

3.2 No claim, lien or action exists or is threatened against Vendor that would interfere with Client's rights under this Ecommerce Agreement;

3.3 The Products, Services and/or Deliverables of Vendor under this Ecommerce Agreement do not infringe or misappropriate any privacy, publicity, reputation or intellectual property right of any person;

3.4 Vendor will comply with all applicable data privacy laws, regulations and industry standards with respect to Personal Data, will implement and maintain appropriate privacy and security protections for Personal Data, will report any breaches of Personal Data to Client, will cooperate fully with Client in the investigation of any breaches, will not use, disclose, or transfer across the borders of the United States any Personal Data, and will cooperate fully with Client's requests for access to, correction of, and destruction of Personal Data in Vendor's possession; and

3.5 Vendor shall comply with all applicable laws and regulations relating to its business and to its Products, Services and obligations under this Agreement, including those relating to doing business with consumers and to the processing of business and consumer payment cards.

3.6 This agreement has been duly authorized, executed and delivered by Vendor and constitutes a valid, binding and legally enforceable Agreement.

3.7 During the term of this Agreement, the services performed by Vendor in connection with this Agreement shall be rendered in a timely and professional manner by qualified personnel consistent with commercial practice standards in the industry for similar services.

Client makes the following ongoing representations and warranties:

3.8 Client has full corporate power and authority to enter into this Agreement.

3.9 This Agreement has been duly authorized, executed and delivered by Client and constitutes a valid, binding and legally enforceable Agreement of Client.

4.0 Confidential Information; Personal Data

During the term of the Agreement each party will acquire, directly or indirectly, some Confidential Information of the other party. "Confidential Information" means information that is either marked as confidential or that a reasonable person would deem to be confidential under the circumstances. By way of illustration, Confidential Information includes all non-public information related to a party's products, services, and business; information about personnel, customers, agents and third-party providers; and information about a party's business practices. Each party agrees, with regard to its use of the other party's Confidential Information, to (i) protect the Confidential Information to the same extent it protects its own valuable information of a similar kind and value; (ii) use the Confidential Information only as necessary to carry out the purpose of this Agreement; and (iii) disclose the Confidential Information only to authorized personnel or third-party providers who have a need to know the Confidential Information and who are bound by similar obligations of confidentiality and non-disclosure. Notwithstanding anything to the contrary, Vendor acknowledges that Client is subject to Chapter 132 of the North Carolina General Statutes, and that this Agreement, including all documents incorporated by reference, shall be a public record as defined in such Act, and as such will be open to public disclosure and copying.

During the term of this Agreement Vendor will receive names, addresses and other personally-identifiable information about Client's employees ("Personal Data"). Vendor understands its obligations to protect Personal Data in accordance with all applicable data privacy laws, regulations and industry standards, including following the termination or expiration of the Agreement. Vendor will at all times protect Personal Data in accordance with its representations in Sections 3.4 and 3.5 of this Agreement.

Upon termination of this Agreement all property of Client that is then in Vendor's possession, custody or control and all documents or other items containing, summarizing or describing any Confidential Information or Personal Data, including all originals and copies thereof shall be promptly returned to Client or destroyed using secure destruction methods. If Vendor is required by law, regulation, or prudent business practices to retain certain Confidential Information and/or Personal Data for its own records, Vendor will continue to protect such information and data in strict accordance with the obligations under this Agreement.

5.0 Third Party Software; Software as a Service (SaaS)

5.1 Indemnity, Responsibility and Ownership. Under this Agreement, Vendor will provide the Customer access to certain Third Party SaaS services. Vendor maintains the obligation and assurance to Customer for all subscription fees and support of provisions associated with the Vendor executed Master Service Agreements with Third Party SaaS providers. Vendor maintains responsibility and ownership of Third Party SaaS provider as it relates to assurance of up-time/availability, SLA performance and Data/Information security. Vendor indemnifies the Customer of any ownership in these areas. Additionally Vendor assures that such Third Party SaaS providers are subject to and compliant with provisions "**7.0 - General Representations and Warranties**" and "**4.0 - Confidential Information; Personal Data**" listed herein. Per Vendor's security policy, all Third Party SaaS Providers are subject to Vendor performed annual security and risk assessments and must maintain PCI compliance as well as maintaining SOC2 certifications representing the control and hosting of their SaaS services. Third Party SaaS providers are additionally obligated to support security and compliance inquiries initiated by Customer. Customer acknowledges that access to Third Party SaaS services provided by Vendor will present Customer with certain intellectual property access and as so agrees to uphold the confidentiality of the Third Party SaaS services.

6.0 Taxes

Vendor's invoices shall state applicable taxes owed by Client, if any. Vendor shall remit such tax payments to the appropriate jurisdiction. Vendor and Client agree to cooperate to minimize any taxes, including providing reasonable notice and cooperation in connection with any audit. If Client provides certification of an exemption from tax or reduced rate of tax imposed by an applicable taxing authority, then Vendor shall not invoice for, nor pay over any, such tax unless and until the applicable taxing authority assesses such tax, at which time Vendor shall invoice, and Client shall pay, any such tax that is legally owed.

7.0 General Provisions

7.1 Survival. Termination or cancellation of this Agreement for any reason shall not relieve either party of obligations that accrued prior to termination or cancellation, or of obligations that either explicitly, or by their nature, are intended to survive this Agreement.

7.2 Limitations. In no event shall either party be liable to the other, or to any third party for any punitive, special, incidental, indirect or consequential damages whatsoever.

7.3 Severability. In case any provision contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision of this Ecommerce Agreement, and this Ecommerce Agreement shall be construed as if such provision(s) had never been contained herein, provided that such provision shall be curtailed, limited or eliminated only to the extent necessary to cause such provision to be valid, legal and enforceable.

7.4 Merger Clause. This Ecommerce Agreement replaces any prior oral or written agreements or other communication between the parties with respect to the subject matter of this Ecommerce Agreement.

7.5 Waiver. No waiver by a party of any breach by the other party of any of the provisions of this Ecommerce Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other provisions hereof. No such waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

7.6 Excusable Delay. Neither party will be in default of its obligations under this Ecommerce Agreement or liable to the other for any noncompliance arising from causes beyond the reasonable control of the party, including, without limitation, fires, floods, natural disasters, communication failures and other equipment or telecommunication problems, but excluding labor disputes. Each party will use reasonable efforts to promptly resolve any type of excusable delay.

7.7 Notices. All notices between the parties shall be in writing and shall be sent by a method providing for proof of delivery to the follow addresses:

Client:

Union County
Attn: Liz Cooper 8th
500 North Main Street, 9th Floor
Monroe, NC 28112

Vendor:

Business Impact Group
Attn: Paul Taunton
2411 Galpin Court, Suite 120
Chanhassen, MN 55317

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a. Information Security: Please report or submit all security or breach of information concerns to ITSupport@impactgroup.us

~~7.8 Governing Law. This Agreement is governed by the State of Minnesota law (without regard to conflicts of law provisions). **THE PARTIES EXPRESSLY WAIVE ANY RIGHT TO A JURY TRIAL REGARDING DISPUTES RELATED TO THIS ECOMMERCE AGREEMENT.**~~

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7.9 No Trademark License. Except as explicitly permitted in this Ecommerce Agreement, this Ecommerce Agreement does not grant either party the right to use the other party's or their affiliates' trademarks, trade names or service marks.

All copy (taglines, slogan, or themes), designs, photography, artwork, graphic design, etc. prepared by Client or at Client's direction (collectively, the "Designs") are the sole property of Union County. All print and production files are the sole property of Union County. Original, native layered art files will be provided to Vendor upon request, and Client hereby grants Vendor the non-exclusive, limited right to use the Designs for the sole purpose of carrying out Vendor's responsibilities under this Agreement. Client reserves all rights of ownership in the Designs, and reserves the right to edit and/or adapt the original Designs as needed.

7.10 Assignment; Use of Subcontractor. Neither party shall assign or transfer any interest, obligation or right under this Ecommerce Agreement without the other party's prior written consent (which shall not be unreasonably withheld), except that Client may assign this Ecommerce Agreement to one of its affiliates, subsidiaries or to a successor organization by means of a merger, acquisition of stock or assets (whether all, substantially all or otherwise), or restructure of its business without Vendor's prior written consent. Vendor may not use a subcontractor to provide any Products, Services and/or Deliverables without Client's prior written consent, and Vendor will remain responsible for any such subcontractor.

7.11 Third Party Beneficiary. Vendor acknowledges and agrees that all Client affiliates are third party beneficiaries of this Ecommerce Agreement.

7.12 Reporting Offering. In general Vendor will provide standard customer reports to Client on a monthly basis upon request. Client specific reporting shall be reviewed by both parties as necessary and appropriate modifications made as mutually agreed to by the parties at that time.

7.13 Binding Effect. Each of the undersigned warrants and represents that he or she has the authority to execute this Agreement on behalf of the respective party and to bind that party to the terms and conditions of the Ecommerce Agreement.

7.14 E-verify. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. Vendor shall ensure that Vendor and any subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. A breach of this provision by Vendor will be considered a breach of this Agreement, which entitles Client to terminate this Agreement, without penalty, upon notice to Vendor.

7.15 Indemnification. Vendor agrees to protect, defend, indemnify and hold Client, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due, in whole or in part, to the negligence of Vendor, its officers, employees, subcontractors or agents. Vendor further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto.

BUSINESS IMPACT GROUP, LLC

CLIENT

(Signature)

(Signature)

(Printed Name)

Brian Matthews

(Printed Name)

(Title)

County Manager

(Title)

(Date)

(Date)

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Deputy Finance Officer

Approved as to Legal Form: KLC

Part 1 Addendum:

BASE AGREEMENT FOR BRAND AND PRINT MATERIALS

Vendor Name:	Business Impact Group, LLC
Client Name:	Union County
Date Ecommerce Agreement Signed:	

The following Resource Center terms shall apply in addition to the language outlined within the attached Ecommerce Agreement:

1.0 Pricing

1.1 Resource Center / Program Set-up Fee:

One-time program setup fee of \$1,150 for setup and launch of the Resource Center website. The Union County online store will be utilizing the current Print Shop in place, but re-branded to support both brand and print materials. Since the Branded Items will be incorporated into our current Print Shop site, no additional SSO fees will apply, as that integration was previously established.

1.2 Reoccurring Program Monthly Fee: A reoccurring monthly fee of \$250 (\$3,000 annually) will be **waived** to Client for the following Services: all costs associated with Resource Center website hosting, digital imaging, software license fees, product sku set-up, and dedicated customer service and sales team.

1.3 Upon Special SOW Requests: After the initial program set-up, any Services and Deliverables we provide to you that are custom to your program will be provided on a project basis at an hourly rate of \$185.00. These custom projects will be described in a Scope of Work document (“SOW”) that must be signed by both parties in advance before any custom project work will begin.

1.4 Warehousing / Inventory Fees: A reoccurring monthly fee of \$250 (\$3,000 annually) will be billed to Client for the following Services: all costs related to inventory management and product warehousing.

1.5 Handling Charge: A handling charge of \$2.95 per order will be assessed for all orders placed through the online store.

1.6 All payments shall be conditioned upon appropriation by the Board of Commissioners of sufficient funds for each request for services.

2.0 General Payment Terms

Vendor agrees to submit all invoices electronically in PDF format to Client, via Client email address(es) provided. Client agrees to pay each invoice within thirty (30) days ^{*}of the invoice. It is specifically understood by and between parties that payment terms are ~~“net 30”~~ ^{**}. Client will submit payment via ACH payment, in which detailed bank instructions will be provided. It is specifically understood and agreed to by Client and between the parties that all purchases made by Client under

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*receipt of an accurate invoice.
** 30 days receipt from an accurate invoice.

the Program shall be subject to the terms and conditions of this Agreement and these terms and conditions shall govern each and every purchase made by Client in the Program and may not be varied by any contrary terms or conditions proposed by Client. Client acknowledges that Client has read and understood these terms.

If Client is subscribing to a web-based platform for any program/service and the platform is directly available to Client's employees, the employees will pay for their own e-store purchases using a major credit card at the time of check out.

Client or its franchisee's who demonstrate they are consistently past due in paying their invoices will be placed on credit hold and may be placed on credit card only terms moving forward.

~~For any payment that is paid via a p-card or major credit card, whether by Client or an employee, a credit card processing fee of 3.5% will be added to the completed transaction costs.~~ Int. _____

3.0 Program Overview

Under this Base Agreement for Resource Center and at Client's management and discretion, Vendor will procure and provide to Client branded merchandise and other materials, all or some of which will bear the Client's trademarks, service marks and/or logos ("**Products**"). Vendor will facilitate and manage the development, acquisition and fulfillment of Products on behalf of Client (the "**Services**"). This procurement relationship between Vendor and Client is referred to as Client's "**Program**".

Prior to Vendor providing any Products and Services, the parties will sign an Addendum that is applicable to the particular Products and/or Services being provided. In some cases an Addendum could be titled or referred to as an Attachment, Order Form, PO, Statement of Work, Service Level Agreement or other similar term.

4.0 Merchandise and Services

Vendor and Client will mutually collaborate upon the initial selection of Merchandise to be offered within the Program. Client has the right of final approval of all of the initial Merchandise selected for the Program. It is specifically understood by and between the parties that the prices of the Merchandise may be amended periodically as mutually agreed upon by Vendor and Client as new product and existing sku(s) change. Vendor will always use its expertise in custom designing, branding and managing program inventory.

Vendor and Client will collaborate (based on findings from client discovery) an initial stock of inventory of the Merchandise, by item, which will be adequate to fulfill the anticipated needs of Client. These initial inventory levels will be mutually agreed upon by the parties and thereafter Vendor will have discussions with Client regarding the adequacy of inventory levels by sku within the program based on both the sales history and future client needs.

Setup and initial implementation of the program is expected to take eight to twelve weeks. The program will be monitored and reviewed weekly/monthly for sku activity by BIG's internal team. If after five months (150 days) the individual sku(s) within inventory has less than 75% sell through the Client agrees to pay for the remaining amount of inventory on hand in that identified sku. After

payment is received from Client, this identified inventory would become consigned inventory within the program website.

5.0 Delivery of Merchandise

Merchandise orders shall be delivered to the destinations as designated by the Client. All orders for in-stock merchandise that are placed before 12:00pm CST will ship within two business days or less from the day of receipt from Chanhassen, MN (USA). All orders will ship via UPS or FedEx, FOB Chanhassen, Minnesota.

If you require express or air shipping, please choose the method from the drop down on the shipping information page from your website. Express orders placed by 12:00pm CST will ship same day.

6.0 Additional charges

Express (overnight, two day or three day air) shipments will be accommodated upon request, at Client's sole cost and expense. Appropriate sales tax and any and all shipping and handling fees, freight costs, including, without limitation, overnight charges, will be included on all orders and shall be paid by the Client.

Vendor will accept returns on Program stock Merchandise within 30 days from invoice date if a valid Return Authorization is provided by Vendor and product is still in new condition. Vendor will provide a Return Authorization based on communication with the sales representative and a valid reason for the return.

If Client requests Vendor to warehouse excess inventory that is not sourced from Vendor, and Vendor has space available within their facilities, all such inventory shall be warehoused at a fee of \$25 per pallet per month. This will be charged to Client on a separate order each month and the duration of storage time will be determined at the time of request based on available Vendor space

7.0 Slow Moving Merchandise

Vendor will provide Client with the earliest possible notice of slow moving Merchandise. Slow moving Merchandise is identified as any item (sku) within Client's program that has been in inventory for 150 days with less than 75% of that Merchandise being sold. Various methods may be used to move the applicable merchandise (such as marketing directly to Client employee's and/or customers, and/or using slow moving items for corporate sponsored events and customer give away to name a few). Within sixty days of such slow moving notice, Client will submit payment for such identified slow moving product hence making said product consigned inventory being held by Vendor.

8.0 Outdated Logos

Client will provide Vendor with the earliest possible notice of any plans to change its logo, service mark, or trademark so that Vendor may take steps to deplete any Merchandise inventory to be affected by such change. Vendor shall use its reasonable efforts to deplete any such inventory, but in the event that merchandise or materials remains on hand with an outdated logo, service mark, or trademark, Client agrees to take possession of such Merchandise inventory and purchase it at Client's listed e-commerce (e-store) current sell price within thirty (30) days of notice.

9.0 Term and Termination

9.1 Term

Base Agreement for Resource Center shall be effective on the date signed by Client and shall continue for a three (3) year term unless otherwise terminated pursuant to Section 9.2.

Thereafter, the Client, may, in its sole discretion, elect to ~~automatically~~ Int. _____ renew this Agreement for up to two successive one (1) year periods.

9.2 Termination

9.2.1 The Base Agreement for Resource Center may be terminated immediately (i) by mutual written agreement of the parties, or (ii) by either party if the other party breaches this Base Agreement for Resource Center or becomes insolvent.

9.2.2 Client may terminate the Base Agreement for Resource Center at any time by providing Vendor ninety (90) days written notice.

9.3 Effect of Termination

9.3.1 In the event of termination for any reason referenced above in Section 9.2.1 and 9.2.2, Client agrees to purchase within thirty (30) days of such notice all remaining Custom Inventory, Program Inventory, Pending Inventory or Work In Process (WIP) sourced on Client’s behalf, whether inventory is bearing Client’s logo or not, at the Client’s listed sell price plus shipping.

10.0 Binding Effect

Each of the undersigned warrants and represents that he or she has the authority to execute this Agreement on behalf of the respective party and to bind that party to the terms and conditions of the Base Agreement for Resource Center.

BUSINESS IMPACT GROUP

CLIENT

(Signature)

(Signature)

(Printed Name)

Brian Matthews

(Printed Name)

(Title)

County Manager

(Title)

(Date)

(Date)

