

Standard Terms & Conditions

These Standard Terms and Conditions (the “Standard Terms”) along with the E25 Internetworking Services (“E25”) Proposal Document (attached) constitute the entire agreement between the parties (the “Agreement”) and may only be modified or amended in a writing signed by both parties.

A. Agreement to Provide Services: The agreement to provide Products and Services refers to this proposal and standard contractual agreement prepared by E25 for _____ (Client) describing the scope of work, products and services offered, work steps, and responsibilities for a specific project, service or product. Unless withdrawn or otherwise indicated, any agreement to provide Products and Services submitted to Client by E25 is valid for sixty (60) days from the date of such Proposal for Products and Services.

B. Subcontractors: E25, in its sole discretion, may from time to time use subcontractors to deliver specific products or services to the Client. The management, quality of workmanship and all financial arrangements with subcontractors will be the sole responsibility of E25.

C. Independent Contractors: The parties to this Agreement are independent contractors, and shall not be construed to be partners, joint ventures, or employer and employee. Neither party shall have the authority to bind the other party without the express written consent of the party to be bound.

D. Client's Responsibilities:

i. Client agrees to pay E25 all professional fees according to the timetable set forth in the proposal agreement or at the time the work is performed at the rates set by E25 in the normal course of business (the “Current Fee Schedule”).

ii. Client agrees to provide E25 reasonable access to Client's staff, facilities and equipment during the term of this Agreement. During the installation process, Client agrees to provide E25 the periodic assistance of Client's personnel and suitable supervised access to hardware and system (e.g., security clearance).

iii. Client agrees to be responsible for and pay all state, local and other taxes or other charges directly applicable to the sale, installation, maintenance or use of the products and services provided under this Agreement. In the event E25 is assessed any such taxes due to the failure of Client to pay said taxes for any reason, Client shall reimburse E25 same within 30 days of notice by E25.

iv. Client shall provide complete, timely information and data to meet the requirements of the engagement. The Client shall furnish the required information and data as expeditiously as is necessary for the orderly progress of the work. E25 will rely on its accuracy and completeness and will not be held responsible in any way for information provided by Client. Client shall designate a representative authorized to make commitments on Client's behalf for this Engagement and Agreement. The Authorized Representative shall render decisions promptly to avoid delay in the progress of E25 services.

Accuracy and consistency of information, Client's allocation of labor, and management direction supplied by Client is critical to the success of this engagement. If E25 believes a pattern of inaccurate or inconsistent information or inadequate labor or management direction is being provided by Client, E25 will bring this matter to Client's attention in writing. If the issue cannot be resolved, E25 has the option to withdraw from the engagement and Client agrees to pay E25 for services up to the day of withdrawal.

E. E25's Responsibilities: E25 agrees that it shall hold, maintain and treat all information provided to E25 by Client as confidential, proprietary, or a trade secret, regardless of its source and shall not use any such information for parties other than Client, and shall take such steps as may be reasonable to protect the proprietary, confidential or secret nature of such information; provided, however, E25 may disclose certain information to its affiliates from time to time. Other than for the purpose of this agreement, E25 shall not disseminate, disclose or publish information to, or use such information for the benefit of, any third person or persons, companies, corporations or other firms or associations, without the express written consent of Client. The foregoing notwithstanding, any information which is publicly available through prior publication or otherwise, or which might be obtained through reasonable inquiry, shall not be considered confidential, a trade secret, or proprietary, except for customer lists, financial data relative to the Client, or any other information which might relate directly to, and solely concern, Client.

F. Rights in Data: All original written materials, including programs and programming documentation, originated and prepared for Client under this Agreement shall belong exclusively to Client. Any Custom Software Source Code produced by E25 shall remain

the property of E25. Either party may distribute the Custom Software Object Code without revenue responsibilities and/or liability to the other party. Custom Software Source Code shall include, but not be limited to any Client specific modifications to software programs created by E25 or add-on programs to manufacturer's applications created by E25 that are readable, editable and created for a specific purpose. Custom Software Object Code shall mean the compiled runtime version of software that has been created for a specific version of the manufacturer's applications. The ideas, concepts know-how or techniques developed during the course of this Agreement by E25 personnel shall be treated as follows:

- i. If made jointly by personnel of E25 and Client, both parties, without restriction or accounting to the other joint owner, shall jointly own it.
- ii. If made by Client personnel, it shall be the sole property of Client.
- iii. If made by E25 personnel, it shall be the sole property of E25, but E25 hereby grants to Client a non-exclusive, irrevocable and royalty-free license to use, but not sublicense, it.

This Agreement shall not preclude E25 personnel from developing products or services that are competitive to products or services that might be delivered to Client under this Agreement.

G. Professional Services Invoice Terms: Client understands it will be invoiced periodically for billable services rendered and expenses incurred in the previous billing period. Client agrees that payment is due upon receipt of the invoice. Client understands that a service charge calculated at the rate of 18% per annum will be assessed on any unpaid invoice balance after thirty (30) days from the date of the invoice (the "Service Charge"). All invoice charges will be deemed to have been accepted by Client unless Client disputes the charges reflected on an invoice in writing within thirty (30) days from the date of the invoice. Any notification of dispute must contain sufficient detail of the disputed item(s) and the resolution expected to be performed by E25. E25 may suspend performance of services under this Agreement if the Client fails to make payment when due. Before suspending service, E25 will give seven (7) days written notice to Client. If E25 does not receive payment in full within seven (7) days of the date of the notice, the suspension may take place without further notice from E25, and E25 shall have no liability to Client whatsoever as a result of such suspension of services.

H. Expenses: Client agrees to reimburse E25 for all reasonable out-of-pocket expenses incurred in providing the professional services defined in the proposal.

Reimbursable expenses may include but not be limited to: media charges; postage and shipping fees, travel, parking, meals and accommodations, photocopying, telecommunication charges and other related expenses. E25 agrees to submit for the approval of the Client any expenses to be incurred in the performance of professional services that is greater than \$50.

I. Warranty:

i. Other than the obligations of E25 expressly set forth herein, E25 PROVIDES A WARRANTY OF GOOD WORKMANSHIP WITH REGARD TO ALL SERVICES PROVIDED. E25 DOES NOT WARRANT ANY SOFTWARE OR HARDWARE IF APPLICABLE IN ANY MANNER, EITHER EXPRESSED OR IMPLIED. ANY WARRANTY OF SOFTWARE IS DELIVERED AS DESCRIBED BY EACH PUBLISHERS LICENSE AGREEMENT(S). ANY VERBAL OR WRITTEN REPRESENTATION PRIOR TO THIS AGREEMENT IS SUPERSEDED BY THIS AGREEMENT.

ii. In the event of non-payment or other material breach, E25's obligation to provide warranty or any other services under this or any related agreement shall cease.

J. Disclaimer: The warranty given above constitutes the only warranty made by E25 with respect to this Agreement. Such warranty is in lieu of, and Client hereby waives, all other warranties or guarantees of E25, whether express or implied, including any implied warranties of merchantability and fitness for a particular purpose or any other warranty with respect to the quality, accuracy or freedom from error of the operation, use and function of the software. Client understands that it is responsible to maintain its own financial records and that E25 is not performing accounting or record keeping services for Client.

K. Limitation of Liability: E25 SHALL NOT BE RESPONSIBLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSSES OR DAMAGES, INCLUDING BUT NOT LIMITED TO CLIENT'S LOSS OF USE OF THE SOFTWARE, HARDWARE, LOSS OF TIME, LOSS OF DATA OR INFORMATION OF ANY KIND, INTERRUPTION OF BUSINESS, REMOVAL AND REINSTALLATION CHARGES, LOSS OF PROFITS, MONEY OR GOODWILL, AND PAYMENTS OF CLAIMS OR JUDGMENTS REGARDING THE PERFORMANCE OF THE SOFTWARE OR HARDWARE, OR THE LOSS OF USE OF THE SOFTWARE OR HARDWARE, EVEN IF E25 HAS BEEN ADVISED OR MADE AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES OR DAMAGES AND REGARDLESS OF WHETHER THE CLAIM IS BASED ON CONTRACT NEGLIGENCE, TORT, STRICT LIABILITY, OR OTHER THEORY OF

LIABILITY.

THIS LIMITATION ON DAMAGES AND CLAIMS IS INTENDED TO APPLY TO ALL CLAIMS OF CLIENT, WITHOUT REGARD TO WHICH OTHER PROVISIONS OF THE AGREEMENT HAVE BEEN BREACHED OR MAY HAVE PROVEN INEFFECTIVE.

CLIENT AGREES THAT ANY MONETARY LIABILITY ON THE PART OF E25 ARISING FROM BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT, OR UNDER ANY OTHER LEGAL THEORY SHALL NOT EXCEED THE AMOUNTS PAID TO E25 FOR ITS SERVICES.

L. Limitation of Action: No action, whether based on contract, product liability or tort, including any action based on negligence, or any other legal theory arising out of the performance of this Agreement, may be brought by either party more than two (2) years after the party knew or should have known of the breach or damage (whichever is first), except that an action for non-payment may be brought within two (2) years of the date of the last payment.

M. Indemnification: Client shall indemnify, defend, and hold E25, its employees, officers, agents and affiliates ("Indemnities") harmless from all expenses, damages, costs, fines, penalties, liabilities and amounts incurred in judgments or settlements, including attorneys' fees suffered by Indemnities, or any of them, as a result of threatened, pending or completed investigations, enforcement actions, claims, demands or any and all lawsuits by, or on behalf of, any third party against Indemnities or Client as a result of services performed.

N. Termination: If either the Client or E25 fails to perform its obligations under this Agreement, the other party shall have the right to terminate this Agreement. In such an event, E25 shall have the right to suspend performance of services hereunder without any further liability to Client whatsoever. In the event of termination, a final invoice will be prepared to reflect all billable services and expenses incurred by E25 through the termination date and presented to Client for payment in accordance with the invoice terms set forth above.

O. Delays: Any failure hereunder (other than payment of money due) which is due to causes beyond either party's control, including, but not limited to, an act of God, war, acts of government, priorities of allocation, fire, flood, strike or labor problems, sabotage, delay in obtaining labor, materials, equipment or transportation, shall not be deemed to be a default and the time of performance shall be extended for a period of time equal to the period of delay and its consequences.

P. Miscellaneous:

i. **Severability:** If any provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

ii. **Required Approvals:** Where agreement, approval, acceptance, or consent by either party is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld.

iii. **Notices:** All written notices required to be given to E25 under this Agreement shall be addressed to: E25 Internetworking Services, Attention: Steve Timko, 16 Mt. Bethel Road, Suite 195, Warren, NJ 07059. All written notices required to be given to Client shall be forwarded to the address last known. Such notices shall be sent first class, certified return-receipt-requested mail, postage prepaid.

iv. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

v. **Integration:** The parties further agree that this is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and that it supersedes and merges all prior proposals, understandings and agreements, whether oral or written, between the parties with respect to the subject matter hereof.

vi. **Assignment Barred:** Neither party may assign its rights or duties under this Agreement without the prior written consent of the party, except to a successor of all or substantially all of its business and properties. This limitation does not restrict the right of E25 to retain independent contractors to complete its work.

vii. **Waiver:** The waiver by either party of any term or condition of this Agreement shall not be deemed to constitute a continuing waiver thereof nor of any further or additional right that such party may hold under this Agreement.

viii. Warranty of Authority: Each individual signing this Agreement individually and personally warrants and represents that he or she has actual and express authority to bind the entity for whom he or she signs.

ix. Survival of Provisions: The provisions of this Agreement relating to indemnification, limitation on actions, disclaimer of warranty and limitation on liability shall survive the termination or cancellation of this Agreement.

Agreement and Acceptance

If the arrangements outlined in this proposal are satisfactory, please sign one copy of this proposal and return it to us in its entirety.

This proposal correctly sets forth our understanding and acceptance of the services as outlined in this proposal.

E25 Internetworking Services

Steve Timko, President (date)

CLIENT

First Last, President (date)