

Terms of Use & Privacy Policy for 3920 Consulting Group

Speaker/Consultant's relationship with Client will be that of an independent contractor, and nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture, or employment relationship. No part of Speaker/Consultant's compensation will be subject to withholding by Client for the payment of any social security, federal, state, or any other employee payroll taxes.

Public Speaking Agreement.

This PUBLIC SPEAKING AGREEMENT ("Agreement") among 3920 Consulting Group, with a principal place of business in Van Nuys CA 91405 ("Speaker"), and the party clicking through to accept this Agreement or executing any Service Order Form ("SOW") referencing this Agreement ("You" or "Customer," and together with Speaker, "Parties"), constitutes a binding agreement among the Parties. By accepting this Agreement or executing any SOW Customer agrees to be bound by the terms of this Agreement.

The Speaker agrees to perform the following services and in accord with the following terms and conditions. Compensation shall be in the amount as agreed plus travel and expenses and will be contingent upon the completion of the presentation requested. Travel shall be of a public carrier per the speaker's choice.

The Business agrees to pay the speaker by Certified Check that is made payable to the speaker at the conclusion of the presentation or via PayPal online the Speaker's website. The speaker shall present, as described herein as an independent contractor, and the speaker shall have no obligation with regard to such presentation, as a result of this Agreement to anyone other than the Business.

The speaker shall conduct at least two interviews with print or electronic media at least two weeks prior to the presentation for purposes of publicizing the presentation. Interview details will be directed by the Business and in conjunction with the speaker.

The Business shall furnish facilities for the presentation at its own expense and such facilities shall be of good condition with adequate lighting and heat. The above mentioned speaker agrees that they will not conduct any community style presentation or lecture within a fifty mile radius of the Business's presentation for a period of six months before the presentation for the Business. It shall also be agreed upon that any scheduled violation of this paragraph shall be conclusive evidence of irreparable damage to the Business and that the Business has a right to prevent such a community presentation to remedy the breach of contract. If it is discovered after the fact that a breach has occurred the Business has a right to immediately cancel this Speaker Agreement and the Speaker shall be responsible for all damages incurred by the Business up to the time of contract termination.

If the Speaker does not appear or perform to the terms of this Agreement, then the speaker shall be responsible for the payment of all damages, costs and expenses that were brought upon the Business due to the speaker not showing up for the presentation. Also, the Business shall not be responsible for any payment if the Speaker fails to give the presentation due to conditions that are beyond the control of the Speaker, for example medical disability and or an act of God that is outside of the speaker's control. The Business has the right to simulcast or to produce a delayed broadcast of the Speaker's presentation through a closed circuit or public television / radio or commercial cable television. This license shall be non-exclusive and the copyright of such license shall belong to the Speaker.

If the Business does record the Speaker's presentation a copy of the recording shall be given to the speaker approximately thirty days following the presentation. Copies of the recording of the Speaker's presentation may be maintained by the Business for the sole use of its employees. The Speaker grants the Business to maintain copies of the presentation and for them to use such copies for internal viewing purposes only.

No other audio taping or video taping of the Speaker's presentation shall be permitted without prior authorization by the Speaker.

The Business shall provide the speaker a suitable area near the presentation for the Speaker to display and sell books and other educational material that is produced by the Speaker.

Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California without regard to the conflicts of law provisions thereof. Exclusive jurisdiction and venue for any

action arising under this Agreement is in the federal courts located in Los Angeles, California, and both Parties hereby consent to such jurisdiction and venue for this purpose.

Consulting Services Agreement.

This CONSULTING SERVICES AGREEMENT (“Agreement”) among 3920 Consulting Group, with a principal place of business in Van Nuys CA 91405 (“Consultant”), and the party clicking through to accept this Agreement or executing any Service Order Form (“SOW”) referencing this Agreement (“You” or “Customer,” and together with Consultant, “Parties”), constitutes a binding agreement among the Parties. By accepting this Agreement or executing any SOW Customer agrees to be bound by the terms of this Agreement.

If You are entering into this Agreement on behalf of a company, organization or another legal entity (an “Entity”), You are agreeing to this Agreement for that Entity and representing to Consultant that You have the authority to bind such Entity and its affiliates to these Terms, in which case the term “You” or “Customer” or related capitalized terms herein will refer to such Entity and its affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not agree to be bound by this Agreement and may not authorize Consultant to perform Consulting Services.

Pursuant to 3920 Consulting Group Terms of Service agreed to by Customer (“Subscription Terms”), Customer is subscribing to the Service (as that term is defined in the Subscription Terms). Customer wishes to engage Consultant to receive the Consulting Services described herein, and Consultant agrees to provide the Consulting Services under this Agreement. In consideration of the foregoing, the Customer and the Consultant, intending to be legally bound, agree to the terms set forth below.

1. Scope. All services pursuant to this Agreement provided by Consultant to Customer will be outlined in one or more in one or more mutually agreed-upon and jointly executed SOW or service order form, each incorporated into this Agreement and describing in detail the scope, nature and other relevant characteristics of services to be delivered (collectively, “Consulting Services,” and the time at which the Parties execute an SOW pursuant to this Agreement, “Effective Date”).

2. Retention. Customer hereby retains Consultant to provide the Consulting Services described on one or more SOWs, subject to the terms and conditions set forth in this Agreement. The terms and conditions of this Agreement will govern the provision of Consulting Services under any SOW (including any

exhibits thereto) executed by the Parties. This Agreement and/or any SOW may only be amended by a subsequent Agreement and/or SOW mutually executed by the Parties (such subsequent document, "Change Order").

3. Performance of Consulting Services.

3.1. Each SOW will include reasonable details, at a minimum, about the Consulting Services, Fees charged, and Personnel employed in performing the Consulting Services. Consultant and Customer agree to cooperate in good faith to achieve satisfactory completion of the Consulting Services in a timely and professional manner.

3.2. The Parties will each designate a representative to interface and facilitate the successful completion of the Consulting Services ("Customer's Representative" and "Consultant's Representative," respectively). Any Subcontractor designated by Consultant to perform any portion of the Services will designate a representative to interface with Customer and Consultant on all matters relating to Subcontractor's performance of Services ("Subcontractor's Representative").

3.3. Consultant will perform the Consulting Services, directly or through a Subcontractor of its choice. Customer agrees to provide, at no cost to Consultant, timely and adequate assistance and other resources reasonably requested by Consultant to enable the performance of the Consulting Services by Consultant (collectively, "Assistance"). Neither Consultant nor its Subcontractor will be liable for any deficiency in performance of Consulting Services to the extent resulting from Customer's failure to provide Assistance as required hereunder.

3.4. In performing the Consulting Services, Consultant will provide such resources, and utilize such qualified employees and/or non-employee contractors of Consultant ("Subcontractors" and together with Consultant's employees, "Personnel") as it deems necessary to perform the Consulting Services or any portion thereof. Customer may object to Consultant's election of Subcontractors by specifying its objection to Consultant, in which case the Parties will cooperate in good faith to appoint another Subcontractor to perform such Consulting Services. Consultant may replace Personnel in its normal course of business, provided that Consultant will be responsible for the performance of Consulting Services by all Personnel.

3.5. Consultant will control the method and manner of performing all work necessary for completion of Consulting Services, including but not limited to the supervision and control of any Personnel performing Consulting Services. Consultant will maintain such number of qualified Personnel and appropriate facilities and other resources sufficient to perform Consultant's obligations under this Agreement in accordance with its terms.

3.6. No license to any Consultant's, or any Subcontractor's software or products (including, without limitation, the Service) is granted under this Agreement except as specifically provided pursuant to Section 10.

4. Fees; Payment Terms.

4.1. Customer will pay Consultant the fees to provide the Consulting Services as detailed or described in an SOW (the "Fees"). Fees will be payable upon receipt of an invoice, except for Fees that Customer disputes in good faith for reasons articulated in writing by Customer within thirty (30) days after receiving such invoice.

4.2. All Consulting Services will be provided on a time and materials or fixed-Fee basis, as indicated in each case in the applicable SOW. Each SOW providing for time and materials based Fees will contain detailed estimate of such time and materials necessary for performance of Consulting Services ("T&M Estimate"), and Consultant will make a commercially reasonable effort to provide such Consulting Services within such T&M Estimate, up to the number of hours agreed to by the Parties. Consultant will make a reasonable effort to notify Customer as soon as practicable if it appears that T&M Estimate may be exceeded. Upon receiving such amended T&M Estimate, Customer will assess, and accept or reject the amended T&M Estimate. Unless rejected within five (5) days of delivery, any amended T&M Estimate shall be deemed accepted by the Customer and Customer shall be liable for all Fees associated with Consulting Services delivered in reliance on such amended T&M Estimate. Any amended T&M Estimate which is or is deemed accepted by Customer shall be deemed a Change Order.

4.3. The performance of Consulting Services may be subject to a retainer to be paid in advance by Customer upon execution and delivery of the SOW. Such retainer will be applied against Fees which become payable by Customer pursuant to this Agreement. Consultant may refuse to perform Consulting Services unless and until such retainer is paid to Consultant.

4.4. In addition to any and all Fees, Customer will reimburse Consultant for the reasonable expenses for travel, lodging, communications, shipping charges and out-of-pocket expenses incurred by Consultant in connection with providing the Consulting Services ("Expenses,"). Consultant will provide reasonable documentation for all Expenses as requested by Customer.

4.5. Any unpaid Fees or Expenses will become overdue 30 days after payment is required pursuant to this Agreement and be subject to a 1.5% late fee for each month of delayed payment (with each such 1.5% late fees attaching to such unpaid amounts at the first day of each 30 days' time increments beginning on the first day that such amounts become overdue). Customer will

be responsible for any and all taxes levied on transactions under this Agreement other than taxes on Consultant's income.

5. Relationship of the Parties. Consultant is an independent contractor and will maintain complete control of and responsibility for its Personnel, methods and operations. Consultant at no time will hold itself out as an agent, subsidiary or affiliate of Customer for any purpose, including reporting to any government authority. This Agreement will not be construed so as to create a partnership, other joint venture or undertaking, or any agency relationship between the Parties, and neither Party shall become liable for any representation, act or omission of the other Party or have the authority to contractually bind the other Party. Any Fees, Expenses or other amounts paid by Customer to Consultant hereunder shall not be considered salary for pension or wage tax purposes and neither Consultant nor its Personnel will be entitled to any fringe benefits, including sick or vacation pay, or other supplemental benefits of Customer, Unless otherwise required by law, Customer shall not be responsible for deducting or withholding from Fees or Expenses paid under this Agreement any taxes, unemployment, social security or other such expense.

6. Term and Termination.

6.1. This Agreement will commence on the Effective Date and will remain effective for as long as any SOW is in effect among the Parties, unless terminated earlier in accordance with the terms of this Section 6. Any termination of this Agreement shall terminate any then-effective SOW.

6.2. This Agreement may be terminated by either party with or without cause upon no less than thirty (30) days advance written notice to the other Party.

6.3. Either Party may terminate this Agreement if the other Party materially breaches any obligation hereunder, provided the terminating Party has provided notice of such breach to the other Party and an opportunity to cure such breach during a period of not less than thirty (30) days following such notice.

6.4. Upon termination of this Agreement, Consultant will immediately cease performing any Consulting Services, and Customer will pay Consultant any Fees not yet paid for all Consulting Services provided pursuant to any SOW on or prior to such termination on a pro-rated basis (or on such other basis as the Parties will mutually agree) and reimburse Expenses incurred on or prior to termination not yet reimbursed.

6.5. Sections 4 through 16 of this Agreement will survive any termination of the Agreement to the extent necessary to implement their objectives. Termination of this Agreement will be without prejudice to other rights or remedies of any Party under this Agreement or applicable law, including, without limitation, any

remedies for a breach of this Agreement prior to such termination.

7. Warranties, Limitation of Liability.

7.1. Consultant hereby represents and warrants that:(a) it has all authority, licenses, permits, and consents necessary to enter into and perform its obligations under this Agreement, and will fully comply with all applicable laws and regulations in performing the Consulting Services;(b) the Consulting Services provided pursuant to this Agreement will be performed in a timely and professional manner by Consultant and its Personnel, consistent with generally-accepted industry standards; provided that Customer's sole and exclusive remedy for any breach of this warranty will be, at Consultant's option, re-performance of the Consulting Services or termination of the applicable SOW and return of the portion of the Fees paid to Consultant by Customer for the non-conforming portion of the Consulting Services; and(c) it is under no contractual or other restrictions or obligations which are inconsistent with the execution of this Agreement, or, to its best knowledge, which will interfere with its performance of the Consulting Services.

7.2. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7, CONSULTANT EXPRESSLY DISCLAIMS TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-SATISFACTORY QUALITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND TITLE, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, AND ALL SUCH REPRESENTATIONS AND WARRANTIES ARE HEREBY EXCLUDED TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

7.3. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL EITHER PARTY TO THIS AGREEMENT, OR THEIR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE OR OTHER SIMILAR DAMAGES, INCLUDING LOST PROFITS, LOST SALES OR BUSINESS, BUSINESS INTERRUPTION OR ANY OTHER LOSS INCURRED BY THE OTHER PARTY OR SUCH THIRD PARTY IN CONNECTION WITH THIS AGREEMENT OR THE CONSULTING SERVICES, REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

7.4. EACH PARTY'S AGGREGATE LIABILITY ARISING OUT OF THIS

AGREEMENT OR OTHERWISE IN CONNECTION WITH ANY CONSULTING SERVICES, SHALL IN NO EVENT EXCEED THE FEES PAID BY CUSTOMER PRIOR TO THE FIRST EVENT OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. EACH PARTY ACKNOWLEDGES AND AGREES THAT THE ESSENTIAL PURPOSE OF THIS SECTION 7.4 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE FEES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF CONSULTANT WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. CONSULTANT HAS RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE CUSTOMER THE CONSULTING SERVICES PROVIDED FOR IN THIS AGREEMENT.

7.5. Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. IN THESE JURISDICTIONS, EACH PARTY'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

8. Indemnification. Consultant will indemnify and hold Customer harmless, from and against any claim against Customer alleging that any Work Made For Hire (as defined below) infringes or misappropriates a third party's valid patent, copyright, trademark or trade secret (an "IP Claim"). Consultant will, at its expense, defend such IP Claim and pay damages finally awarded against Customer in connection therewith, including the reasonable fees and expenses of the attorneys engaged by Consultant for such defense, provided that (a) Customer promptly notifies Consultant of the threat or notice of such IP Claim, (b) Consultant will have the sole and exclusive control and authority to select defense attorneys, defend and/or settle any such IP Claim, and (c) Customer fully cooperates with Consultant in connection therewith. Consultant will have no liability or obligation under this Section 8 with respect to any IP Claim if such claim is caused in whole or in part by (i) compliance with designs, data, instructions or specifications provided by Customer; (ii) modification of the Work Made For Hire by anyone other than Consultant; or (iii) the combination, operation or use of the Work Made For Hire with other hardware or software where the Work Made For Hire would not by itself be infringing.

9. Confidentiality.

9.1 For the purposes of this Agreement, "Confidential Information" means all information disclosed by Consultant to Customer or by Customer to Consultant which is in tangible form and labeled "confidential" (or with a similar legend) or which a reasonable person would understand to be confidential given the nature of the information and circumstances of disclosure. Notwithstanding the foregoing, Confidential Information shall not include information that (a) was already known to the receiving party at the time of disclosure by the disclosing

party; (b) was or is obtained by the receiving party by a third party not known by the receiving party to be under an obligation of confidentiality with respect to such information; (c) is or becomes generally available to the public other than by violation of these Terms; (d) was or is independently developed by the receiving party without use of the disclosing party's Confidential Information; (e) constitutes Subscriber Data (as that term is defined in the Subscription Terms), the use, protection and disclosure of which is governed exclusively by the Subscription Terms.

9.2 Subject to the express permissions of this Agreement, Consultant and Customer will protect each other's Confidential Information from unauthorized use, access or disclosure in the same manner as each protects its own Confidential Information, but with no less than reasonable care. Except as otherwise expressly permitted pursuant to this Agreement, each Party may use the other Party's Confidential Information solely to exercise its respective rights and perform its respective obligations under this Agreement and shall disclose such Confidential Information solely to those of its Personnel who have a need to know such Confidential Information for such purposes and who are bound to maintain the confidentiality of, and not misuse, such Confidential Information.

9.3 Notwithstanding the foregoing, this Agreement shall not prevent the party receiving Confidential Information from disclosing such Confidential Information to the extent required by a judicial order or other legal obligation, provided that, in such event, the receiving party shall promptly notify the disclosing party of such requirement to allow intervention (and shall cooperate with the disclosing party at the disclosing party's expense) to contest or minimize the scope of the disclosure (including application for a protective order).

9.4 The Parties acknowledge that any unpermitted disclosure of a party's Confidential Information is likely to cause the disclosing party irreparable harm for which its remedies at law would be inadequate. Accordingly, each Party (as the receiving party) acknowledges and agrees that the Party disclosing Confidential Information will be entitled, in addition to any other remedies available to it at law or in equity, to the issuance of injunctive relief, without bond, enjoining any breach or threatened breach of the receiving party's obligations hereunder with respect to the Confidential Information of the disclosing party, and such further relief as any court of competent jurisdiction may deem just and proper.

9.5 Upon termination of this Agreement or a request by a disclosing party, each party, as a receiving party of Confidential Information, will return to the disclosing party any and all copies of the material containing the other party's Confidential Information, or any portion thereof, in the possession of the receiving party, except for information necessary to implement the objectives of this Agreement after its termination.

10 Rights to Deliverables; Ownership.

10.1 The Parties hereby agree that the specified Consulting Services to be completed pursuant to any SOW primarily involve the configuration of Subscriber's subscription to the Service and integration of Subscriber Data with and into the Service involving Preexisting Technology or meant to constitute Developed Technology or Generic Components (each as defined below). Unless otherwise expressly specified in a SOW, no deliverable provided in connection with the Consulting Services provided pursuant to this Agreement shall constitute a "Work Made For Hire" under this Agreement. In the event that any such deliverable is held to be a Work Made For Hire, Customer hereby assigns to Consultant all right title and interest therein or to the extent such assignment is not permitted or effective, hereby grants to Consultant a perpetual, non-exclusive, worldwide, fully-paid, sublicenceable (through multiple layers), assignable license to any such deliverable. Subject to Section 10.2, Customer and Consultant agree that Customer shall retain all right, title and interest in any deliverable expressly stated in an SOW to be a "Work Made for Hire."

10.2 Without limiting the foregoing, Consultant and its licensors reserve and retain ownership to all Preexisting Technology, Developed Technology and Generic Components (each as defined below), and Consultant hereby grants to Customer a non-exclusive, fully paid, limited license to use Preexisting Technology, Developed Technology and Generic Components solely in connection with Customer's use of the Service. "Preexisting Technology" means all of Consultant's inventions (whether or not patentable), works of authorship, designs, know-how, ideas, concepts, information and tools in existence prior to the commencement of the Consulting Services. "Developed Technology" means ideas (whether or not patentable) know-how, technical data, techniques, concepts, information or tools, and all associated intellectual property rights thereto developed by Consultant or its Personnel in connection with providing Consulting Services pursuant to this Agreement that derive from, improve, enhance or modify Consultant's Preexisting Technology. "Generic Components" means all inventions (whether or not patentable), works of authorship, designs, know-how, ideas, information and tools, including without limitation software and programming tools developed by Consultant or its Personnel in connection with providing Consulting Services generally to support Consultant's product and/or service offerings (including, without limitation the Service) and which can be so used without use of Customer's Confidential Information.

11 Entire Agreement. This Agreement thereto constitutes the complete and exclusive statement of the agreement among the Parties with respect to the Consulting Services to be provided pursuant to this Agreement, and supersedes all prior negotiations, understandings or agreements (oral or

written), between the Parties concerning its subject matter. Without limiting the foregoing, the Parties agree and acknowledge that this Agreement shall have no effect on the rights and obligations of the Parties pursuant to the Subscription Terms (or the Agreement as defined therein).

12 Waiver. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. No change, modification or waiver to this Agreement will be effective unless in writing and signed by both Parties.

13 Severability. In the event that any provision of this Agreement will, for any reason, be determined by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will be interpreted as closely as possible so as not affect any other provision of this Agreement, and such provision will further be modified by said court to permit its enforcement to the maximum extent permitted by law.

14 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California without regard to the conflicts of law provisions thereof. Exclusive jurisdiction and venue for any action arising under this Agreement is in the federal courts located in Los Angeles, California, and both Parties hereby consent to such jurisdiction and venue for this purpose.