



## **SiteCompli Proposal for Charles Henry Properties**

December 16, 13



## **SiteCompli Base Service:**

SiteCompli's core alerting, monitoring and reporting services aggregate & disseminate compliance-related data from multiple New York City and New York State government agencies across your portfolio of properties. With this data, SiteCompli helps your organization keep abreast of compliance activity that impacts your business. Key benefits of SiteCompli include:

- **Email Alerts** - SiteCompli generates email alerts notifying users of key changes and events such as a new violation, upcoming hearing, upcoming inspection due date, etc. Email alerts can be sent to an unlimited number of email addresses, allowing you to have copies of relevant alerts sent to interested parties (e.g. vendors & consultants)
- **SiteCompli Website** – The website provides a central place for users to explore compliance-related information about their portfolio of properties. It allows users to access compliance data by category and by building and provides a suite of helpful tools, such as:
  - **Reporting Module** - SiteCompli's Reporting Module allows users to create on-demand comprehensive reports of one or more buildings in their portfolios and helps prioritize high-risk issues and high ROI opportunities.
  - **Calendar Sync** - SiteCompli users can integrate key compliance dates with popular online calendar programs such as Outlook, Apple iCal and Google Calendar.
  - **Notes/Documents/Work Orders** – SiteCompli allows users to attach notes and documents to any violation, complaint, inspection or property, as well as electronically create and assign work orders.
  - **Add & Track** - SiteCompli's Add & Track feature allows users to add "off-line" compliance data, track statuses and send reminders and alerts to users and other interested parties.
- **Multiple Users** – Employees and vendors who service your organization can each be granted user credentials at no additional cost. Each user's access can be customized, thus ensuring that the right people receive the information that is most relevant to them.
- **Customer Support** – SiteCompli's customer support team is available by phone or email to create additional users and provide technical support at no additional fee.

**All subject to the terms and conditions of SiteCompli's Customer Agreement**



**PRICING:**

- > **Monthly Cost: \$50**
- > **Billing begins December 20, 2013**

- > Billed every six (6) months for the upcoming six (6) month period
- > 3% annual price increase



## **SiteCompli Customer Agreement**

This Customer Agreement (“Customer Agreement”) is entered into by and between the entity whose name appears at the bottom of this Customer Agreement and all persons and/or entities acting in association with, on behalf of or in affiliation with an entity that utilizes SiteCompli’s Services and/or Website, including Delegate Account Holders (as those terms are defined below) (collectively, “Customer”), and, SiteCompli, LLC with an address of 48 West 21 Street, 4<sup>th</sup> Floor, New York, New York 10010 (“Company”) and is effective as of the date of execution hereof by Customer (the “Effective Date”).

Whereas, Customer is interested in engaging Company for its alerting, monitoring and reporting services relative to certain real properties; and

Whereas, Company has the ability to provide Customer with alerting, monitoring and reporting services regarding compliance-related data from multiple New York City and New York State government agencies relative to such real properties;

Now, therefore, for good and valuable consideration, the receipt of which is hereby acknowledged, Customer and Company agree as follows:

### **I. Scope of Agreement.**

1.1. Customer acknowledges and agrees that: Company is not a government or quasi-government agency; Company does not represent or speak on behalf of any government or quasi-government agency; Company is solely and exclusively a data provider and is not in a superior position to locate, obtain or determine any data than anyone else conducting their own due diligence concerning the data provided by Company and its employees; Company does not physically inspect any buildings; all data provided by Company are from sources other than from physical inspection; Company is not responsible for the accuracy, completeness or correctness of all or any of the data provided; all data is provided for informational purposes only; none of the data is verified as true, correct or complete in any respect; all data is provided “as is” and “as available” from various governmental and quasi-governmental agencies and other public databases; Company is under no obligations to make any affirmative disclosures to anyone; Customer assumes all risk and liability for any actions taken, decisions made or any other reliance on the information provided through the Services and/or the Website (as such terms are hereinafter defined); the Services are not a substitute for Customer’s own due diligence; and Company does not provide legal advice.

1.2. Customer agrees to be bound by: (i) the terms and conditions of this Customer Agreement; (ii) Company’s terms of use at [www.sitecompli.com/terms](http://www.sitecompli.com/terms) (the “Terms of Use”); (iii) Company’s privacy policy at [www.sitecompli/privacy](http://www.sitecompli/privacy) (the “Privacy Policy”); and (iv) any and all other policies which Company posts on Company’s website at <http://www.sitecompli.com> (the “Website”) or about which Company otherwise notifies Customer. The Terms of Use, Privacy Policy and other Company policies are fully incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein. Company has the unilateral right to change or modify its Terms of Use, Privacy Policy and/or any other policies from time to time, and Customer’s continued use of the Services (as hereinafter defined) shall constitute Customer’s acceptance of such amended terms.

2. **Services.** Subject to the terms and conditions of this Customer Agreement, the Terms of Use, the Privacy Policy and the Website, Company agrees to provide Customer with certain professional services (the “Services”). Any Services that Company provides through Company’s Website are governed by Company’s Terms of Use. Some of the Services may be subject to additional costs. The Services may include the following: (i) sending email alerts to Customer regarding key changes or events relative to Customer’s portfolio of properties (“Email Alerts”); (ii) giving



Customer access to the Website through which Customer may accomplish a number of tasks, such as, creating on-demand comprehensive reports regarding real property in Customer's portfolio, integrating key compliance dates with popular online calendar programs, allowing Customer to associate relevant notes and documents to other materials in Customer's portfolio; and allowing customized and separate access to the Website for employees and vendors of Customer; (iii) providing technical support; (iv) providing information regarding hearings, violations and inspections; (v) providing verbal or written communications to Customer as needed; and (vi) providing online access to paperwork as available from various City agencies. While Customer may opt not to receive certain promotional or general information email communications, this will not affect Email Alerts. Customer may customize Email Alerts by contacting Customer's account representative at Company or by contacting [support@sitecompli.com](mailto:support@sitecompli.com).

- 3. Fees.** Customer shall receive an invoice for fees due (the "Fees") for Customer's use of the Services. All Fees are subject to applicable New York State taxes. All invoices shall be paid within thirty (30) days of the date of the invoice. Payment of Fees is separate from and not contingent upon any predetermined results or information conveyed via the Services or Website or any analysis, opinion, or conclusions drawn or derived from the Services or Website. Customer's obligations to pay Fees incurred through the date of termination of this Customer Agreement will remain in effect following the termination of this Customer Agreement for any reason. Customer acknowledges and agrees that it is responsible to pay any and all Fees due and owing under its account regardless of the person or entity who incurred such Fees and regardless of the owner of the entity which is being monitored. Company shall have the right to charge interest at a rate of five percent (5%) per annum after thirty (30) days of failure to pay an invoice when due. The obligation to pay Fees due and owing and any interest which has accrued shall survive the termination of this Customer Agreement.
- 4. Termination.** Either party may terminate this Customer Agreement for any reason or no reason on thirty (30) days written notice to the other party or at the end of any prepaid period, whichever is later. Company shall also have the immediate right, in its sole discretion, to terminate this Customer Agreement or to suspend or refuse any or all the Services or access to the Website at any time for a breach of any provision of this Customer Agreement, a breach of any of the terms of the Terms of Use or Privacy Policy, infringement of any intellectual property owned by Company or by a third party or the unauthorized use or disclosure of Confidential Information of Company or any third party. If this Customer Agreement is terminated by either party per Section 5 below, and when there is a zero outstanding balance due Company, Company will provide Customer with a copy of the Customer's compliance information on file in a machine-readable format at no additional charge.
- 5. Building List.** Customer shall provide Company via e-mail or other delivery method with a written list of initial buildings for which Customer would like to use the Services (the "Building List"). Customer may add to or remove from the Building List at any time via written or electronic request. Services and buildings on the Building List can be added or deleted at any time by Customer via e-mail or web notification to Company. It is Customer's responsibility to periodically check its Building List to ensure all of the buildings of interest are listed. Company assumes no responsibility for Customer's Building List. Mid-month additions of buildings will be billed for a full month as if the addition was made on the first day of the month. Deletions of buildings from Customer's Building List will take effect at the end of the current month or when any prepaid period has ended, whichever is later.
- 6. Delegate Account Holders.** Customer acknowledges that, at Customer's request and subject to Company's written approval, which shall be in Company's sole discretion, Company may create for Customer additional accounts for and/or grant access to Company's Website by additional parties ("Delegate Account Holders") including but not limited to Customer's employees, agents, and vendors. Delegate Account Holders may have access to Customer's account, property and/or compliance information. Customer assumes all responsibility for and liability of the actions undertaken by Delegate Account Holders. For the avoidance of doubt, access to Company's Website by Delegate Account Holders is governed by this Customer Agreement, the Terms of Use and Privacy Policy. Customer acknowledges and agrees any violation or breach of this Customer Agreement, the Terms of Use, Privacy



Policy or any other Company policy by a Delegate Account Holder constitutes a violation or breach thereof by Customer. Delegate Account Holders will receive e-mail marketing communications from which they may opt-out. Delegate Account Holders will also receive E-mail Alerts regardless of whether Delegate Account Holders request to opt out of the aforementioned email marketing communications.

**7. Statement of Confidentiality:** Company and Customer will use commercially reasonable efforts to preserve the confidentiality of information and materials that might reasonably be deemed as Confidential Information (as that term is defined in the Terms of Use) and disclosed by either party, except that Company may disclose Customer's Confidential Information to Delegate Account Holders as necessary to provide the Services. Company and Customer shall not disclose such Confidential Information except to employees, consultants or agents to whom disclosure is necessary for the performance of this Customer Agreement or to the extent a party is required to disclose such Confidential Information in the context of any judicial or administrative proceeding or as otherwise required by law, as more fully described in the Terms of Use. The pricing policies contained within the attached proposal are deemed Confidential Information.

**8. Representations and Warranties.**

8.1 Company represents and warrants that it has the right, power and authority to enter into and perform the obligations under this Customer Agreement. Company further represents and warrants that the Services will be reasonably available to Customer, subject to Customer's systems and other factors not in Company's control including but not limited to the availability of government databases, third-party networks or Internet connections.

8.2 Customer represents and warrants that it has the right, power and authority to enter into and perform the obligations under this Customer Agreement. ~~For buildings that Customer owns or controls, Customer represents and warrants that it has general liability insurance in the amount of at least Five Million Dollars (\$5,000,000.00) and property owner's insurance in the amount of at least Five Million Dollars (\$5,000,000.00).~~ Customer further represents and warrants that it has the authority to bind all of its Delegate Account Holders to this Customer Agreement and that it shall pay all Fees incurred under its account whether or not incurred by Company, a Delegate Account Holder or other third-party acting on behalf of or in connection with Customer.

**9. DISCLAIMER OF WARRANTIES.** CUSTOMER ACKNOWLEDGES THAT COMPANY IS NOT A GOVERNMENT OR QUASI-GOVERNMENT AGENCY AND DOES NOT REPRESENT OR SPEAK ON BEHALF OF ANY GOVERNMENT OR QUASI-GOVERNMENT AGENCY. THE SERVICES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY ON AN "AS IS" AND "AS AVAILABLE" BASIS TO CUSTOMER. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8.1, THE COMPANY SPECIFICALLY DOES NOT WARRANT THAT THE SERVICES WILL MEET ANY REQUIREMENTS. THE COMPANY, ITS LICENSORS AND OTHER SUPPLIERS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL IMPLIED REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY PROMISES OF ACCURACY OR CORRECTNESS OF INFORMATION PROVIDED OR OMITTED OR OF ANY REFERRALS PROVIDED. CUSTOMER ACKNOWLEDGES THAT COMPANY IS NOT RESPONSIBLE FOR THE QUALITY, COMPLETENESS OR ACCURACY OF THE INFORMATION POSTED OR NOT POSTED ON THE WEBSITE OR OTHERWISE COMMUNICATED TO CUSTOMER AS PART OF THE SERVICES, AND THAT CUSTOMER SHOULD UNDERTAKE ITS OWN DUE DILIGENCE DIRECTLY WITH ANY APPROPRIATE GOVERNMENT OR QUASI-GOVERNMENT AGENCY OR THIRD PARTY. CUSTOMER FURTHER ACKNOWLEDGES THAT COMPANY MAKES NO WARRANTIES REGARDING PROTECTION OF CUSTOMER'S CONFIDENTIAL INFORMATION. WHILE COMPANY UNDERTAKES ALL COMMERCIALLY REASONABLE MEASURES TO PROTECT ITS WEBSITE AND THE INFORMATION CONTAINED THEREIN FROM BEING COMPROMISED OR MISUSED,



COMPANY CANNOT GUARANTEE AND SPECIFICALLY DOES NOT WARRANT THE PROTECTION OF INFORMATION AGAINST SUCH UNAUTHORIZED ACCESS OR USE.

**10. LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PROVIDED BY LAW, CUSTOMER AGREES THAT COMPANY AND ITS AFFILIATES, SUBSIDIARIES, SUPPLIERS, SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS AND MEMBERS ("COMPANY PARTIES") SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH THE COMPANY IS TO DISCONTINUE CUSTOMER'S USE OF THE SERVICES AND THE WEBSITE. IN NO EVENT SHALL THE COMPANY'S OR COMPANY PARTIES' LIABILITY FOR ANY AND ALL CLAIMS, CAUSES OF ACTION, LOSSES, OR DAMAGES EXCEED THE TOTAL AMOUNT THAT CUSTOMER PAID THE COMPANY FOR THE SPECIFIC SERVICES AT ISSUE FOR THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE TIME THE CAUSE OF ACTION ACCRUED. THE LIMITATIONS SET FORTH HEREIN ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN CUSTOMER AND COMPANY. THE COMPANY WOULD NOT BE ABLE TO PROVIDE CUSTOMER WITH THE SERVICES WITHOUT SUCH LIMITATIONS. LINKS AND/OR ADVERTISEMENTS MAY BE PROVIDED ON THE WEBSITE TO OTHER WEBSITES OR ENTITIES. THE COMPANY AND COMPANY PARTIES ASSUME NO RESPONSIBILITY OF ANY KIND FOR THE CONTENT, AVAILABILITY OR PRODUCTS OF SUCH WEBSITE LINKS THERETO OR THEREUPON, OR THE USE THEREOF. THOUGH INSERTING LINKS TO THESE SITES, IT IS UNDERSTOOD THAT COMPANY AND THE COMPANY PARTIES DO NOT ENDORSE SUCH WEBSITES, THEIR CONTENT OR ANY RELATED PRODUCTS OR SERVICES. COMPANY AND/OR COMPANY PARTIES MAY PROVIDE THIRD PARTY REFERRALS. THE COMPANY AND COMPANY PARTIES ASSUME NO RESPONSIBILITY OF ANY KIND FOR SUCH THIRD PARTY REFERRALS. THOUGH THIRD PARTY REFERRALS MAY BE PROVIDED, IT IS UNDERSTOOD THAT COMPANY AND THE COMPANY PARTIES DO NOT ENDORSE SUCH THIRD PARTY REFERRALS. COMPANY AND COMPANY PARTIES ARE NOT LIABLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE WEBSITE. TO THE MAXIMUM EXTENT PROVIDED BY LAW, UNDER NO CIRCUMSTANCES WILL COMPANY OR COMPANY PARTIES BE LIABLE FOR ANY LOSS OR DAMAGE, INCLUDING PERSONAL INJURY OR DEATH, RESULTING FROM ANY USE OF THE SERVICES, THE INFORMATION PROVIDED ON THE WEBSITE, INFORMATION PROVIDED BY COMPANY, ANY CONTENT POSTED ON THE WEBSITE, ANY CONTENT TRANSMITTED TO USERS, ANY INTERACTIONS BETWEEN CUSTOMER AND COMPANY, OR ANY INTERACTIONS BETWEEN OR AMONG USERS OF THE WEBSITE, WHETHER ONLINE OR OFFLINE.

**11. Indemnification.** Customer and its affiliates and Delegate Account Holders shall defend, indemnify and hold harmless Company and the Company Parties, from and against all claims, actions, liabilities, damages, losses, costs and expenses, including attorneys' fees and disbursements, arising out of or related to: (a) the Services; (b) any real property owned or controlled by Customer or its affiliates; (c) any third-party claims for personal injury, wrongful death or property damage related to real property owned or controlled by Customer or any of its affiliates; (d) Customer's use of and/or access to the Website or the Services; (e) any use or alleged use of Customer's accounts or Customer's passwords by any person or entity, whether or not authorized by Customer; (f) the content Customer submits, uploads, posts, transmits or makes available through the Website; (g) Customer's connection to the Website or Services; (h) Customer's violation or breach of any term of the Terms of Use; (i) any Fees due and owing whether incurred by Customer, affiliates of Customer or a Delegate Account Holder; and/or (j) Customer's violation of the rights of any third party, including any intellectual property or privacy right, or the negligence or willful misconduct of Customer.

**12. Ownership.**



- 12.1 Unless otherwise stated, all Company content, including but not limited to, text, images, trademarks, service marks, trade names, logos, button icons, audio clips, data compilations, user interfaces and software, is the property of the Company or other third parties. Such content may constitute Confidential Information and is protected by copyright, trademark, patent and other federal and state intellectual property laws.
- 12.2 As between Customer and Company, Customer acknowledges and agrees that the Company owns all rights in any and all intellectual property owned by or created by or for the Company in its business, including all Services created by the Company, on behalf of the Company, or in collaboration with Customer, in performing the Services. Customer acknowledges and agrees that nothing contained in the Terms of Use and no use of the Services, shall cause to vest in Customer or be construed to vest in Customer, any intellectual property rights other than the limited license granted to Customer to use the Services solely in accordance with the terms and conditions of the Terms of Use and this Customer Agreement.
- 12.3 Customer agrees not to, and agrees not to engage a third party to, undertake any effort to reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of Company's software, applications, processes, or other intellectual property.
- 12.4 Customer agrees not to engage in any activity regarding the Website or the Services which is in contravention of the Terms of Use or this Customer Agreement, either on its own or with any third party, including, but not limited to, using or accessing the Website and/or the Services for the purposes of setting up a competitive website to the Company or assisting a competitive or rival website to the Company.
- 12.5 The contents of the Website, Email Alerts, reports, and other communications related to the Services, electronic or otherwise fixed in a tangible medium, provided by Company are subject to copyright protection and may not be reproduced, displayed, disclosed to third parties or published in full or in part without the prior written consent of Company. Use of such materials by Customer for its personal and internal use is provided solely under license by Company as set forth in the Terms of Use.

**13. Successors and Assigns.** Company's rights hereunder may be assigned, in whole or in part, by Company or its affiliate to any third party, in Company's sole discretion, including an assignment in connection with a merger, acquisition, reorganization or sale of substantially all of Company's assets or otherwise, in whole or in part. Customer may not assign this Customer Agreement without the prior written approval of Company, which shall not be unreasonably withheld. This Customer Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, affiliates, subsidiaries and permitted assigns.

**14. Controlling.** In the event of any conflicting terms between this Customer Agreement and the Terms of Use, the Privacy Policy or the Website, the terms of this Customer Agreement shall control.

**15. Choice of Law/Disputes.** This Customer Agreement, the Terms of Use, Privacy Policy and any other policies, terms and conditions or agreements between Customer and Company shall be governed by, construed and enforced in accordance with the laws of the State of New York applicable to agreements entered into and wholly performed therein, without regard to any conflict of laws principles. Customer and Company hereby agree that the exclusive jurisdiction and venue for any action, suit or proceeding based upon any matter, claim or controversy arising hereunder or relating hereto shall be in the state or federal courts located in the State and County of New York and hereby consent to such exclusive jurisdiction. Any action brought by Customer must be brought within one (1) year of the date such cause of action accrued or such action is waived. Customer agrees to pay Company's costs and attorneys' fees and disbursements for any collection activities that Company has to undertake to collect unpaid Fees.



**16. Survivability.** This paragraph and paragraphs 1, 3, and 6 through 15 shall survive the termination of this Customer Agreement.

**17. Counterparts:** This Customer Agreement may be executed in any number of counterparts each of which shall be deemed an original, but all of which together shall constitute one instrument. Facsimile or electronic signatures shall be deemed to be original signatures.

In witness whereof, the parties confirm that they have read the terms of this Customer Agreement, the Terms of Use and the Privacy Policy, and have executed this Customer Agreement as of the Effective Date.

A handwritten signature in blue ink that reads "Claude Simon".

12-15-13

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**Signed for Charles Henry Properties**

Claude Simon

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**Name (Print)**

3rd Floor, 254 Fifth Avenue

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**Address**

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**Date**

President

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**Title**

New York, NY 10001

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**City/State/Zip**

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**Signed for SiteCompli**

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**Name (Print)**

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**Date**

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**Title**