



**Agreement for Goods and Services
Time and Materials Basis**

This Agreement, entered into this _____ day of the month of _____ in the year _____ by and between ExceliNet Computer Services, Inc., a California Corporation (hereinafter referred to as "ECS"), and

_____, a/an _____
(herein referred to as "CUSTOMER") WHEREAS, CUSTOMER has desire for Goods and Services as specified by CUSTOMER, WHEREAS, ECS is qualified by virtue of experience, training, education and/or expertise to perform such Services for CUSTOMER;

NOW, THEREFORE, the parties hereto do hereby mutually covenant and agree as follows:

1. Service Engagement. CUSTOMER hereby engages ECS and ECS hereby agrees to perform for CUSTOMER the Services requested by CUSTOMER for the compensation hereinafter set forth, all pursuant to the terms and conditions herein. Services may be requested by _____ all individuals within the organization OR _____ the following individuals:

These individuals have the authority to direct the work of ECS on a time and materials basis.

All work orders _____ will _____ will NOT _____ be required to be in writing before the work is performed.

2. Goods Purchase. CUSTOMER hereby agrees to purchase from ECS and ECS hereby agrees to supply for CUSTOMER the Goods requested by CUSTOMER in writing for the compensation provided for within an estimate, if requested, all pursuant to the terms and conditions herein.

3. Scope of Services and Term. ECS shall provide Goods and Services as requested by CUSTOMER. The term of this Agreement shall expire upon CUSTOMER being reclassified as Inactive, as defined in section 5, or 30 days after written notice by either party to the address listed below, unless the term is modified as permitted for in the section *Changes to this Agreement*.

4. Documents Incorporated by Reference. (None)

5. Active vs. Inactive Customers. An Active Customer is defined as a customer that has received a service event (on-site, off-site, or maintenance) during the current year or the immediate previous year. An Inactive Customer is defined as a customer that has NOT received a service event during the current year or the immediate previous year. Activity is only evaluated on December 31 of each year.

6. Compensation.

a. CUSTOMER shall pay ECS compensation for Goods and Services upon receipt of an invoice. Multiple work orders may be combined for simpler billing. CUSTOMER agrees to pay the balance of the invoice within the terms referenced on the invoice. Should payment not be received within the stated terms, support services and delivery of goods may be suspended (at ECS's discretion) and CUSTOMER shall be subject to collections terms listed below.

b. All payments shall be made per invoice for work completed. Written authorization by CUSTOMER will be required for extra work not a part of this Agreement.

c. CUSTOMER and ECS agree on a maximum of _____ hours of billable labor or \$_____ billed per _____.

d. Your hourly rate is _____. A travel charge of \$_____ will be billed per visit on-site. Your rates will not change for the duration of this contract, provided you remain an Active Customer, as defined in section 5. Blocks of time may be pre-purchased at a discounted rate. A 10-hour block is billed at 5% off. A 20-hour block is billed at 10% off. A 40-hour block is billed at 15% off. In addition, pre-purchased blocks, when used at least 2 hours at a time, are not subject to the travel charge per visit when on-site location is within 40 miles of Murrieta, CA.

7. Appointment Cancellation. CUSTOMER is to call to cancel an appointment at least 48-hours prior to the scheduled appointment time. E-mail is not an acceptable form of contact. This allows ECS enough time to fill that appointment time with another client. If CUSTOMER cancels within the 48-hours prior to the scheduled appointment time or is a NO-SHOW, CUSTOMER will be invoiced for 1-hour, plus the travel fee if it was an on-site appointment. Remote support appointments, if scheduled at least 48 hours in advanced, are appointments subject to this cancellation policy.

8. Collections Terms. All past due accounts may be changed to COD status at ECS's discretion. Accounts past due may be sent immediately to collections, and are assessed a 1.5% monthly finance charge on all outstanding balances. Any costs incurred for collection of outstanding debts, including reasonable attorneys fees, shall be the responsibility of CUSTOMER.

9. Returned Check Policy. If your check is dishonored or returned for any reason, we will electronically debit your account for the amount of the check plus a processing fee of \$25.00.

10. Termination of Agreement for Cause. If either CUSTOMER or ECS fails to fulfill in a timely and professional manner any obligation under this Agreement, as reasonably determined by the other party, then that other party shall have the right to terminate this Agreement effective immediately upon giving written notice and any payment due for Goods and Services already rendered. Such termination will not release either party from the obligation of payment for, and delivery of Goods that have been ordered from a third party in order to fulfill this Agreement.

11. Changes to this Agreement. The terms of this Agreement may be modified only by mutual written consent of the parties.

12. Assignment or Transfer of Agreement. Neither ECS nor CUSTOMER shall assign, transfer or sublet this Agreement or any interest therein without the prior written consent of CUSTOMER.

13. Employees and Subcontracting. ECS may, at its own discretion, employ additional workers or subcontractors for any work required to fulfill this Agreement. In so doing, ECS retains sole responsibility for all work performed.

14. Independent Contractor. It is expressly understood between the parties of this Agreement that no employee/employer relationship is intended; the relationship of ECS to CUSTOMER is that of an independent contractor.

15. Hold Harmless. CUSTOMER shall indemnify, defend and hold harmless ECS, its board of directors and share holders, employees, and subcontractors from all costs, expenses, losses, liabilities and judgments arising out of or caused by the acts or omissions of CUSTOMER, its officers, agents or employees, in the performance of this Agreement.

16. Limitation of Warranty/Liability. CUSTOMER understands that ECS makes no guarantees, beyond those stipulated in writing, as to CUSTOMERS satisfaction or as to the usability of any and all programming/service work performed on or after the date of this contract. ECS, in no way, guarantees that software/programming work will be free from "bugs" / defects within the product AND cannot be held liable for loss or damage, direct, consequential, or incidental arising out of the use of provided software/programming OR the inability to utilize software/programming products as desired.

17. Ownership and Intellectual Property. All programming work performed is the intellectual property of ECS unless otherwise stipulated. CUSTOMER may use programming as they see fit within their organization, but may not resell said programming unless the original version is completely destroyed and is no longer in use. ECS may use the procedures, scripts, coding, layouts, and other elements within other projects. Data entered by CUSTOMER within the database/programming will never be used for any other purpose than in the design and programming of the CUSTOMERS database/programming. It is ECS's understanding that no coding used in the development of programming for CUSTOMER infringes upon the intellectual property rights of any other entity and, as such, is original property of ECS.

18. **Attorney Fees.** In the event of any litigation arising between the parties related to this Agreement, then the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including court costs. This Agreement shall be construed in accordance with the laws of the State of California.

19. **Time is of the Essence.** It is understood and agreed that time is of the essence of this Agreement.

20. **Section Headings.** The section headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement.

21. **Inconsistency.** In the event any provision of this Agreement and the documents incorporated herein by reference are deemed to be in conflict, the provision in this Agreement shall prevail.

22. **Interpretation.** The terms and conditions of this Agreement shall be construed pursuant to their plain and ordinary meaning and shall not be interpreted against the maker by virtue of that party having drafted this Agreement.

23. **Notices.** Any notices required pursuant to this Agreement shall be served at the following addresses:

ECS:
ExceliNet Computer Services, Inc.
39866 Quigley Rd.
Murrieta, CA 92562

CUSTOMER:

24. **Understanding of the Parties.** This Agreement represents the complete understanding between the parties with respect to the matters set forth herein. No amendment or modification of the Agreement shall be valid unless evidenced in writing and executed by the parties thereto.

25. **Facsimile of Signatures.** Facsimile signatures shall be deemed as fully enforceable valid signatures as if such signature were an original signature as of the date executed

IN WITNESS WHEREOF, CUSTOMER and ECS have executed this Agreement on the day and year first herein above set forth.

CUSTOMER:

ECS:

Company Legal Name:

Company Legal Name:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Stamp: (optional)

Please return this form in person, fax to (951) 225-4040, or mail to the address above.