

## **SETTLEMENT AGREEMENT**

The Safety and Enforcement Division (“SED”) of the California Public Utilities Commission (“Commission”), and Silicon Business System, Inc. and its predecessors, successors, affiliates, and assigns (“SBS” or “Applicant”) hereby agree to the following terms of a settlement (“Settlement”) resolving all issue raised by SED’s Protest of SBS’ Application for a Certificate of Public Convenience and Necessity (“CPCN) to operate as a provider of limited facilities-based and resold telecommunication services in the State of California, A.14-05-002 (“Application”). SED and SBS (jointly referred to as the “Parties”) enter into this Settlement in order to avoid the costs and risks of further litigation and to expeditiously resolve this matter,

### **I. JOINT FACTUAL STATEMENT**

1. SBS is a corporation operating and existing under the laws of the State of Nevada, with an active registration with that State since May 28, 2008. SBS seeks authority to operate as a provider of limited facilities-based and resold telecommunications services in the State of California. On November 5, 2012, SBS obtained qualifying status from the California Secretary of State to transact intrastate business in California.

2. SBS filed application A.14-05-002 on May 02, 2014 for a CPCN to operate as a provider of limited facilities-based and resold telecommunications services in the State of California pursuant to Section 1001 of the Public Utilities Code.

3. In discussing the technical and managerial competence of SBS’ CEO, Matt Liu, in its Application, SBS referenced a website in which the results of the telecommunication software developed by Mr. Liu could be viewed. The website’s address is <http://www.potatoboy.com> and SED’s review of the website content revealed sales of VOIP and prepaid phone card services.

SBS stated that it has sold prepaid calling card services since March 2008 in California. The Company has also engaged in VOIP international wholesale for commercial business and has one customer for VOIP retail home service. SBS indicated that it has not sold VOIP services to customers in California.

4. During the course of the Application review, SED asked SBS to confirm the entity and ownership for the operator of the website of [potatoboy.com](http://potatoboy.com). The Applicant initially indicated that [potatoboy.com](http://potatoboy.com) was an affiliate of SBS and that this business was owned by Matt Liu as a sole proprietor. Mr. Liu indicated in a later communication to SED that [potatoboy.com](http://potatoboy.com) was operated by SBS as of November 2012.

5. After reviewing SBS's Application, SED protested the Application on June 6, 2014. SED's Protest alleged that (1) SBS violated California Public Utilities ("Pub. Util.") Code Sections 885 and 1013 by operating in California without Commission authority from November 5, 2012 to the present; and (2) SBS' failure to operate in compliance with the law raises questions about SBS' fitness to operate in California. SED also recommended that the Commission consider imposing a penalty on SBS for failure to comply with Pub. Util. Code §§ 885 and 1013.

6. After filing its protest, SED completed its review of SBS' prepaid phone card operations and found that, contrary to Matt Liu's prior communication to SED, SBS operated its prepaid phone card business prior to November 2012, as its filings with both the Internal Revenue Service and Federal Communications Commission for its business activity in 2011 were under SBS. In addition, SED's review found violations of various sections of the Business and Professions ("B&P") Code §17538.9.

## II. AGREEMENT

1. Acknowledgements. The parties agree that SBS and/or Matt Liu operated in California without Commission authority since 2008 to the present. Therefore, SBS and Matt Liu operated for over 6 years in violation of the law prior to submitting its application to the Commission.

2. The parties agree that SBS submitted its Application for a registration license of its own accord and not based on a finding from the Commission that it operated without authority, or Commission instruction to submit an application.

3. The parties further agree that Matt Liu has provided inconsistent information to SED on several instances regarding the ownership of the business operated under [www.potatoboy.com](http://www.potatoboy.com) and, when SBS began providing telecommunications services, creating a more difficult and prolonged investigation.

4. The parties agree that SBS violated various sections of B&P Code § 17538.9 regarding disclosure of ancillary fees and different prices, rates, or unit values applicable to international usage of a prepaid phone card on the card or packaging. SBS also failed to provide a live operator for 24 hours per day for seven days per week.

5. The parties agree that SBS has now corrected the violations, thereby resolving all issues raised by SED in its protest. SBS agrees to continue to train its staff to improve the quality of its customer service line and quality assurance. SED will continue to monitor and test SBS' customer service line in 2016 to ensure that it remains compliant with the applicable B&P Code section.

6. Penalty Payment. In order to resolve the legal issues raised by SED in its Protest, SBS will pay a penalty of \$20,000 to the State of California General Fund, contingent on the

Commission's approval of the Application. The \$20,000 penalty will be paid according to the following schedule: a) SBS will remit \$416.98 to the State of California General Fund within 30 calendar days of the date of the Commission's approval of this Agreement; and b) SBS will remit monthly payments in the amount of \$416.66 by the 15<sup>th</sup> of every month to the State of California, General Fund thereafter until the \$20,000 is paid in full.

All penalty payments shall be made payable to the California Public Utilities Commission and remitted to the Commission's Fiscal Office, 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. The payment shall indicate the decision number of the Commission decision approving the Settlement. SBS shall be deemed in default if any of the payments pursuant to this Paragraph is not made within five days following the due date. Should SBS default on any of its fine payments, the fine must be paid in full within 30 days after the default and SED may seek Commission revocation of SBS' Certificate of Public Convenience and Necessity.

7. Responsibility for Fees and Surcharges. The parties acknowledge that SED examined the issue of whether SBS would have been required to pay any user fees and/or surcharges during the time period of March 2008 to the date of this settlement. SED determined that SBS generated revenues within the state of California from March 2008 to the present and would therefore be subject to user fees for that period. SBS' user fees prior to 2013 would be less than one dollar for the total user fees combined from 2008 to 2012. Therefore, SED requires SBS only to pay the minimum user fee of \$100 for each of the years 2013 and 2014, for a total of \$200. In addition, SBS must pay a 25% interest fee for each year, for a total of \$50. SBS must file the surcharge reports for the years 2013 and 2014 and pay the user and interest fees within 30 days of the Commission's approval of the Settlement.

The parties also acknowledge that SBS will be held responsible for payment of user fees from now and into the future so long as SBS continues to operate in the State of California. The Parties acknowledge that user fees are paid annually to the Commission and are based on the Commission-established rate in effect at the time. Currently, and during the time period at issue, the annual user fee was and is set at 0.18% of gross intrastate revenue, or a minimum of \$100, whichever is greater. 0.18% of SBS's gross intrastate revenue for 2013 and 2014 equates to less than \$100. Thus, SBS must pay a user fee of \$100 each for 2013 and 2014, plus a 25% interest fee pursuant to Pub. Util. Code § 405, for a total of \$250 dollars.

SBS' user fee for 2015 will be assessed at the end of calendar year 2015 and paid in January, 2016. The user fee, with interest, of \$250 for 2013 and 2014 will be paid within 30 calendar days from the date of the Commission's approval of this agreement. Payment shall be made payable to the California Public Utilities Commission and remitted to the Commission's Fiscal Office, 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. The payment shall indicate that it is for SBS' 2013 and 2014 user fees, with interest, and include the decision number of the Commission decision approving the settlement.

#### **IV. GENERAL PROVISIONS**

1. Scope and Effect of Agreement. This Agreement represents a full and final resolution of SED's Protest, and the matters giving rise thereto. The parties understand that this Settlement Agreement is subject to approval by the Commission. As soon as practicable after the Parties have signed the Settlement Agreement, a Motion for Commission Approval and Adoption of the Settlement Agreement will be filed. The Parties agree to support the Settlement Agreement and recommend that the Commission approve it in its entirety without change. The Parties agree that, if the Commission fails to adopt the Settlement Agreement in its entirety

without material change, the Parties shall convene a settlement conference within 15 days thereof to discuss whether they can resolve any issues raised by the Commission's actions. If the Parties cannot mutually agree to resolve the issues raised by the Commission's actions, the Settlement Agreement shall be rescinded and the Parties shall be released from their obligation to support this Settlement Agreement. Thereafter, the Parties may pursue any action they deem appropriate, but agree to cooperate to establish a procedural schedule for the remainder of the proceeding.

2. Successors. This Agreement and all covenants set forth herein shall be binding upon and shall inure to the benefit of the respective Parties hereto, their successors, heirs, assigns, partners, representatives, executors, administrators, subsidiary companies, divisions, units, agents, attorneys, officers, and directors.

3. Knowing and Voluntary Execution. The Parties acknowledge each has read this Agreement, that each fully understands the rights, duties and privileges created hereunder, and that each enters this Agreement freely and voluntarily.

4. Authority to Execute Agreement. The undersigned acknowledge and covenant that they have been duly authorized to execute this Agreement on behalf of their respective principals and that such execution is made within the course and scope of their respective agency or employment.

5. Entire Agreement. The Parties expressly acknowledge that the consideration recited in this Agreement is the sole and only consideration of this Agreement, and that no representations, promises, or inducements have been made by the Parties or any director, officer, employee, or agent thereof other than as set forth expressly in this Agreement.

6. Choice of Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California and the rules, regulations and General Orders of the California Public Utilities Commission.

7. Execution in Counterparts. This Agreement may be executed by any of the Parties in counterparts with the same effect as if all Parties had signed one and the same document. All such counterparts shall be deemed to be an original and shall together constitute one and the same Agreement. A signature transmitted by facsimile shall be regarded as an original signature.

8. Enforcement. Each material breach of this Settlement will constitute a separate violation and will entitle the Commission to take any necessary action to enforce its orders.

9. Binding Nature of Agreement. The Commission adoption of this Settlement is binding on all Parties to this action. Parties agree that pursuant to Rule 12.5 of the Commission's Rules of Practice and Procedure, this Settlement shall not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

SILICON BUSINESS SYSTEM, INC.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Matt Liu  
435 N Alhambra Avenue, D  
Monterey Park, CA 91755

Dated: January 5, 2015

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John L. Clark  
Goodin, MacBride, Squeri & Day  
Attorneys for Silicon Business System, Inc.

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SILICON BUSINESS SYSTEM, INC.

Dated: 1-5-16

M.H. Liu

Matt Liu  
435 N Alhambra Avenue, D  
Monterey Park, CA 91755

Dated: \_\_\_\_\_

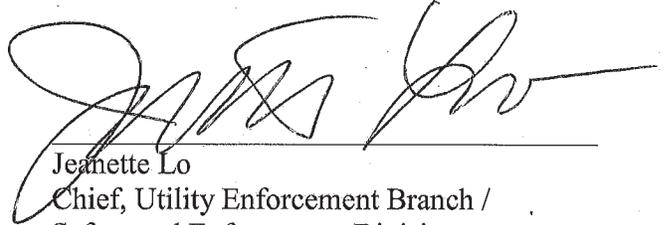
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505 Sansome Street, Suite 900  
San Francisco, CA 94111

SAFETY AND ENFORCEMENT  
DIVISION

Dated: \_\_\_\_\_

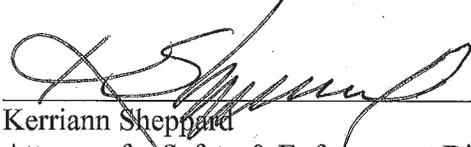
1/6/2015



Jeanette Lo  
Chief, Utility Enforcement Branch /  
Safety and Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Dated: \_\_\_\_\_

1/6/2015



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California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

(End of Appendix I)