



SPÖHN Expertise for Navigating Business Challenges

Statement of Work Client Tutorial – On Site

For

Issue Date:

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1. Executive Summary

Spohn Consulting, Inc. proposes to provide an onsite client tutorial to Customer utilizing consulting methodologies to understand, analyze, comment, advise or otherwise recommend actions in the chosen subject matter.

2. Services Overview

The topics, issues, problems, etc. identified by the Customer for said Service are set forth as:

The scale of the tutorial for Customer is defined by the following parameters:

- Spohn Consulting, Inc. will conduct a one-hour problem-definition conference call with one or more Customer representatives for the purpose of determining the Customer's desired subject(s) for the Tutorial.
- During the one-hour conference call, Spohn will gather requirements and seek to understand the customer problem and expectations for the engagement. During this call, the customer can define the topic of the engagement as well as outline any customer specific issues.
- Spohn consultants, assigned based on expertise in the subject matter, will research the chosen topics in preparation for the Tutorial session. Research may include, but not be limited to: consultant experience and expertise; academic and industry literature; published research; analyst opinion; industry, technology and other best-practices; study of relevant past engagements, case histories, etc.
- Spohn will conduct a four-hour consulting session for interactive discussion, guidance, sharing of best practices, and consulting. The Tutorial will be conducted at a site of the Customer's choosing at a date and time of mutual agreement (e.g., provide an appropriate interval for preparation, travel, etc.).
- Following the Tutorial, Spohn will provide the Customer written documentation of information presented, findings, and meeting results. These documents will be delivered electronically following the Tutorial.

3. Engagement Schedule

The Client Tutorial will take approximately _____ Business Day(s) to complete. Spohn Consulting, Inc. and Customer will jointly determine the start date for the engagement within 30 days of contract signature. The deliverable is an onsite client tutorial, as described above. The Services provided under this SOW shall only be performed during normal business hours, defined as Monday through Friday 8:00 A.M. to 5:00 P.M., local time, excluding Spohn Consulting, Inc. official holidays.

4. Assumptions

1. Agreement Enabling Expenses - Spohn Consulting, Inc. will perform the work using tools selected by Spohn Consulting, Inc. Any additional hardware; software, connectivity and training expenses required by _____ (if any) to complete delivery of Services will be provided by _____.
2. Travel Time and Expenses - Spohn Consulting, Inc. and _____ agree that the engagement meetings will be conducted using teleconference calls and all work will be

executed at a Spohn Consulting, Inc. or partner facility unless other arrangements have been agreed upon. If _____ requires Spohn Consulting, Inc. or partner personnel to travel to perform work on or visit a _____ site, or attend a meeting with _____ staff, standard business expenses, (e.g., travel; food and lodging) Spohn Consulting, Inc. personnel incur in connection with provisioning services under this Proposal shall be invoiced separately

Spohn Consulting, Inc. and _____ understand and agree that the performance of these Services, as provided in accordance with this Proposal, may improve your security posture. These Services can neither identify nor eliminate all risks by unauthorized or authorized parties to affect your environment.

5. Pricing and Parameters

Spohn will provide Customer in-person expertise and discussion required to dynamically address identified topic(s) in a board room setting.

Table 1. Pricing

Options	Price
On-Site Tutorial	

Table 2. Travel Expenses

Location	Charge
Travel Charge Total (Estimated)	

The travel charge is based on your distance from Austin, TX. We will visit your location near _____ to perform the Client Tutorial. Travel outside a 50 mile radius of _____ will result in additional travel expenses.

We have calculated the expenses based on our estimate of out-of-pocket fees at our cost. The expenses quoted are also a fixed bid and will not be more than quoted.

6. Customer assistance required

In order to optimize the effectiveness of Spohn team members the customer needs to provide access to systems, services, and employees. To perform the work specified in this statement of work, Spohn will require the following from the customer:

- Access to relevant personnel
- Configurations for relevant devices
- Pertinent diagrams
- Relevant documentation
- A primary point of contact
- Coordination of events with customer team members
- NDA or others as needed

7. Deliverables

Spohn will conduct the Client Tutorial as described in this SOW. Upon completion, Spohn shall provide a report containing deliverables as indicated in the table below.

Table 3. Engagement Deliverables

Event	Deliverables
Report	Electronic document
On-Site Session	Data gathering, knowledge transfer

8. Expiration

This SOW is valid for 30 days from issue listed on the title page.

9. Payment terms

Spohn Consulting, Inc. requires payment within thirty (30) days after receipt of invoice. All prices are exclusive of expenses, which will be billed at cost. An initial invoice of 50% of the planned total will be billed upon execution of the on-site work. The remainder will be billed at the earlier of delivery or 15 days from our first notification of being finished with your report and ready to schedule delivery.

10. Disclaimer

All services described within this statement of work are subject to terms and conditions of the Spohn Consulting Agreement and specifically, Spohn's liability is limited as described in Attachment A.

11. Execution

11.1. Execution of statement of work

Please sign and provide any additional information listed below and return to Spohn Consulting, Inc. along with signed related documents and information as described in section 6.3 within thirty (30) days from receipt in order to execute this statement of work.

Spohn Consulting, Inc.

Company Name

Signature

Signature

Print Name

Print Name

Date

Date

9442 Capital of Texas Hwy, Plaza One #200

Address

Austin, TX 78759

City, State, Zip

Billing Address

Billing City, State, Zip

(512) 685-1000

Phone

(512) 685-1800

Fax

11.2. Additional documents required

- Spohn Consulting Agreement signed by customer if not currently on file (See Attachment A)

11.3. Expiration of statement of work

This estimate deemed null and void if not received by Spohn within thirty (30) days from receipt.

Attachment A

Spohn Consulting Service Agreement

This Agreement is made effective the _____ day of _____, by and between Spohn Consulting, Inc., a Texas corporation ("Spohn") and _____, a _____

corporation ("Company"). In consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. **Services.** Spohn shall perform consulting services for the benefit of Company as set forth in the Statement(s) of Work attached hereto and incorporated herein by this reference ("Services"). In the event of any conflict or difference between a term or provision in a Statement of Work and a term or provision in this Agreement, the terms and provisions in this Agreement shall govern and control.

2. **Compensation.** Company shall pay Spohn compensation for the Services in accordance with the Statement of Work, payable as therein provided. Failure of Company to pay any charges when due shall constitute sufficient cause for Spohn to suspend its performance of the Services or terminate this Agreement immediately upon notice to Company.

3. **Confidentiality.** Neither party will at any time during or after the termination of this Agreement directly or indirectly divulge, disclose, or communicate to any person, firm, or corporation in any manner whatsoever any information concerning any matter affecting or relating to the other party or the business of the other party ("Confidential Information"). Each party agrees to the foregoing without regard to whether all of the foregoing matters will be deemed confidential, material or important, it being stipulated by the parties that all information, whether written or otherwise, regarding the other party's business, including but not limited to information regarding customers, customer lists, employees, employee salaries, costs, prices, earnings, and any financial or cost accounting reports, products, services, formulae, compositions, machines, equipment, apparatus, systems, technical information, software and other intellectual property, operations, potential acquisitions, new location plans, prospective and executed contracts and other business arrangements, and sources of supply, is presumed to be important, material, and confidential information of the other party for purposes of this Agreement. Each party agrees that all such information is a trade secret owned exclusively by the other party which shall at all times be kept confidential. "Confidential Information" shall not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by either party, its agents, representatives, or employees; or (ii) becomes available to either party on a non-confidential basis from a source other than the other party or its agents which is not prohibited from disclosing such information by a legal, contractual, or fiduciary obligation. The parties may use Confidential Information only for a purpose that is necessary to carrying out their duties under this Agreement. The parties acknowledge that remedies at law may be inadequate to protect against a breach of this provision and therefore hereby agree in advance to the granting of injunctive relief without proof of actual damages. Each party agrees to indemnify and hold the other party harmless from and against any and all claims, losses, liabilities, expenses, penalties, and assessments, including reasonable attorney's fees and court costs, resulting from its breach of the confidentiality provisions contained in this paragraph.

4. **Rights in Data and Documents.** All of the materials developed by Spohn under this Agreement shall be and remain the sole and exclusive property of Company, provided that the compensation due Spohn under this Agreement has been paid in full by Company. Spohn and its employees and agents hereby agree to assign to Company all right, title and interest in all of the documents developed by Spohn under this Agreement, and further shall execute any documents and do all things necessary (i) to effect such assignment to company, and (ii) to assist Company in securing any property rights which Company may seek. Inasmuch as Spohn has developed or acquired certain proprietary information, materials, and knowledge prior to this Agreement, none of such information, materials, and knowledge shall be or become the property of Company or be considered as confidential information, materials, and knowledge of Company. Any materials given by Company to Spohn and all documents developed for Company by Spohn pursuant to this Agreement shall remain the exclusive property of Company and shall be promptly returned upon written request or termination of this Agreement.

5. **No Warranty; Disclaimer of Warranty.** EXCEPT AS EXPRESSLY SET FORTH IN PARAGRAPH 5.1, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS. THERE ARE NO WARRANTIES OF ANY

KIND UNDER THIS AGREEMENT, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR TITLE AND WARRANTIES AS TO THE QUALITY, SUITABILITY, ADEQUACY, ACCURACY, OR COMPLETENESS OF THE SERVICES; AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED BY SPOHN. THIS DISCLAIMER OF WARRANTY IS AN ESSENTIAL AND BARGAINED FOR PART OF THIS AGREEMENT, AND SPOHN WOULD NOT PERFORM THE SERVICES WITHOUT THIS DISCLAIMER. NO REPRESENTATIVE OF SPOHN HAS AUTHORITY TO VERBALLY MODIFY THE TERMS OF THIS DISCLAIMER.

5.1 **Warranty.** Spohn warrants that: (i) Spohn's performance of the Services called for by this Agreement does not and shall not violate any applicable law, rule, or regulation or any contracts with third parties; (ii) the materials to be prepared, produced or developed for Company do not and shall not violate any third-party rights in any patent, trademark, copyright, trade secret, or similar right; (iii) Spohn is the lawful owner or licensee of any software programs or other materials not provided by Company but used by Spohn in the performance of the Services called for in this Agreement; and (iv) Spohn has all rights necessary to convey to Company the unencumbered ownership of the materials developed by Spohn under this Agreement.

6. Limited Liability.

(a) **COMPANY ASSUMES SOLE AND TOTAL RESPONSIBILITY AND RISK FOR ANY DAMAGES OR LIABILITIES ARISING DIRECTLY OR INDIRECTLY OUT OF THE SERVICES, THIS AGREEMENT, SPOHN'S PERFORMANCE OF THIS AGREEMENT, ANY OBLIGATIONS RESULTING THEREFROM, AND COMPANY'S RELIANCE THEREON; AND COMPANY AGREES THAT ANY SUCH DAMAGES OR LIABILITIES ARE NOT THE RESPONSIBILITY OF SPOHN.**

(b) **WITHOUT LIMITING THE FOREGOING, SPOHN AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS WILL IN NO EVENT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR ANY OTHER INDIRECT LOSS OR DAMAGE OF ANY NATURE, INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOST REVENUES, CAUSED TO THE BUSINESS OR PROPERTY OF COMPANY OR ANYONE ELSE ARISING OUT OF OR RELATED TO THE SERVICES, THIS AGREEMENT, SPOHN'S PERFORMANCE OF THIS AGREEMENT, ANY OBLIGATIONS RESULTING THEREFROM, AND COMPANY'S RELIANCE THEREON.**

THE ENTIRE, AGGREGATE, AND MAXIMUM LIABILITY, IF ANY, OF SPOHN, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES, OR EXPENSES ARISING OUT OF OR RELATED TO THE SERVICES, THIS AGREEMENT, SPOHN'S PERFORMANCE OF THIS AGREEMENT, ANY OBLIGATION RESULTING THEREFROM, AND COMPANY'S RELIANCE THEREON, SHALL IN NO EVENT BE GREATER THAN THE AMOUNT PAID BY COMPANY TO SPOHN UNDER THIS AGREEMENT.

THIS LIMITATION OF LIABILITY IS AN ESSENTIAL AND BARGAINED FOR PART OF THIS AGREEMENT, AND SPOHN WOULD NOT PERFORM THE SERVICES WITHOUT THIS LIMITATION. NO REPRESENTATIVE OF SPOHN HAS AUTHORITY TO VERBALLY MODIFY THE TERMS OF THIS LIMITATION.

7. **Termination.** Except as otherwise provided herein, this Agreement may be terminated by either party upon thirty (30) days written notice to the other party, with or without cause. Spohn shall be entitled to payment for all Services rendered as of the effective date of the termination. Company shall be entitled to repayment for any amounts paid for work not performed as of the effective date of termination.

8. **Independent Contractor.** It is the intent of the parties that neither Spohn nor its employees, agents, or representatives shall be considered or deemed to be employees of Company for any purpose whatsoever. In the performance of this Agreement Spohn shall at all times be and remain an Independent Contractor, with the sole right to supervise, manage, control, and direct the performance of Spohn's duties.

9. **Nonsolicitation Covenant.** During the term of this Agreement and for a period of two (2) years following its termination, Company shall not, directly or indirectly, solicit, recruit, employ, or contract with any employee or independent contractor of Spohn who performs Services under this Agreement.

10. **Consumer Transaction Disclaimer.** Company acknowledges and agrees that this is not a consumer transaction and that the Services are not being acquired for personal, family, or household purposes, and Company expressly represents and warrants to Spohn that Company uses its computer network for business or commercial purposes and not for personal, family, or household purposes.

11. **Survival.** It is agreed that certain obligations of the parties under this Agreement which by their nature would continue beyond the termination of this Agreement shall survive and continue to be binding on the parties after and notwithstanding the termination of this Agreement. Such obligations include without limitation those contained in Paragraphs 3, 4, 5, 6, and 9 of this Agreement.

12. **Agreement Not Assignable.** This Agreement is not assignable without the written consent of both Spohn and Company, and any attempted assignment shall be null and void and of no effect.

13. **Texas Law Governs.** This Agreement shall be construed and enforceable in accordance with, and be governed by, the laws of the state of Texas, without regard to principles of conflicts of law. Company acknowledges that Spohn has a legitimate business interest in requiring that Texas law govern this Agreement.

14. **Texas Selected as Forum.** Any suit involving the parties, whether in tort, contract, or otherwise, making any claim concerning the negotiation, interpretation, administration, or enforcement of this Agreement or the relationship of the parties, including without limitation claims that the other party has breached its contract, violated a law, engaged in fraud, breached a fiduciary duty, or acted in bad faith, must be brought and maintained in state district court in Travis County, Texas. All parties waive any right to remove such suit to federal court from the Travis County district court.

15. **Waiver of Jury Trial.** **THE PARTIES WAIVE THE RIGHT TO A JURY TRIAL IN ANY SUIT DESCRIBED IN THE FOREGOING PARAGRAPH. AT ANY PARTY'S REQUEST, THE OTHER PARTIES WILL JOIN IN ASKING THE COURT TO TRY THE CASE AND DECIDE ALL ISSUES, INCLUDING ISSUES OF FACT, WITHOUT A JURY. THIS WAIVER OF THE RIGHT TO A JURY TRIAL IS AN ESSENTIAL AND BARGAINED FOR PART OF THIS AGREEMENT, AND SPOHN WOULD NOT PERFORM THE SERVICES WITHOUT THIS WAIVER. NO REPRESENTATIVE OF SPOHN HAS AUTHORITY TO VERBALLY MODIFY THE TERMS OF THIS WAIVER.**

16. **Attorney's Fees.** If any action at law or in equity is necessary to enforce or interpret any of the rights or obligations under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, litigation expenses, expert fees, and any other necessary disbursements in addition to any other relief to which the prevailing party may be entitled.

17. **Notice.** Any notices to be given under this Agreement by either party to the other shall be in writing and delivered by mail, registered or certified, postage prepaid with return receipt requested, to the recipient at the address indicated below:

Spohn Consulting, Inc.	Company: _____
c/o Steve, Davies, Vice President	c/o: _____
9442 Capital of Texas Highway North	_____
Arboretum Plaza One, Suite 200	_____
Austin, Texas 78759	_____

or such other address or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party.

18. **Force Majeure.** Spohn shall not be in breach of this Agreement by reason of any failure to comply with the terms hereof if such failure is due to acts of God, acts of government, acts of terrorism, fires, floods, epidemics, embargoes, or any cause or condition beyond Spohn's control, whether foreseeable or not.

19. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto and shall govern and control with respect to any Services performed by Spohn under a Statement of Work signed by Spohn and attached hereto. This Agreement may not be modified except by a written instrument signed by both of the parties.

20. **Personnel and Staffing.** To the fullest extent permitted by law (and in the absence of an express written waiver from Company obtained in advance), Spohn shall not bring upon Company's premises, or assign

to Company work in any manner, any employee of Spohn whose background check revealed, or would have revealed: (1) a felony conviction; (2) a conviction relating to any crime bearing upon the individual's fitness to have responsibility for the tasks being assigned to the individual.

21. Compliance with Laws. Spohn covenants and agrees to comply with all applicable federal, state and local laws and regulations relating to the performance of Services under this Agreement. By way of illustration, these laws and regulations shall include, but are not limited to all laws and regulations relating to employment, taxation, and to the health and safety of employees.

22. Advertising Restraints. Spohn agrees that without the written consent of Company, it will not use the name, service marks, or trademarks of Company or those of any of its affiliated companies or reveal the existence of this Agreement or its terms or conditions, including but not limited to, any advertising, publicity release, or sales presentation.

IN WITNESS WHEREOF, the undersigned execute this Agreement to be effective on the date first above written.

IN SIGNING BELOW, THE AUTHORIZED AGENT OF COMPANY EXPRESSLY ACKNOWLEDGES AND DECLARES THAT THE AGENT HAS CAREFULLY READ EACH AND EVERY PROVISION OF THIS AGREEMENT, SPECIFICALLY INCLUDING WITHOUT LIMITATION THE DISCLAIMERS, LIMITATIONS OF LIABILITY, WAIVERS, AND OTHER PROVISIONS IN PARAGRAPHS 5, 6(A), 6(B), AND 6(C) AND THAT THE AGENT HAS HAD THE OPPORTUNITY TO CONSULT WITH COMPANY'S LEGAL COUNSEL AND FULLY AND COMPLETELY UNDERSTANDS THE SUBJECT MATTER AND LEGAL EFFECT OF EACH PROVISION OF THIS AGREEMENT.

Spohn Consulting, Inc.

Company Name

Signature

Signature

Print Name

Print Name

Date

Date