultation with a PwC subject matter specialist to reach and document the level of technical support for the position. We will discuss with you any additional fees that may be incurred as a result of complying with these requirements.

Other Matters

By entering into this engagement letter you are binding your subsidiaries and affiliates, including the entities listed in Exhibit I, to the extent that you have authority to do so. We disclaim any contractual or other responsibility or duty of care to any other subsidiaries or affiliates.

No party to this engagement letter may assign or transfer this engagement letter, or any rights, obligations, claims or proceeds from claims arising under it, without the prior written consent of the other party, and any assignment without such consent shall be void and invalid. If any provision of this engagement letter is found to be unenforceable, the remainder of this engagement letter shall be enforced to the extent permitted by law. If we perform the Services prior to both parties executing this engagement letter, this engagement letter shall be effective as of the date we began the Services.

You agree we may use your name in experience citations and recruiting materials. This engagement letter supersedes any prior understandings, proposals or agreements with respect to the Services, and any changes must be agreed to in writing.

PwC is owned by professionals who hold CPA licenses as well as by professionals who are not licensed CPAs. Depending on the nature of the services we provide, non-CPA owners may be involved in providing services to you now or in the future.

* * * * *

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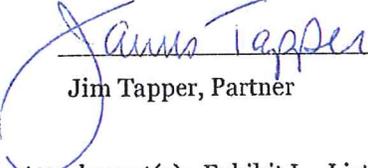
We are pleased to have the opportunity to provide services to you. If you have any questions about this engagement letter, please discuss them with Scott Karas at (617) 530-6477. If the Services and terms outlined in this engagement letter are acceptable, please sign one copy of this engagement letter in the space provided and return it to the undersigned. You may return the signed copy to me by mail or air courier to 125 High Street, Boston MA 02110, by facsimile to my attention at (813) 207-8182 or attached as a pdf, jpeg or similar file type to an e-mail to me at scott.karas@us.pwc.com

Very truly yours,

PricewaterhouseCoopers LLP

By: 

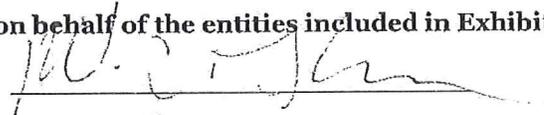
Scott M. Karas, Managing Director


Jim Tapper, Partner

Attachment(s): Exhibit I – Listing of Returns to be Prepared
Exhibit II - Tax Compliance Request for Information
Reportable Transaction Compliance Checklist

ACKNOWLEDGED AND AGREED:

38 Studios, LLC, individually and on behalf of the entities included in Exhibit I

Signature of client official: 

Please print name:

William C. Thomas

Title:

President

Date:

4/14/11

38 Studios, LLC
 Exhibit II - Tax Compliance Request for Information

Please review the following request for information. To the extent any item is not applicable, please put "N/A" in the initials column to the right of the item. When information is provided, please indicate the date on which the information was sent. Please provide data in electronic format where possible. Please make sure all schedules or documentation provided can be tied back to the general ledger (when applicable).

Item	Initials	Date
1 Consolidating detail balance sheet and P&L and/or trial balance		
2 Unaudited financial statements		
3 Fixed asset rollforward		
4 Detail listing of fixed asset additions and dispositions		
5 Member book capital activity for 2010		
6 Detailed summary of expenses relating to research and development		
7 Detail of fines and penalties paid		
8 Rent expense detail		
9 Prepaid expense detail		
10 Detail of donations/business gifts made in 2010		
11 Accrued expenses account detail (vacation, 401k match, etc) with amounts paid by 3/15/11 once available)		
12 Detail of interest income / interest expense		
13 2010 Contributions for a partner to 401k Plan		
14 Detail of accrued interest		
15 Detail of any guaranteed payments made in 2010		
16 Confirmation of Meals and Entertainment accounts		
17 State Apportionment information including:		
18 a) Revenue by state		
19 b) Payroll by state		
20 c) Fixed asset register and depreciation by state		
21 Detail of any transfer of partnership interest that occurred during 2010.		
22 Partner register including the name, address, SSN/EIN, entity type, member/manager-member status, partner's tax year end, etc.		
23 Any other additional information that you determine to be relevant to the preparation of the tax returns.		



Reportable Transaction Compliance Checklist

Client 38 Studios, LLC  Return year 2010
Client Signature _____
Title CFO Date 3/31/11

Background:

Treasury regulations Section 1.6011-4 requires that taxpayers disclose to the IRS their participation in a reportable transaction. In addition, many state laws require that copies of the federal disclosures be attached to state returns or otherwise disclosed to the state (e.g., Connecticut (listed transactions only), Illinois, Minnesota, Utah, West Virginia, and Wisconsin). Other states require taxpayers to disclose "state-only" reportable and/or listed transactions, in addition federal reportable transactions, on state tax returns (e.g., California, Colorado, New York, and Oregon).

The scope of our work on this engagement contemplates that you will determine and advise us if any transaction affecting the return prepared for you by PricewaterhouseCoopers is a reportable transaction required to be disclosed under Section 1.6011-4 or applicable state law. This advice will take the form of your written representations within the following checklist. Your responses to this checklist will provide the basis for disclosures to be made on Form 8886 to be included with your federal tax return and/or applicable state disclosure if you have engaged PwC to prepare the state returns. Refer questions regarding completion of the checklist to your engagement team.

Failure to disclose a reportable transaction when required could result in significant federal and state penalties, increased accuracy-related penalties, and other consequences including requests for tax accrual workpapers.

Special Rules for Regulated Investment Companies (RICs)

Treasury Regulation Section 1.6011-4(b)(8)(ii) provides that a RIC is not required to disclose reportable transactions other than listed transactions or transactions of interest. This exception also applies to an investment vehicle that is owned 95 percent or more by one or more RICs at all times during the course of a transaction. Note that states may have separate "state-only" reportable transaction rules that apply to RICs.

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	Yes	No	N/A
Part A – Listed Transactions - applicable to all taxpayers (Including CFCs)			
<p>1. Taxpayers are required to disclose participation in a transaction that is the same or substantially similar to one of the types of transactions that the IRS has identified as a listed transaction in IRS published guidance. Please answer questions 1.1 – 1.31, relating to listed transactions, below. If the answer to one or more questions in a particular section is yes, further inquiry will be necessary. For additional help in answering the questions, your engagement team can provide you with a Summary of Listed Transactions.</p> <p>Refer to the IRS Website for more information on Listed Transactions: http://www.irs.gov</p>			
<p>1.1. Listed Transaction #1 Rev. Rul. 90-105 – Post Tax Year End Contributions to Defined Contribution Plans (Rev. Rul 2002-46 is included under the listing as a substantially similar transaction)</p> <p>Rev. Rul. 2002-46 – Grace Period Contributions to Defined Contribution Plans</p> <p>Does the taxpayer have a defined contribution plan (e.g., 401(k) plan, profit-sharing plan, stock bonus plan, ESOP, etc.)?</p> <p>If so, does the plan have a different plan year other than the employer sponsor's tax year?</p>	✓	✓	
<p>1.2. Listed Transaction #2 Notice 95-34 – Exception to Applicable Deduction Limits for 10-or-More Employer Plans</p> <p>Does the taxpayer entity (including any member of the consolidated group, or any controlled foreign subsidiary) or any related entity maintain a welfare benefit fund (either a Voluntary Employees Beneficiary Association (VEBA) or taxable welfare benefit fund) jointly with 9 or more other taxpayers?</p>		✓	
<p>1.3. Listed Transaction #3 ASA Investering Partnership and ACM Partnership – Partnership Allocation</p> <p>Did any taxpayer entity (i.e., a member of the consolidated group, a CFC in which the taxpayer is at least a ten-percent shareholder or any related entry) recognize a large capital gain from selling its interest in one or more companies?</p> <p>If Yes, did the taxpayer entity attempt to shelter such gain by entering into any Section 453 installment sale arrangements where the values of the some of the installment payments were contingent?</p>		✓	✓



	Yes	No	N/A
<p>1.4. Listed Transaction #4 Treas. Reg. §1.643(a)-8 – Charitable Remainder Trust Abuse</p> <p>Is the taxpayer a charitable remainder trust ("CRT") or a non-charitable beneficiary of the CRT?</p> <p>If yes, has the trust made a cash distribution to a beneficiary where the source of the funds was not trust income earned, or a sale of trust assets, but instead a loan, forward sale of trust assets, or a similar transaction?</p> <p>If yes, is the cash distribution to the beneficiary being characterized as a tax-free return of trust corpus under Section 664(b)(4) of the code?</p>		✓	✓
<p>1.5. Listed Transaction #5 Notice 99-59 – "BOSS" (Bond and Option Sales Strategy) Transactions</p> <p>Did the taxpayer (including any member of the consolidated group, or any controlled foreign subsidiary) recognize a loss resulting from a deemed or actual sale of stock of a Corporation (the "Corporation") or liquidation of the Corporation?</p> <p>Did the taxpayer invest in a partnership (the "Partnership") that engaged in transactions similar to those described above?</p>		✓	✓
<p>1.6. Listed Transaction #6 Treas. Reg. §1.7701(1)-3 – Fast pay Stock Arrangements</p> <p>Did any taxpayer entity (including any member of the consolidated group, any CFC in which the taxpayer holds at least a 10 percent interest or any related entity) have more than one class of stock outstanding?</p> <p>If yes, does any class of stock possess any of the following features:</p> <ul style="list-style-type: none"> • A dividend rate that is reasonably expected to decline? • An issue price that exceeds the amount at which the shareholder can be compelled to dispose of the stock? <p>If no, are there any agreements or arrangements that would cause a redemption of the stock to be treated as a dividend?</p> <p>If the US group is owned by a foreign parent:</p> <ul style="list-style-type: none"> • Did a 304 transaction occur where the foreign parent received a constructive dividend distribution composed of the E&P of a CFC of the US group such that the E&P of the CFC will not be subject to tax in the US? • If the foreign parent and US jointly owned a foreign subsidiary, did a redemption occur where the foreign parent recognized a dividend such that the earnings and profits of the jointly held entity may never be subject to tax in the US? 	✓	has multiple units?	✓

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	Yes	No	N/A
<p>1.7. Listed Transaction #7 Rev. Rul. 2000-12 – Tandem Loans</p> <p>Did any taxpayer entity (i.e., a member of the consolidated group, a CFC in which the taxpayer is at least a ten-percent shareholder or any related entity) acquire offsetting debt instruments structured so that the value of one will increase significantly at the same time as the value of the other decreases?</p> <p>If yes, did the taxpayer dispose of the instrument that reduced in value, recognizing a current loss as a result of such sale?</p>		✓	✓
<p>1.8. Listed Transaction #8 Notice 2000-44 – “Son of BOSS” (Bond and Option Sales Strategy)</p> <p>Did the taxpayer recognize a loss from the disposition of a partnership interest?</p> <p>If yes, did the partner’s contribution in return for their partnership interest involve a debt assumed by the partnership in addition to cash received?</p> <p>If yes, was there a “gap” between the amount claimed as the tax basis of the partnership interest and the amount of the liability assumed by the partnership?</p> <p>If yes, is the “gap” the result of a loan which has a lower amount of principal to be repaid than the loan proceeds originally received, or the result of offsetting options, short sales, futures, derivatives, or some other technique which generally allows the taxpayer to claim tax loss even though the taxpayer has no net economic outlay or a corresponding economic loss?</p> <p>If yes, and the taxpayer was an individual, was the partnership interest held in a grantor trust?</p>		✓	✓ ✓ ✓ ✓
<p>1.9. Listed Transaction #9 Notice 2000-60 – Stock Compensation Tax Shelter</p> <p>Did any taxpayer entity establish a subsidiary with an unrelated person where the subsidiary purchases parent stock and then transfers the purchased stock to employees of parent to satisfy stock based compensation obligations?</p> <p>Did any taxpayer entity (including any member of the consolidated group, or any controlled foreign subsidiary) claim a loss on the sale of the stock of a subsidiary (“S”) established for the purpose above?</p> <p>Did/Will the taxpayer claim a loss as a result of a taxable liquidation of S under §331 during tax year?</p>		✓ ✓ ✓	



	Yes	No	N/A
<p>1.10. Listed Transaction #10 Notice 2000-61 – Trust Marketed to avoid U.S. and Guamanian Tax Liability</p> <p>Has a taxpayer set up a trust claiming the benefit of repealed IRC § 935 (Section 935 allows individuals who are citizens or residents of Guam or US citizens or residents with income derived from Guam, to only file Guamanian income tax returns and exempts them from filing US income tax returns. Although this Section of the Code has been repealed, its terms are still effective in Guam)?</p>		✓	
<p>1.11. Listed Transaction #11 Notice 2001-16, modified by Notice 2008-111 – Intermediary Transactions</p> <p>Did any taxpayer entity (including any member of the consolidated group, or any controlled foreign subsidiary) enter into a transaction pursuant to a plan to sell stock of a corporation ("Target") or buy assets of a corporation that is facilitated by an intermediate entity (e.g., an entity other than the ultimate purchaser or seller)?</p>		✓	
<p>1.12. Listed Transaction #12 Notice 2001-17 – Contingent Liability Transactions</p> <p>Did any Taxpayers entity claim a loss from the sale of stock of an entity dedicated to the management of contingent liabilities?</p> <p>If yes, was the stock issued in connection with a transaction in which the issuer assumed contingent liabilities of the selling shareholder?</p>		✓	✓
<p>1.13. Listed Transaction #13 Notice 2001-45 – Basis Shifting Transactions</p> <p>Did the taxpayer (including any member of the consolidated group, or any controlled foreign subsidiary) own stock in a corporation during the tax year?</p> <p>Did any taxpayer entity engage in a transaction during the tax year that would have been treated as a redemption but for the application of the Section 318 attribution rules which enabled such redemption to be considered a dividend?</p>		✓	✓
<p>1.14. Listed Transaction #14 Notice 2002-21 – "Inflated Basis" Loan Assumption Transactions</p> <p>Did any taxpayer entity acquire assets that served as collateral for indebtedness of the seller/transferor ("transferor") during the tax year?</p>		✓	



	Yes	No	N/A
<p>1.15. Listed Transaction #15 Notice 2002-35 – Notional Principal Contract Transactions</p> <p>Did any taxpayer entity enter into any transactions using Notional Principal Contracts?</p> <p>If Yes, did any of those Notional Principal Contracts have a contract term that crossed over the taxpayer's fiscal year?</p> <p>If Yes, did any of the Notional Principal Contracts with a term that crossed over the taxpayer's fiscal year require a counterparty to make a single payment at the conclusion of the Notional Principal Contract consisting, at least partially, of a contingent component?</p>		✓	✓ ✓
<p>1.16. Listed Transaction #16 Notice 2002-50, Notice 2002-65, and Notice 2003-54 – Straddles (Notice 2002-50 [partnership straddles], Notice 2002-65 [pass-through entity straddles], and Notice 2003-54 [common trust fund straddles] are grouped together under the same listed transaction)</p> <p>Did any taxpayer entity engage in any foreign currency straddle transactions designed to duplicate the effects of a partnership built-in loss through use of a partnership structure?</p> <p>If no, did any taxpayer entity engage in any straddle transaction through an S-Corporation or other pass-through entity?</p> <p>If no, did any taxpayer engage in any foreign currency straddle transactions through the use of a Common Trust Fund?</p>		✓ ✓ ✓	
<p>1.17. Listed Transaction #17 Rev. Rul. 2002-69 and Rev. Rul. 99-14 – LILO Transactions (Rev. Rul. 99-14 is superseded and modified by Rev. Rul. 2002-69)</p> <p>Did any taxpayer entity engage in a transaction using a long term lease/lease back structure that permits the entity to deduct loan interest and rent while delaying income recognition for an extended period?</p>		✓	
<p>1.18. Listed Transaction #18 Rev. Rul. 2003-6 – Prohibited Allocations of Securities in an S Corporation</p> <p>Is one or more taxpayer entity an S Corporation?</p> <p>If so, was the election to be an S corporation in effect on 3/14/01?</p> <p>If so, does that entity sponsor an Employee Stock Ownership Plan (ESOP)?</p>		✓	✓ ✓



	Yes	No	N/A
<p>1.19. Listed Transaction #19 Notice 2003-22 – Offshore Deferred Compensation Arrangements Does the taxpayer lease the services of any executive employee?</p> <p>If so, have any of these executives ever worked for the taxpayer as a common-law employee?</p>		✓	✓
<p>1.20. Listed Transaction #20 Notice 2003-24 – Trusts Seeking to Qualify for Exception of Collectively Bargained Welfare Benefit Funds</p> <p>Does the taxpayer maintain one or more welfare benefit funds (either a Voluntary Employee Benefit Associations (VEBAs)) or a taxable welfare benefit fund? If yes, is the VEBA maintained under a collective bargaining agreement (i.e., a union contract)?</p>		✓	
<p>1.21. Listed Transaction #21 Notice 2003-47 – Transfers of Compensatory Stock Options to Related Persons</p> <p>Does the taxpayer sponsor a stock option plan or a restricted stock plan?</p> <p>If so, does the plan permit the transfer of options?</p>	✓	✓	
<p>1.22. Listed Transaction #22 Notice 2003-55 – Accounting for Lease Strips and Other Stripping Transactions(modifying and superseding Notice 95-53)</p> <p>Did any taxpayer entity enter into a transaction where income from leasing or other operations is allocated to one entity while deductions relating to such income are allocated to another entity?</p>		✓	
<p>1.23. Listed Transaction #23 Notice 2003-77 – Transfers to Trusts to Provide for the Satisfaction of Contested Liabilities</p> <p>Is the taxpayer deducting payments made to a trust for contested liabilities under IRC § 461(f) (i.e., the taxpayer knows it owes a third party money, but the amount is disputed and hasn't been finally determined in the year of payment to the trust)?</p> <p>If yes, has the taxpayer relinquished all future control and authority over the money or property transferred to the trust because: (a) the trust is solely controlled by a person asserting the liability against the taxpayer; (b) the transfer is to an escrowee or trustee pursuant to a written agreement (between the taxpayer, escrowee or trustee, and the person who is asserting the liability) providing that the money or other property be delivered in accordance with the settlement of the dispute; (c) an escrow or trust arrangement similar to (b) above established pursuant to an order of a court or government agency providing that the money</p>		✓	✓



	Yes	No	N/A
or other property be delivered in accordance with the settlement of the dispute; (d) it is transferred to a court with jurisdiction over the dispute?			
<p>1.24. Listed Transaction #24 Notice 2003-81 – Tax Avoidance Using Offsetting Foreign Currency Option Contracts</p> <p>Did any taxpayer entity enter into a transaction involving two pairs of offsetting options on foreign currencies designed, in the aggregate, to minimize or eliminate any risk of economic gain or loss (e.g., because the values of the underlying currencies were either linked or have a high positive correlation with one another)?</p> <p>If yes, did the taxpayer entity involved assign any of the purchased options to a charity or other tax-indifferent party?</p>		✓	✓
<p>1.25. Listed Transaction #25 Notice 2004-8 – Abusive Roth IRA Transactions</p> <p>Is the Taxpayer an individual who owns a business?</p> <p>If so, does the taxpayer maintain a Roth IRA?</p> <p>If so, does the Roth IRA own a business other than the business owned by the taxpayer?</p>		✓	✓ ✓
<p>1.26. Listed Transaction #26 Rev. Rul. 2004-4 – Abusive S Corporation ESOPs</p> <p>Is one or more taxpayer entity a Qualified Subchapter S Subsidiary (Q Sub) or similar entity (i.e., an LLC)?</p> <p>Does this taxpayer participate in an ESOP maintained by the parent?</p>		✓ ✓	
<p>1.27. Listed Transaction #27 Rev. Rul. 2004-20 – Abusive Insurance in §412(i) Plans</p> <p>Does the taxpayer maintain one or more qualified retirement plans that are funded entirely with life insurance or annuity contracts?</p>		✓	
<p>1.28. Listed Transaction #28 Notice 2004-20 – Abusive Foreign Tax Credit Intermediary Transaction</p> <p>As part of a prearranged plan, does a taxpayer sell the stock of a foreign corporation, which is not engaged in a US trade or business, to a US corporation?</p> <p>If yes, as part of the same prearranged plan, does the US corporation make an election under IRC § 338 with respect to the acquired foreign corporation?</p> <p>If yes, as part of the same prearranged plan, does the US corporation</p>		✓	✓ ✓



	Yes	No	N/A
<p>next either (1) liquidate the foreign corporation under local law or (2) make an election to treat the acquired corporation as a disregarded entity?</p> <p>If yes, pursuant to the same prearranged plan, does the US corporation sell all or substantially all of the foreign corporation's assets to another buyer?</p> <p>If yes, did the US corporation claim a foreign tax credit on the foreign (not US) income tax imposed on the asset sale?</p>			<p>✓</p> <p>✓</p>
<p>1.29. Listed Transaction #29 Notice 2004-30 – S Corporation Tax Shelter Involving Shifting Income to Tax Exempt Organization</p> <p>Is one or more taxpayer entity a qualified Subchapter S subsidiary or similar entity (i.e., an LLC)?</p> <p>If yes, has an S Corporation issued a combination of non-voting stock and warrants convertible to non-voting S Corporation stock to its voting stockholders?</p> <p>If yes, has the S Corporation voting shareholder donated the non-voting S Corporation shares (or has the S Corporation donated the shares directly) to an organization exempt under IRC § 501(c)(3) or § 401(a)?</p> <p>If yes, does the S Corporation allocate a large percentage of the S Corporation's taxable income to the tax exempt entity while it owns the non-voting shares, effectively avoiding paying income tax on most of the S Corporation's income for the period the non-voting shares are outstanding? (even though the voting shareholders utilize their power to limit or suspend distributions during the period the tax exempt entity owns the non-voting shares).</p> <p>If yes, is the transaction structured so that the entity will ultimately derive a significantly smaller share of the economic benefit from the ownership of stock than the share of the S Corporation income allocated to the exempt entity (e.g., the voting shareholders will eventually exercise the warrants and dilute the non-voting shares owned by the tax exempt organization, or by a later buyback of the shares at a price substantially reduced by reason of the existence of the warrants)?</p>	<p>✓</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>	
<p>1.30. Listed Transaction #30 Notice 2004-31 – Intercompany Financing Through Partnership</p> <p>Has a US company ("DC 1") formed a partnership with a foreign person ("FP") whereby FP is either the common foreign parent or an affiliate of the common foreign parent?</p> <p>If yes, do both FP and DC 1 contribute assets to the partnership, which</p>		<p>✓</p>	<p>✓</p>

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	Yes	No	N/A
<p>in turn immediately contributes a substantial amount of the assets to another affiliated US Corporation ("DC 2") in return for preferred stock?</p> <p>If yes, does the partnership agreement allocate to DC 1 a disproportionately large share (relative to DC 1's partnership capital contribution) of the dividend income from DC 2 and the partnership's guaranteed payment deductions (FP gets guaranteed payments from the partnership in return for the contribution of assets to the partnership)?</p>			✓
<p>1.31. Listed Transaction #31 Notice 2005-13 (Tax Exempt Leasing Involving Defeasance-SILO arrangements)</p> <p>If the answer to the following four questions is yes, additional inquiry is necessary.</p> <p>1) Does the transaction take the form of a sale of property with an immediate leaseback to the seller? For tax purposes the Purchaser intends to take depreciation deductions on the purchased property, and interest deductions on any loans incurred to purchase the property, and to measure any capital gains based on the fixed exercised price contained in any repurchase option. The purchaser will also recognize the lease payments in taxable income.</p> <p>2) Is the seller a "Tax indifferent" party? A tax indifferent party can be: a) a Federal, state or municipal government agency; b) an organization which is exempt from paying Federal income taxes; c) a foreign person; d) a taxpayer who is not exempt per se from paying Federal income taxes but possesses tax attributes such as net operating losses that effectively render the seller tax indifferent.</p> <p>3) Is the seller required as part of the transaction terms to set aside and pledge for the lease term most of the sales proceeds in a way (e.g. bank deposits, highly rated debt securities) that virtually eliminates any risk to the purchaser that the lease payments will not be made throughout the lease term, or that any additional funds will be necessary for the Seller to repurchase the property at the end of the lease?</p> <p>4) Do the terms of the transaction contain provisions that from a financial standpoint will effectively force the seller to either repurchase the property or will otherwise financially compensate the purchase in a way which virtually eliminate the risk to the Purchaser of any decline in the value of the purchased property over the lessee term? The transaction terms can take a variety of forms. One example would include (in addition to a seller option to reacquire the leased property at a fixed price at the end of the lease) a "Service Contract Option" which would require the seller to either accept and pay for themselves (or find an acceptable substitute) for services the Purchaser would provide on the leased property immediately after the lease ends for an extended period</p>			✓ ✓ ✓ ✓



	Yes	No	N/A
<p>1.34. Listed Transaction #34 Notice 2008-34 Distressed Asset Trust Transaction (DAT transaction)</p> <p>According to Notice 2008-34 a DAT transaction generally occurs when a "tax-indifferent party" directly or indirectly contributes one or more distressed assets, such as debt instruments with a high basis and low fair market value to a trust or series of trusts and sub-trusts, and a U.S. taxpayer investor then acquires an interest in the trust or sub-trusts for the purpose of shifting a built-in loss from the tax-indifferent party to the U.S. taxpayer that has not incurred the economic loss.</p> <p>If the answer to all of the following questions is yes, the transaction could be considered DAT transaction or substantially similar to a DAT transaction and more inquiry is necessary:</p> <ol style="list-style-type: none"> 1) Did the transaction involve a trust or series of trusts that are treated as grantor trusts for federal income tax purposes? 2) Did a tax indifferent party contribute an asset or assets with a basis that is higher than their fair market values at the time of contribution? 3) In addition to the tax indifferent party, was there a US taxpayer that was an investor in or grantor to the trust or trusts? 4) Was the transaction entered into after October 22, 2004? 			<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<p>Part B – Transactions of Interest - for transactions entered into on or after November 2, 2006 applicable to all taxpayers</p>			
<p>2. For transactions entered on or after November 2, 2006, Taxpayers are required to disclose participation in a transaction that is the same or substantially similar to a transaction of interest identified in IRS published guidance. Please answer questions 3.1 – 3.2, relating to transactions of interest below. If the answer to one or more questions in a particular section is yes, further inquiry will be necessary.</p> <p>Refer to the IRS Website for more information on Transactions of Interest: http://www.irs.gov</p>			
<p>2.1 Transaction of Interest #1 Notice 2007-72 -- Charitable Contribution of Successor Member Interest</p> <ol style="list-style-type: none"> 1) Did the taxpayer acquire or hold (directly or indirectly through a pass-through entity) a successor membership interest or remainder interest in an LLC or other entity that holds real property? <p>If yes, did the taxpayer transfer the interest more than one year after the acquisition to an organization described in Section 170(c) and claim a charitable deduction?</p>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>



	Yes	No	N/A
<p>If yes to all of the above, there is need for additional inquiry.</p> <p>2) Is the taxpayer a charitable organization described in Section 170(c)?</p> <p>If yes, did the taxpayer receive a successor member interest or a remainder interest in an LLC or other entity that holds real property after August 14, 2007?</p> <p>If yes, there is need for additional inquiry.</p>		✓	✓ ✓
<p>2.2 Transaction of Interest #2 Notice 2007-73 -- Toggling Grantor Trust</p> <p>1) Is the taxpayer a grantor or beneficiary of a trust or has the taxpayer purchased assets from a trust where:</p> <ul style="list-style-type: none"> The trust has ever been treated as a grantor trust? There is a claim that grantor trust status terminated and then was reestablished? <p>If yes, there is need for additional inquiry.</p> <p>2) Did the taxpayer purchase an interest (including a remainder interest) in a trust or property held in trust where:</p> <ul style="list-style-type: none"> The trust has ever been treated as a grantor trust? There is a claim that grantor trust status terminated and then was reestablished? <p>If yes, there is need for additional inquiry.</p>		✓	✓ ✓
<p>2.3 Transaction of Interest #3 Notice 2008-99 -- Sale of Interest in Charitable Remainder Trust</p> <p>1) After November 2, 2006, did the taxpayer or charity have an interest (including a beneficial interest) in a charitable remainder trust?</p> <p>If yes, was there a sale of an interest in the charitable remainder trust?</p> <p>If yes to both questions above, there is need for additional inquiry.</p>		✓	✓ ✓
<p>2.4 Transaction of Interest #4 Notice 2009-7 -- Imposition of US Partnership or Trust to Avoid Subpart F Inclusion</p>			



	Yes	No	N/A			
<p>1) Is the taxpayer a US entity that owns at least two Controlled Foreign Corporations (CFC) that are partners in the same US partnership or beneficiaries of the same US trust that in turn own another CFC?</p> <p>If yes, there is need for additional inquiry.</p>		✓	✓			
<p>Part C – Other Reportable Transactions entered into on or after January 1, 2003 - applicable to all taxpayers except RICs</p>						
<p>3. Confidential Transactions</p> <p>In the current return year, did the Taxpayer enter into a transaction for which the Taxpayer paid an advisor fees in excess of a Minimum Fee (see below) and with respect to which the advisor limited in any way the taxpayer's ability to disclose the tax advice with respect to the U.S. federal income tax structure or tax consequences in order to protect the confidentiality of the advisor's tax strategy?.</p> <p>The "minimum fee" required to be paid depends on the taxpaying entity. Where the taxpayer is a corporation or pass-through entity in which all of the owners or beneficiaries are corporations, the minimum fee is \$250,000. For all other taxpayers the minimum fee is \$50,000. In determining the minimum fee, <u>all</u> fees for a tax strategy or for services for advice or for the implementation or documentation of a transaction are counted.</p>				✓		
<p>4. Transactions with Contractual Protection</p> <p>In the current return year, did the Taxpayer enter into a transaction for which the advisor's fee was contingent on the realization of U.S. federal income tax benefits (e.g., 20% of the realized tax benefit)?</p> <p>In the current return year, did the Taxpayer enter into a transaction for which the Taxpayer or a Related Party has the right to a full or partial refund of fees if all or part of the intended federal income tax consequences from the transaction are not sustained?</p> <p>Exceptions: A number of exceptions to the contractual protection category exist. Refer to Rev. Proc. 2007-20. The revenue procedure can be found at the IRS website: http://www.irs.gov/irb/2007-07_IRB/ar15.html.</p>					✓	✓
<p>5. Section 165 Loss Transactions (including section 988 losses):</p> <p>Did the Taxpayer claim a loss under IRC § 165 or IRC § 988 of at least the amount set forth in the table below?</p>					✓	



	Yes	No	N/A																		
<p>For this purpose, losses under § 165 include most losses, such as those recognized under § 1001(c) and amounts deductible pursuant to a provision that treats a transaction as a sale or other disposition, or otherwise result in a deduction under § 165.</p> <p>Note: Losses are calculated per transaction with NO NETTING of gains and losses, and without regard to loss limitations in the Code.</p> <table border="1"> <thead> <tr> <th colspan="3">§ 165 and/or §988 Loss Thresholds</th> </tr> <tr> <th>Type of Taxpayer</th> <th>Single Year Loss Threshold (1)</th> <th>Cumulative Loss Threshold (2)</th> </tr> </thead> <tbody> <tr> <td>§ 165 Losses (including § 988 Losses) for C corporation and Partnerships whose partners are solely C corporations (looking through any partners that are themselves partnerships)</td> <td>\$10 million</td> <td>\$20 million</td> </tr> <tr> <td>§ 165 (including § 988 Losses) for other Partnerships and S Corporations</td> <td>\$2 million</td> <td>\$4 million</td> </tr> <tr> <td>§ 165 Losses for Individuals and Trusts</td> <td>\$2 million</td> <td>\$4 million</td> </tr> <tr> <td>§ 988 Losses for Individuals and Trusts</td> <td>\$50,000</td> <td>\$50,000</td> </tr> </tbody> </table> <p>(1) The single year loss threshold is applicable to the losses claimed in any single taxable year with respect to a transaction. (2) Cumulative loss threshold is applicable to the cumulative losses claimed with respect to a transaction in the taxable year in which the transaction is entered into and in the five succeeding taxable years.</p> <p><u>Exceptions:</u> A number of exceptions to § 165 loss category exist. Refer to Rev. Proc. 2004-66. The revenue procedure can be found at the IRS website. http://www.irs.gov/irb/2004-50_IRB/ar11.html</p> <p>Do any of the exceptions found in Rev. Proc. 2004-66 apply? If yes, which exception?</p>	§ 165 and/or §988 Loss Thresholds			Type of Taxpayer	Single Year Loss Threshold (1)	Cumulative Loss Threshold (2)	§ 165 Losses (including § 988 Losses) for C corporation and Partnerships whose partners are solely C corporations (looking through any partners that are themselves partnerships)	\$10 million	\$20 million	§ 165 (including § 988 Losses) for other Partnerships and S Corporations	\$2 million	\$4 million	§ 165 Losses for Individuals and Trusts	\$2 million	\$4 million	§ 988 Losses for Individuals and Trusts	\$50,000	\$50,000		 	
§ 165 and/or §988 Loss Thresholds																					
Type of Taxpayer	Single Year Loss Threshold (1)	Cumulative Loss Threshold (2)																			
§ 165 Losses (including § 988 Losses) for C corporation and Partnerships whose partners are solely C corporations (looking through any partners that are themselves partnerships)	\$10 million	\$20 million																			
§ 165 (including § 988 Losses) for other Partnerships and S Corporations	\$2 million	\$4 million																			
§ 165 Losses for Individuals and Trusts	\$2 million	\$4 million																			
§ 988 Losses for Individuals and Trusts	\$50,000	\$50,000																			
Part D - California-specific transactions - Applicable to taxpayers with California franchise tax nexus or that are part of a California combined report.																					
<p>California requires disclosure of participation in a California reportable transaction (i.e., a "California listed transaction", a "California confidential transaction," or a "California transaction with contractual protection").</p>																					



	Yes	No	N/A
<p>6. California Transaction With Contractual Protection and California Confidential Transaction</p> <p>A California confidential transaction is a transaction that is offered to a taxpayer under conditions of confidentiality and for which the taxpayer has paid an advisor a fee and the transaction involves a California tax benefit.</p> <p>A California transaction with contractual protection is a transaction for which the taxpayer or a related party has the right to a full or partial refund of fees, if all or part of the intended California tax consequences from the transaction are not sustained. A transaction with contractual protection is also a transaction for which fees are contingent on the taxpayer's realization of California benefits from the transaction.</p> <p>Note: California excludes California Enterprise Zone Hiring Credits from disclosure under the California reportable transaction disclosure regime. See FTB Notice 2009-02.</p> <p>Did the taxpayer participate in a California transaction with contractual protection or a California confidential transaction?</p>			<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<p>7. California Listed Transactions</p> <p>Taxpayers are required to disclose participation in any transaction that is the same or substantially similar to one of the types of transactions that the California Franchise Tax Board (FTB) has identified as a California listed transaction in California published guidance. Please answer questions 7.1 – 7.3, relating to California listed transactions, below.</p> <p>Refer to the California Website for more information on the California listed transactions: http://www.ftb.ca.gov</p>			<input checked="" type="checkbox"/>
<p>7.1 California Listed Transaction #1</p> <p>Chief Counsel Announcement 2003 – 1 – Certain Real Estate Investment Trust (REIT) Transactions</p> <p>Does the taxpayer have an interest in a REIT which has made a consent dividend under IRC 565?</p> <p>If so, has the REIT claimed a dividend paid deduction for the consent dividends?</p> <p>If yes, there is need for additional inquiry.</p>			<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<p>7.2 California Listed Transaction #2</p> <p>Chief Counsel Announcement 2003 – 1 – Certain Regulated</p>			



	Yes	No	N/A
Investment Company (RIC) Transactions			
Has the taxpayer formed or controlled an entity that is registered as a Regulated Investment Company? Has the taxpayer transferred any of its income producing assets to the RIC?			✓
If so, has the RIC claimed a dividend paid deduction under IRC 857?			✓
Has the taxpayer claimed a dividend received deduction under R&TC Section 25106?			✓
If yes, there is need for additional inquiry.			✓
7.3 California Listed Transaction #3			
FTB Notice 2011-01 -- Sales Factor Listed Transaction			
Is the taxpayer a member of a California unitary business that is a combined reporting group?			✓
If so, does the combined reporting group include a partnership or other flow through entity that is owned by at least one corporate member of the combined reporting group but not owned by at least one member of the combined reporting group?			✓
If so, does the partnership make sales of goods and/or services to a non-partner corporate member of the combined reporting group or vice versa, that are included in the sales factor denominator, but are not included in the sales factor numerator for purposes of determining California apportionment?			✓
If yes, there is need for additional inquiry.			✓
Part E – Colorado-specific transactions – applicable to taxpayers required to file a Colorado return			
8. Colorado Listed Transaction			
Effective April 2, 2009, Colorado taxpayers must disclose federal reportable transactions and Colorado-specific listed transactions to the Colorado Department of Revenue. Colorado-specific listed transactions include transactions between a captive REIT or RIC and their more than 50% beneficial owner.			✓
In the current year, did the taxpayer participate in a Colorado-specific listed transaction (with a captive REIT or RIC) for any tax year in which the statute of limitations remains open for Colorado purposes?			✓
Part F – New York-specific transactions – Applicable to taxpayers required to file returns or			



	Yes	No	N/A
reports under Articles 9, 9-A, 33, 32, or 33			
<p>New York requires disclosure of participation in a New York reportable transaction (i.e., a "New York listed transaction", a "New York confidential transaction," or a "New York transaction with contractual protection").</p> <p>9. New York Transaction With Contractual Protection and New York Confidential Transaction</p> <p>A New York confidential transaction is a transaction that is offered to a taxpayer under conditions of confidentiality and for which the taxpayer has paid an advisor a fee and the transaction involves a New York tax benefit.</p> <p>A New York transaction with contractual protection is a transaction for which the taxpayer or a related party has the right to a full or partial refund of fees, if all or part of the intended New York tax consequences from the transaction are not sustained. A transaction with contractual protection is also a transaction for which fees are contingent on the taxpayer's realization of New York tax benefits from the transaction.</p> <p>Did the taxpayer participate in a New York transaction with contractual protection or a New York confidential transaction?</p>			<p>✓</p> <p>✓</p>
<p>10. New York Listed Transaction (New York TSB-M-07(5)C and (5)(l))</p> <p>In the current year, did the taxpayer participate in a transaction involving an acquisition of an interest in a pass-through entity with the expectation of receiving a charitable contribution deduction equal to three or more times the capital contribution or purchase price of the interest in the entity?</p>			<p>✓</p>
Part G – Oregon-specific transactions – applicable to taxpayers required to file an Oregon return			
<p>Effective for reportable transactions occurring in a tax year beginning on or after January 1, 2007, Oregon requires disclosure of reportable transactions, including a transaction without economic substance in which an Oregon taxable corporation transfers income-producing assets to a REIT or RIC owned directly or indirectly by the corporation and claims a dividends received deduction with respect to the dividends received from the REIT or RIC, which in turn claims a dividends paid deduction.</p> <p>11. Did the Taxpayer transfer income-producing assets to a REIT or RIC owned directly or indirectly by the corporation and claim a dividends received deduction with respect to the dividends received from the REIT</p>			<p>✓</p> <p>✓</p>



	Yes	No	N/A
or RIC, which in turn claims a dividends paid deduction?			

March 28, 2011

Bill Thomas
President
38 Studios, LLC
5 Clock Tower Place Ste 140
Maynard, MA 01754

Re: Parking

Dear Bill:

On behalf of 38 STUDIOS, LLC you have inquired regarding a bulk purchasing arrangement in which 38 STUDIOS, as purchasing agent for certain of its employees, issues its check in payment of their monthly parking obligation at the Rhode Island Convention Center's north and south parking garages ("garages"). This letter sets forth the terms of such arrangement acceptable to the Rhode Island Convention Center ("Convention Center").

1. *Issuance of cards.* The Convention Center will issue to those employees of 38 STUDIOS approved by 38 STUDIOS a monthly card good for 24/7 parking access at either of the garages. The cards shall entitle the holder to the same, but no greater privileges, than other monthly parkers with equivalent cards. That is, the holder will not be entitled to any assigned space, all parking being on a first come first serve basis, and all use subject to the parking rules of the garages in effect from time to time. However, at no time will the holder of a monthly card be denied access to our parking facility.

2. *Registration.* To be issued a monthly card the holder must register with the Convention Center's parking office as do other monthly users. The Convention Center is agreeable to 38 STUDIOS personnel department or other department facilitating the distribution of cards and the registering of users, and we can work with you as to the most practicable way to accomplish this.

3. *Proration.* Cards issued during the first fourteen days of the month will be charged the full monthly charge. Cards issued during the fifteenth through the end of the month will be charged one-half the monthly charge. Cards cancelled prior to the expiration of a month will be charged for the whole month.

4. *Charge.* The bulk rate monthly charge for each card is \$125 for 50 through 99 cardholders, and \$110 for 100 and above cardholders. The Convention Center agrees to hold the price of \$110 through December 31, 2012. After that time, the monthly rate will increase to \$115 for the following year.

Page 2
March 28, 2011

5. *Payment.* The RICC will invoice 38 Studios' in advance, on the 15th of each month, for the following month's use. 38 Studios' agrees to make payment approximately 30 days from receipt of invoice.

Any adjustments that may be made prior to the time the invoice is due shall be made, or otherwise shall appear on the next invoice. Payment on the initial cards issued under this arrangement shall be made within five days of receipt.

6. *Number.* For planning purposes, it is 38 Studios' intent to begin with 50+ cardholders starting April 1, 2011 and reaching 100+ cardholders as of July 1, 2011.

7. *Month to month.* It is agreed that the within arrangement is on a month-to-month basis. Either of us may terminate this arrangement to expire upon the expiration of a month by thirty (30) days written notice delivered to the other, by certified mail, in person, or overnight courier prior to the expiration of the applicable month.

If the above correctly sets forth our proposed arrangement, please sign, or have signed by the proper 38 STUDIOS authorized official, and return the enclosed copy of this letter indicating 38 STUDIOS agreement, and contact me so that we can discuss the best procedure for issuance of the monthly cards. Thank you.

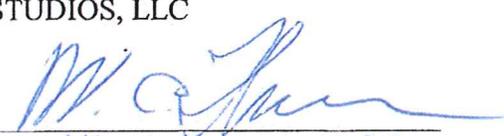
Sincerely,



Timothy O. Muldoon
Regional General Manager
Rhode Island Convention Center

Accepted and agreed to:
38 STUDIOS, LLC

By



Name: William C. Thomas
Title: Chief Operating Officer



RightNow Technologies, Inc.
 136 Enterprise Blvd.
 P.O. Box 9300
 Bozeman MT 59718-9300
 US

Order Form

Date 9/28/2011
Quotation # 6515
RightNow Contact: DiPentima , Kyle
CX ID: 447317
Billing Frequency Custom

Bill To

Glen Pryer
 38 Studios, LLC
 One Empire Plaza
 Providence RI 02903

Ship To "Customer"

Glen Pryer
 38 Studios, LLC
 One Empire Plaza
 Providence RI 02903

Service Purchased

Subscription Start Date: 10/1/2011 **Subscription End Date:** 9/30/2014

Product ID/SKU	Description of Service	Usage Limits	Net Unit Price	Extended Price	Service Period Start	Service Period End
ENT-SM-1106	Enterprise Desktop Seat Month	5358	104.09	557,714.22	10/1/2011	9/30/2014
CHAT-SM	Chat Seat Month	5358	29.74	159,346.92	10/1/2011	9/30/2014
WPSES-TIER1-ANPL-1103	Billable Session Pool - Tier 1 - Per Session/Subscription Term	6800000	0.0478814	325,593.52	10/1/2011	9/30/2014
WPI-1103	Web Portal (External) Interface	2	13,383.00	26,766.00	10/1/2011	9/30/2014
SSO	Single Sign-On (Per Interface)	3	10,037.25	30,111.75	10/1/2011	9/30/2014
VH-MOU-BAND	Voice Hosting Minutes of Use (MOU) Monthly Pool	113916	1.807191	205,867.97	10/1/2011	9/30/2014
VCXI-MOU-BAND	CX Voice Integration Minutes of Use (MOU) Monthly Pool	113916	1.807191	205,867.97	10/1/2011	9/30/2014
SICOM	RightNow Support & Innovation Community (per Instance)	1	321,278.40	321,278.40	10/1/2011	9/30/2014
PREF-CCP	Preferred Customer Care Package	1	329,858.495	329,858.50	10/1/2011	9/30/2014
VMSO-TIER2	Voice Managed Services - Monthly Block Tier 2 - Up to 16 Hours per Month	36	2,000.00	72,000.00	10/1/2011	9/30/2014
UCNA11-P	2011 User Conference Pass - North America	2	1,299.00	2,598.00		
SOW-FF	Professional Services per the attached Statement of Work	1	376,400.00	376,400.00		

Pricing is valid through: 9/30/2011

Service Period Total \$2,613,403.25

All primary values quoted in: USD

The Total delineated in this Order Form is for the specified Service Period only.

38 Studios, LLC Order Form Conditions

For purposes of this Order Form, the following terms shall apply:

"Invoice Date" means the date set forth in the applicable invoice.

"Service Period" means the period of time set forth in the Order Form and during the Subscription Term that services provided by RightNow are covered by Customer payment(s).

"Subscription Services" means the hosted customer experience solutions identified in an Order Form, and any modifications periodically made by RightNow, but does not include the Professional Services.

"Subscription Term" means the period of time during which RightNow is required to provide Customer with the Subscription Services.

"Usage Limits" means the maximum capacity of the services available for your use during the Subscription Term.

1. By signing this Order Form, you are offering to purchase the services listed above. Your offer to purchase becomes binding when we accept it, and is not subject to the issuance of any other purchase orders, confirmations or other events. When your offer is accepted, the services will be made available for your immediate use for the Subscription Term.
2. Services descriptions may be viewed in the attached Exhibit A.
3. Your purchase is governed by RightNow's Cloud Services Agreement, referenced herein and attached hereto, the Order Form and these Order Form Conditions (collectively the "Agreement"). The Agreement cannot be overridden by terms contained in any later received document, unless accepted in writing by RightNow.
4. For this Order Form, Subscription Services shall be due as follows:
 - Initial payment of \$51,000.00 is due net 45 days from 10/1/2011;
 - Nine (9) payments in the amount of \$62,562.93 will be invoiced monthly at the start of each month beginning January 1, 2012 and will be due net 30 days from Invoice Date;
 - Twenty four (24) payments in the amount of \$67,622.37 will be invoiced monthly at the start of each month beginning October 1, 2012 and will be due net 30 days from Invoice Date.

For the services described in the attached Statement of Work, Customer shall pay to RightNow Technologies a fee of Three Hundred Seventy Six Thousand Four Hundred dollars (\$376,400.00) (the "Fee") plus actual expenses incurred for the duration of the project.

Payment Milestones:

- \$9,000.00 is due 45 days from Client acceptance and signature on the Statement of Work;
 - \$60,000.00 is due net 60 days from Client acceptance and signature on the Statement of Work;
 - \$60,000.00 is due net 90 days from Client acceptance and signature on the Statement of Work;
 - \$247,400.00 will be invoiced on January 31, 2012 and payment will be due net 30 days from Invoice Date.
5. Your Usage Limits are set forth in this Order Form. Each month of the Subscription Term, consumption of the services will be deducted from your Usage Limits. Numbers of seat month users will be deducted based on the highest number of users during the previous month.
 6. Of the total purchased voice minutes (4,100,976), Customer may use up to 500,000 of the purchased minutes in any given month unless an increase is accepted in writing by RightNow. In the event Customer's monthly minute of use capacity exceeds 500,000 in any given month and an increase is not accepted in writing by RightNow, RightNow will not guarantee port availability to manage call volumes and this may lead to lost calls or downtime. For clarification purposes, the monthly Usage Limit allocation of 113,916 voice minutes is strictly for billing purposes. Customer is entitled to 4,100,976 voice minutes for use during the Subscription Term.
 7. At any time, you may add capacity (e.g. users, sessions) to your Usage Limits at the per unit price listed above by completing Attachment 1 "Change Form" and sending to orderdesk@rightnow.com.
 8. If you exceed your Usage Limits and you have not proactively purchased additional capacity, we will invoice you monthly in arrears for the excess usage at the per unit price set out in this Order Form plus 30%.
 9. Unless you specify otherwise, the URL for your hosted site will be based on our standard naming convention e.g. <http://customer.name.custhelp.com>.
 10. The prices listed above do not include any taxes. Customer is responsible for any sales, use, Value Added or other taxes or import duties (other than the corporate income taxes payable by RightNow).
 11. The shipping address listed above will be used to determine the appropriate taxing jurisdiction of the products and services purchased.

AGREED:

Signature:

Title:

Date:



President

09/30/2011



Attachment 1
CHANGE FORM

Customer Information:	
Company:	_____
Primary Contact:	_____

PART 1 – REQUEST TO ADD CAPACITY

This notice will confirm Customer's authorization to add the following capacity for the remainder of the Subscription Term.

Product ID (SKU)	Product Description	Current Usage Limits/Quantity	Quantity to be Added

Agreement and Customer Signature:

AGREEMENT: By signing, Customer authorizes the changes described above.

Name: _____ Date: _____

Signature: _____

Title: _____



Exhibit A
Services Descriptions
Subscription Services and Professional Services
September 8, 2011

Glossary of Terms

Named Seat Month

A single Authorized User each of whom is enabled by Customer with a unique staff account in RightNow CX's management and configuration during one calendar month.

Subscription Services

RightNow Instance

Applicable SKUs: INS-1103

An Instance of RightNow includes the knowledge foundation (Database), management & administrative capabilities, business rules, process management and reporting. For clarification purposes, one (1) RightNow Instance is included for the hosting term with initial product purchase.

Also includes:

- ◆ Database Storage limit of 1024 MB
- ◆ File Storage limit of 1024 MB
- ◆ Bandwidth limit of 5125 MB per Month
- ◆ One (1) Email box
- ◆ One (1) Internal Interface
- ◆ One (1) Test Site

RightNow Enterprise Desktop

Applicable SKUs: ENT-NU-1106, ENT-CU-1106, ENT-SM-1106, ENT-CSM-1106

The RightNow Enterprise Desktop User includes access to select features from the following modules: Web Experience, Social Experience, Contact Center Experience, Engage, and Platform.

Web Experience functionality includes

- Email Response Management – Auto-Acknowledgement, Standard Response Template, Web Forms, Outlook Integration
- Web Designer - Customer Portal Studio including development framework, widgets, and Dreamweaver extension

Contact Center Experience includes:

- Case and SLA management (dynamic agent desktop including a consolidated view of all customer interactions, configurable workspaces, customizable hot keys, standard text responses, and customizable views and filters)
- Business rules, escalations and routing
- Interaction management including unified multi-channel management, basic screen-pop and Offer Advisor
- Contact Center Designer including service and common configuration capabilities, contextual workspaces and guided assistance

Social Experience includes:

- Cloud Monitor (dynamic agent desktop including cloud monitor capabilities)

Engage functionality includes:

- **Marketing** – Dynamic agent desktop (including marketing configuration capabilities, proactive service notifications, customer segmentation, subscription management (opt-in/opt-out, global suppression, frequency/recency limits), content creation (document designer, HTML editor, personalized and dynamic content, templates, reusable content, web forms), email marketing (email tracking, proof & market testing), multi-channel, multi-stage campaign design & execution with event triggering, and best –practice campaigns (online ad conversion, email promotion, event registration, information request, and subscription management)
- **RightNow Feedback** functionality includes transactional surveys, broadcast surveys, chat surveys (only available if customer has purchased RightNow Chat), customer segmentation, subscription management, survey creation, multi-channel survey execution, SmartSense emotion detection and topic monitoring
- **Sales** - contact and account management, lead and opportunity management, forecasting management, territory management, quota management, sales methodology support, product catalog and quote generation, outlook integration sales knowledgebase (professional services may be required).
- **Analytics** - inline role-based reports, dashboards & homepages, report design center, analytics explorer, custom dashboard designer, comparison reports and historical data trending, fixed / run-time filtering, data exceptions, hierarchical drilldowns, conditional formatting, column definitions, custom scripting, advanced charting and scheduled reports

Platform functionality includes:

- **One (1) RightNow Instance with the first purchase of a seat**
- **Mission Critical SaaS** - CX Cloud
- **Custom Objects** – Provides the ability to extend the RightNow CX data model to accommodate additional business processes.
- **RightNow Connect** - Connect Web Services API, providing integration capabilities between RightNow and other applications via an application programming interface. The RightNow Connect Add-In Framework is also included providing the ability to extend the reach of the RightNow agent desktop.
- **RightNow Knowledge** – Self-learning knowledge foundation, answer management, agent knowledgebase, and SmartAssistant.

Usage Limits: RightNow Enterprise Desktop Software is subject to usage limits based upon:
a maximum number of Authorized Users

- a maximum number of Authorized Users (Named, Concurrent, Seat Months or Concurrent Seat Months)
- 1 Instance (SKU: INS-1103) will be allocated to the customer for with the first purchase of a desktop license
- Storage and Bandwidth – See table below for usage limits allocated per User type:

Enterprise Desktop	Per User in MB		
	Database Storage	File Storage	Bandwidth
Named User	72	360	360
Concurrent User	216	1080	1080
Seat Month	6	30	30
Concurrent Seat Month	18	90	90

- Marketing and Feedback: One (1) email box for outbound marketing and feedback included with initial Enterprise Desktop User purchase)
 - 60,000 Emails Sent per Year included with the initial purchase of Seat Months or Concurrent Seat Months
 - 5,000 Emails Sent per Month included with the initial purchase of Named Users or Concurrent Users
- Cloud Monitor: A maximum of 100 Cloud Monitor additions of type RSS
- Custom Objects: Maximum of 50 Custom Objects per Instance
 - Menu-Only Custom Objects are not included in this allocation. Menu-Only Custom Objects can be created to meet the needs of the deployment as long as the total number of Custom Objects and Menu-Only Custom Objects is less than 200.)
- Connect: Included with initial Enterprise Desktop User purchase, API operation limits depend upon the type of seat purchased:
 - Named User: 547,500 API Operations per Named User per Year
 - Concurrent User: 1,642,500 API Operations per Concurrent User per Year
 - Seat Month: 45,625 API Operations per Seat Month per Year
 - Concurrent Seat Month: 136,875 API Operations per Concurrent Seat Month per Year
 - Absolute limit of 7,500,000 per day (regardless of number of seats purchased)

RightNow Chat

Applicable SKUs: CHAT-NU, CHAT-CU, CHAT-SM, CHAT-CSM

RightNow Chat allows a customer to chat live (online) with support representatives and to utilize the Third Party Queue Integration API, allowing customers to route chat sessions through a third party universal queuing platform.

Usage Limits: RightNow Chat Software is subject to usage limits based upon:

- ◆ a maximum number of Authorized Users (Named, Concurrent, Seat Months or Concurrent Seat Months)
- ◆ a maximum limit of 5,000 Chat API Operations per minute

Billable Sessions – Tier 1 – Annual Pool

Applicable SKUs: WPSES-ANPL-1103, WPSES-TIER1-ANPL-1103

Tier 1 Billable Sessions allow consumers to access Web Self-Service, Chat, Feedback, Marketing, Mobile and CX for Facebook capabilities delivered through a web page. End users may authenticate into RightNow or to their preferred identity provider, submit questions and manage accounts, access self-service capabilities to search the knowledge base and receive relevant answers to their questions, participate in surveys and complete web forms, take their web customer service to the mobile web or to Facebook's global social network.

Usage Limits: Billable Sessions – Tier 1 are subject to usage limits based upon:

- A maximum number of Billable Sessions per year (starting on first day of the term) per Instance
- Billable Sessions are tracked during the interval of time beginning when an end user accesses the Web Portal and ends when the end user logs out or navigates off the Web Portal. Each fifteen minute period during this interval is counted as a billable session
- Customer receives one (1) Web Portal Interface with the first purchase of billable sessions.
- 1 Community Instance will be allocated to the customer for with the first purchase of billable sessions
- Customer is entitled to 250 Annual PHP API Operations for every 1 annual billable session purchased

Web Portal Interfaces (add on to Web Portal)

Applicable SKUs: WPI-1103

Web Portal Interfaces allow Customer to provide unique groups of Web Portal users a tailored experience based on their needs or attributes such as language, brand experience, or status. Further, utilizing the Web Portal Interface, information for all user segments may be managed within a common knowledge base which reduces the effort to manage and improves the quality of the information delivered. These are external facing interfaces that may be accessed by Customer's customers and the public.

Also includes:

- ◆ Two (2) Email boxes

Single Sign-On

Applicable SKUs: PTA, SSO

Single Sign-On provides customers the tools and ability to perform proxy authentication into either the Customer Portal or the Agent Desktop from other third party systems. The implementation of Single Sign On may require modification to existing Agent Desktop settings or Customer Portal pages and settings. Applicable documentation is available. Single Sign-On provides the following authentication integration methods:

- ◆ For Customer Portal
 - Pass Through Authentication (PTA) – the basic and RightNow specific integration method
 - Encrypted Pass Through Authentication (ePTA) – the encrypted method and tooling of the RightNow specific integration method
 - OpenID – single sign-on capabilities supporting the Open ID protocol (<http://openid.net/>) (Licensed via Tier 1 Billable Sessions)
 - OAuth – single sign-on capabilities supporting the OAuth protocol (<http://oauth.net/>) (Licensed via Tier 1 Billable Sessions)
 - SAML 2.0 – single-sign on capabilities supported by the SAML 2.0 protocol (HTTP Post Binding/Identity Provider Initiated)
- ◆ For Agent Desktop
 - SAML 2.0 – single-sign on capabilities to the Agent Desktop supported by the SAML 2.0 protocol (HTTP Post Binding/Identity Provider Initiated)

RightNow Voice Hosting Minutes of Use (MOU) – Monthly Capacity

Applicable SKUs: VH-MOU-BAND

Voice Hosting Minutes of Use (MOU) allow consumers to access the VXML and speech infrastructure providing the IVR functionality. RightNow Voice Hosting MOU are measured per month (the total number of minutes callers are connected to any RightNow Voice Application), but do not include any associated telecommunication charges (see “Customer Responsibilities” below).

Minutes are calculated using the following telecommunications method:

- ◆ A call of thirty (30) seconds or less will be billed the same as a call of thirty (30) seconds.
- ◆ After the first thirty (30) seconds, calls will be billed in six (6) second increments.
- ◆ Costs for all calls will be rounded to the nearest cent.

Included in RightNow Voice Hosting Minutes of Use:

- ◆ Infrastructure to support customer’s telecom circuits from major carriers within the US, Canada and UK
- ◆ Infrastructure to support the use of customer-owned non-geographic numbers for specific carriers in the US, Canada and UK
- ◆ PSTN connectivity to facilitate the transfers to customer-provided toll-free numbers within the US, Canada and UK

RightNow CX Voice Integration Minutes of Use (MOU) – Monthly Capacity

Applicable SKUs: VCXI-MOU-BAND

CX Voice integration Minutes of Use (MOU) allow consumers to access the RightNow Voice Applications which contain the integration into RightNow CX. Deployed RightNow Voice Applications automate certain caller interactions with customer systems via voice or touchtone commands. Each RightNow Voice Application requires separately available Voice Implementation Services to deploy. RightNow Voice MOU are measured per month (the total number of minutes callers are connected to any RightNow Voice Application), but do not include any associated telecommunication charges (see “Customer Responsibilities” below).

Minutes are calculated using the following telecommunications method:

- ◆ A call of thirty (30) seconds or less will be billed the same as a call of thirty (30) seconds.
- ◆ After the first thirty (30) seconds, calls will be billed in six (6) second increments.
- ◆ Costs for all calls will be rounded to the nearest cent.

Included in RightNow CX Voice Integration Minutes of Use:

- ◆ On-Demand Voice Application Engine
- ◆ RightNow Voice Analytics

Usage Limits: MOU are subject to usage limits based upon:

- ◆ A maximum number of minutes committed per month (starting on the first day of the term)
- ◆ Usage in excess of such maximum committed minutes will incur a per-minute charge for such overages based on the lower of \$0.06 per minute over the contracted rate or \$0.30 per minute.

Customer Responsibilities (not included in RightNow Voice Hosting Minutes of Use or RightNow CX Voice Integration Minutes of Use):

- ◆ All telecommunication charges associated with setup and/or ongoing costs associated with delivery of calls to the RightNow Voice Applications, including but not limited to:
 - All setup, configuration, termination and usage charges associated with the deployment and ongoing use of Customer’s dedicated circuits terminated to integrate with the RightNow Voice Self-Service application (where applicable).
 - All setup, configuration, termination and usage charges associated with the deployment and ongoing use of customer-owned Non-Geographic numbers terminated to integrate with the RightNow Voice Self-Service application (where applicable).
 - All setup, configuration, termination, usage fees, transfer fees and taxes associated with the deployment and ongoing use of any Toll Free Number Services allocated by RightNow for customer convenience.
- ◆ All telecommunication charges associated with setup and/or ongoing costs associated with outbound transfer of calls from the RightNow Voice Applications, including but not limited to:
 - All setup, configuration, termination and usage charges associated with facilitation of outbound transfers over Customer’s dedicated circuits terminated to integrate with the RightNow Voice Self-Service application (where applicable).
 - All setup, configuration, termination and usage charges associated with facilitating call transfer from Toll Free number services allocated by RightNow for customer convenience.

- All fees associated with customer-specific network connectivity required to accept incoming or outbound transfers including installation, configuration, ongoing usage, termination, maintenance and collocation fees associated with delivery or transfer of calls using VoIP (where available and applicable).
- All setup, configuration and usage charges associated with the deployment and ongoing use of any off-network call delivery for Disaster Recovery purposes.
- ◆ Coordination of all telecommunication resources including Long Distance carrier, internal client telecom group(s), third-party consultant(s) or any other technical resource(s) that may be necessary to deliver the final telecom solution required for successful deployment of the RightNow Voice Applications.
- ◆ All charges associated with setup and/or ongoing costs associated with any on-site hardware required. Co-location provisions must be contracted and paid for separately with the relevant Data Center vendor. Any such hardware required will not be co-located in the RightNow space.
- ◆ Payment of all setup, configuration, termination and usage charges associated with any telecommunication, transfer or co-location capabilities arranged by RightNow, or by third parties on behalf of RightNow, for customer convenience.

Optional, additional-cost services:

- ◆ Any RightNow CRM functionality necessary to support the RightNow Voice Applications being deployed

RightNow Support & Innovation Community

Applicable SKUs: SICOM

A Support & Innovation Community instance which includes applications for both Support and Innovation Communities: Applications related to Support: discussion areas (area to allow discussion for any number of topics generated by both members and moderators), answers (area to allow users to find useful information about the community and other topics); bug reports (allow users to highlight product issues), feature requests (ability to invite customers to contribute their desired features to product development); announcement resource (ability to broadcast tailored announcements to targeted segments of the community); and resource center (ability to keep a repository for resources of all types, including reports, webinars, team documents, and links). Applications related to Innovation: discussion area (area to allow discussion for any number of topics generated by both members and moderators), idea center (area to allow users to generate, prioritize, and vote for new features or product ideas); concept tester (application specifically designed for the testing and viability of new products, product features, package design, ad spots and marketing messages); and announcement resource (ability to broadcast tailored announcements to targeted segments of the community). Community will reside on a platform which is defined as all server and infrastructure hardware, software, frameworks, architectures, libraries, files, resources, configurations, procedures, and settings used by RightNow to host the Support & Innovation Community.

Usage Limits: RightNow Support & Innovation Community is subject to usage limits based upon:

- ◆ Access to the Social Designer
- ◆ A maximum number of RightNow Billable Sessions per year for use in the RightNow Community only (starting on contract start date) per Instance
 - Billable Sessions are tracked during the interval of time beginning when an end user accesses the Community and ends when the end user logs out or navigates off the Community. Each fifteen minute period during this interval is counted as a session.
 - 2,220,000 Billable Sessions (for use in the RightNow Community only) per year included with initial Support & Innovation Community purchase
- ◆ If the Community is a stand-alone deployment, one (1) RightNow Instance is included
- ◆ One (1) Support Community
- ◆ One (1) Innovation Community

Preferred Customer Care Package

Applicable SKUs: PREF-CCP

The RightNow Preferred Customer Care Package includes the following elements. This package does not include support for customizations performed by Customer. Elements include:

- ◆ Access to the RightNow knowledge base via the support portal
- ◆ Access to the RightNow Community portal (<http://communities.rightnow.com>)
- ◆ Access to the RightNow Cloud Services Portal (<https://csp.rightnow.com/vciol/>)
- ◆ Provision of the following support for version upgrades:
 - ✓ Communication of major release changes
 - ✓ General support of upgrade process questions via incident
 - ✓ Kick off meeting to outline important upgrade topics
 - ✓ Management of pre and post cutover incidents to ensure proper routing to either Technical Migration Manager, Customer Care, or Upgrade Engineering

- ✓ "Like for like" functionality migration and/or testing. This may include migrating customizations written by RightNow Professional Services from unmanaged to managed frameworks
- ✓ 30-Day post-cutover support
- ◆ Linguistic Support for RightNow Intent Guide (only applicable if Customer has purchased Billable Sessions - Tier 2)
- ◆ Up to two (2) Tune-Ups per Year (Limit of one (1) interface per tune-up) - tune-ups are only available to customers currently on a version of the product that has been generally available for less than 24 months
- ◆ Unlimited email support – agent allocation based on pool
- ◆ Phone support
 - ◆ Severity 1&2: 24x7x365
 - ◆ Severity 3&4: 5x24 Business Days
- ◆ Customer Care Service Level Objectives and Hosting Availability based on table below
- ◆ See definitions and further details in the attached Exhibit B.

	Preferred			
Customer Care Service Level Objectives	Severity Level 1	Target Response	7x24X365*	1 Hour
		Target Resolve	7x24X365*	4 Hours
	Severity Level 2	Target Response	7x24X365*	4 Hours
		Target Resolve	7x24X365*	72 Hours
	Severity Level 3	Target Response	5x24 Business Days	24 Hours
		Target Resolve	5x24 Business Days	Reasonable Commercial Effort
	Severity Level 4	Target Response	5x24 Business Days	72 Hours
		Target Resolve	5x24 Business Days	Reasonable Commercial Effort
Customization Support	Support of Customizations (Integrations, Extensions) written by RightNow Professional Services <ul style="list-style-type: none"> • Upgrade of Customizations (Integrations, Extensions) written by PS • Requirements Document • Test Plan Document • Migration of Customizations • QA Testing of Customizations against Test Plan 			
Cloud Services Service Level Objectives	Target: 99.9% (measured at the end of each calendar quarter) Service Level Credit Threshold: 99.5% (measured at the end of each calendar quarter). Service Level Credit paid if Availability below Service Level Credit Threshold			
Hosting Availability Monitoring	Internal site monitoring at 5 minute increments			

*The following limitations apply for Support for Enterprise Analytics:

- ◆ Business Day means: Monday through Friday between the hours of 8am to 8pm US Central Standard Time (CST) each day;
- ◆ Maintenance to be performed based on CST up to a maximum of 16 hours per month and 156 hours per year.
- ◆ Target Resolve time for Severity Level 1 Incidents reported outside Business Day is 12 noon CST the next Business Day.

Professional Services

Voice Managed Services – Monthly with T&M Overage

Applicable SKUs: VMSO-TIER1, VMSO-TIER2, VMSO-TIER3, VMSO-TIER4, VMSO-TIER5

A RightNow Voice Managed Services Consultant will remotely provide service tuning (including call recording analysis, speech recognition analysis, agent transfer analysis and assessment modifications), Service Maintenance (including application changes, prompt re-wording, agent transfer numbers, business hours), Change Management (project management for projects issued out of managed services, quarterly occurring meeting to review status of change management engagements, Business Review (support of business review of voice services to discuss current and future direction). All monthly hours expire at the end of given month. If the Customer utilizes hours beyond the allotted monthly allocation, the Customer will be responsible for any overages at our then current standard consulting rates. Managed services are limited to the items listed above. Customer is responsible for RightNow's travel and expenses in the event of an onsite visit.



EXHIBIT B

DEFINITIONS, PROCESSES AND PROCEDURES

1. DEFINITIONS

“Availability” means the number of minutes in a calendar quarter that Customer’s Support Home Page is available for normal business use by end users, expressed as a percentage of the total number of minutes in a quarter after subtracting the following from the total minutes: (i) minutes of outage during the quarter for maintenance performed by RightNow (up to a maximum of 20 hours per year) for which Customer received at least twenty four (24) hours advance notice; (ii) minutes of outage during upgrades; (iii) minutes of outage during any interruption caused by a failure of the Internet, the telephone or the power supply; and (iv) minutes of outage caused by force majeure.

“Business Day” means the 24 hour period for each day of the week excluding Saturday and Sunday, with the Business Day for Monday commencing at 12:00AM Monday and the Business Day for Friday ending 12:00AM Saturday. Customer may choose to start its Business Day in one of seven time zones that are supported by RightNow. Supported time zones are GMT, GMT -5 (EST), GMT -6 (CST), GMT -7 (MST), GMT -8 (PST), GMT +9 (Tokyo), and GMT +11 (Sydney, Australia). All supported time zones will observe daylight savings time shifts as appropriate for the local area.

“Premium Care Account Specialist (PCAS)” is a technically oriented project manager working in RightNow’s Customer Care organization. The PCAS will provide accountability, internal customer advocacy, and customer focused management across departments in order to provide a holistic management structure for top accounts. Depending on the level purchased, the PCAS may be assigned to support multiple accounts as a shared resource, or dedicated on a 1:2 or 1:1 ratio.

- ▶ PCAS’ responsibilities limited to:
 - Monitor Incident traffic to ensure commitments are met and appropriate resources are dedicated to issues based on severity.
 - Coordinate cross-functional teams for unscheduled work.
- ▶ PCAS’ roles limited to:
 - Customer Liaison
 - ▶ Personal relationship with Customer
 - ▶ Holds Customer accountable
 - ▶ Drives RCA process to make both organizations stronger
 - ▶ Proactively communicate software upgrades/updates and benefits with an appreciation for Customer’s business and technical environment.
 - Internal Voice of Customer
 - ▶ Holds RightNow accountable
 - ▶ Ensures smooth transition of delivery activities inside RightNow
 - ▶ Involved in / aware of change management
 - ▶ Queue Monitoring / Management
 - Escalation / event manager
 - ▶ Cross functional issue resolution
 - ▶ Single point of escalation for Customer Care issues internally and externally

“Email Support” allows the support contact to submit Incidents initially via the support page at crm.rightnow.com. Once submitted, further correspondence by the submitter on a given Incident may be conducted via email or via updates to the Incident via the support page at crm.rightnow.com. Incidents may not be initially submitted via email.

“Incident” means any request for technical assistance submitted to the RightNow Customer Care team. Technical assistance includes but is not limited to diagnosis of error messages, assistance with application crash or installation issues and application troubleshooting. Incidents that RightNow determines to be a result of a defect in the RightNow product or a hosting outage will be excluded from Customer’s number of Incidents. Technical assistance excludes training, customizations, business requirements analysis, and configuration assistance (other than answering ‘how to’ questions related to configuration). RightNow Customer Care will route those requests to the appropriate RightNow resource.

“Service Level Credit” means an amount equal to 50% of the quarterly price paid by Customer for Preferred Customer Care (PREF-CCP) or Premier Customer Care (PREM-CCP).

“Service Level Credit Threshold” means a percentage Availability below which Service Level Credits are payable.

“Severity Level 1” means the production use of the solution has stopped, or application performance has been so severely impacted that work cannot reasonably continue. Examples of Severity Level 1 include:

- The end-user pages are inaccessible from the Internet
- All or the majority of agents are unable to access the administrative console for their job function
- A service channel (e.g. e-mail, voice, chat) is not functioning

- ♦ Access to core functionality within a console is so impaired that agents cannot work (e.g. Analytics does not work, Marketing campaigns cannot be launched, critical views not populating, all rules not functioning)

“Severity Level 2” means important product features are unavailable with no acceptable workaround. Production use of the solution is continuing; however, there is a serious impact on productivity or service levels. Examples of Severity Level 2 include:

- ♦ An integrated custom tab is failing, causing agents to access the integrated data from another application, thereby slowing down response time substantially
- ♦ One or a small percentage of agents are consistently unable to access the agent desktop
- ♦ An issue is causing properly constructed rules to fail causing agents to manually route incidents
- ♦ An issue is causing deflection rates to decrease substantially

“Severity Level 3” means important product features are unavailable but a workaround is available, or less significant product features are unavailable with no reasonable workaround. Work has a minor loss of operational functionality, or implementation resources. Examples of Severity Level 3 include:

- ♦ Aged database utility is behind causing some cached reports to display incomplete data sets
- ♦ ODBC Replication is behind
- ♦ A small percentage of agent workstations are experiencing periodic errors
- ♦ Bold tags are not rendered properly in answers

“Severity Level 4” means requests for information (how to), enhancements or documentation clarification regarding the product, but there is no impact on daily operation of the solution. The implementation or production use of the solution is continuing and there is no work being impeded at the time. Examples of Severity Level 4 include:

- ♦ An application message is misspelled
- ♦ A request for a new feature
- ♦ A single, non-reproducible application crash
- ♦ How to configure or set up features in the product

“Support Home Page” means the entry page on the end-user interface in RightNow Service that contains links leading to main functions.

2. PROCESSES AND PROCEDURES

Incident Handling: Incidents are assigned a severity level according to impact on Customer’s business. The severity level definitions above are used to assess the situation and properly classify the issue for handling.

- ♦ If an Incident is submitted with a specific severity level and it does not meet the criteria for the severity level specified, RightNow will reclassify the Incident to the appropriate severity level and notify Customer.
- ♦ Once RightNow Technologies determines that the root cause of any outage or impact lies outside of RightNow’s ability to control, the Incident will be considered solved or the severity will be reduced to a more appropriate level. Examples of root causes outside of RightNow’s control:
 - ✓ Location where the affected agents reside is unable to get to the Internet in general
 - ✓ Redirect from Customer site to the custhelp.com domain is failing on the Customer’s site
 - ✓ A routing or Internet outage outside the infrastructure of RightNow’s upstream providers
 - ✓ Customer’s network is not configured to allow proper execution of the solution -proxy servers, firewall, available bandwidth, packet shaping, etc (See Environmental Configuration Guide for requirements:
http://crm.rightnow.com/app/answers/detail/a_id/2364/kw/configuration%20guide/p/%20/r_id/218805)

Hosting Availability Monitoring and Measurement:

- ♦ Availability is monitored on calendar quarters
- ♦ If previous quarter’s Availability was below the Service Level Credit Threshold specified in Customer’s support package, and Customer has purchased either the Preferred Customer Care Package (PREF-CCP) or Premier Customer Care Package (PREM-CCP), one Service Level Credit will be offered for that quarter.

Payment of Service Level Credits:

- ♦ If Customer is entitled to Service Level Credit for the previous quarter, Customer will be notified via an incident by the 15th day of the first month in the next quarter
- ♦ Customer can elect to apply credit against monies owed to RightNow for Hosting Services or receive a cash payment
- ♦ Credit will be issued to Customer within 30 days of receiving the incident notification
- ♦ Customer will be able to receive a maximum of one (1) Service Level Credit per quarter
- ♦ Service Level Credits are payable only (a) if Customer has purchased either the Preferred Customer Care Package (PREF-CCP) or Premier Customer Care Package (PREM-CCP); and (b) when Hosting Availability falls below the Service Level Credit Threshold. No Service Level Credits are payable in any other circumstance, including failure to meet Customer Care Service Level Objectives.

Upgrade and Test sites: It is a general principle that we do not accept Severity Level 1 for these types of non-production sites.

Exceptions to this principle, which need to be explicitly stated during Incident submittal, include:

- ♦ If the issue found on the upgrade site is going to negatively impact or cause the cut over to fail or become a high severity issue in production

- ♦ If Customer has integrated test sites into their production environment to facilitate their business processes then the test sites need to be treated as production sites.