



TERMS & CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS APPLY TO THE SERVICES AND PRODUCTS PROVIDED BY INTERSTATES FOR YOU ("CLIENT"). THE TERMS HEREIN SHALL CONSTITUTE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS. INTERSTATES AND CLIENT MAY SOMETIMES BE REFERRED TO AS "PARTY" OR "PARTIES." In the event that the Client enters into a master agreement with Interstates, the terms of the master agreement will govern the sale of Services and Products by Interstates rendering these Terms and Conditions void.

"Agreement" means these Terms and Conditions, Interstates' proposal (the "Proposal"), and Client's purchase order, work order, or similar document ("Purchase Order"), as modified, including exhibits and attachments made part of this Agreement by upon its execution in writing. To the extent these Terms and Conditions are inconsistent with the Proposal or Purchase Order, the order of priority shall be the Proposal, these Terms and Conditions, the Purchase Order.

At all times, both Parties are obligated to act in good faith and in a proper and appropriate manner including, without limitation, working with each other to ensure the goods and Services perform as expected and if not, to clearly identify areas that require attention.

1. Interstates' Responsibilities:

- 1.1. Standard of performance: Interstates will perform its Services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances. Nothing in this Agreement shall be construed to establish a fiduciary relationship between the Parties.
- 1.2. Gratuitous information: If Interstates provides Client with assistance or advice which concerns any parts, products, or Services supplied hereunder, or any system or equipment in which any such part, product, or service may be installed and which is not required pursuant to the Proposal, the furnishing of such assistance or advice shall not be subject to any liability, whether based in contract, warranty, tort (including negligence), or otherwise.
- 1.3. Indemnification: Interstates agrees, to the fullest extent permitted by law, to indemnify and hold harmless Client, its officers, directors, and employees against all damages, liabilities or costs due to bodily injury or property damage, including reasonable attorneys' fees, to the extent caused by Interstates' negligent performance of its Services under this Agreement and that of its subconsultants or anyone for whom Interstates is legally liable.

2. Client's Responsibilities:

- 2.1. Access to site: Unless otherwise stated, Interstates will have access to the site for activities necessary for the performance of the Services.
- 2.2. Information: Client will assist Interstates by placing at Interstates' disposal all available information pertinent to the project, including previous reports and any other data relative to design or construction of the project. Interstates shall have no liability for any claims attributable to Interstates' reliance upon, or use of, data, design criteria, drawings, specifications or other information furnished by Client. Client agrees to indemnify and hold harmless Interstates from any and all claims and judgments, and all losses, costs and expenses arising therefrom. Interstates shall disclose to Client, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by Client to Interstates that Interstates discovers in its review and inspection thereof.
- 2.3. Indemnification: Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Interstates, its officers, directors, and employees against all damages, losses, or costs due to bodily injury or property damage, including reasonable attorneys' fees, to the extent caused by Client's negligence and that of its subconsultants or anyone for whom Client is legally liable.

3. Payment Terms:

- 3.1. Price and payment terms are as defined in the Proposal. Unless otherwise stated, all payments shall be net 30 days from invoice date payable in United States Dollars. Upon Client's default of these terms, Interstates may, in addition to any other rights or remedies at contract or law, subject to any cure right of Client, declare the entire balance of Client's account immediately due and payable or foreclose any security interest in Services and/or products delivered. If any unpaid balance is referred for collection, Client agrees to pay Interstates, to the extent permitted by law, reasonable attorney fees in addition to all damages otherwise available, plus any court costs or expenses incurred by Interstates, and any finance charges accrued on any unpaid balance owed by Client.

- 3.2. Billing of materials: Materials stored on site to be installed by others are to be considered delivered to Client's care and custody. Materials ordered by Interstates and stored at Interstates' location or on site to be installed by Interstates are to be considered in the care and custody of Interstates but are considered to be billable for progress billing in accordance with the progress billing procedures outlined in the Proposal.
- 3.3. Taxes: All prices shall be subject to the addition of any existing or future tax or governmental charge, as applicable if not included in the Proposal, upon the Services, production, shipment, installation, sale or use of the products or Services described herein to the extent that Interstates is or shall be required by law or regulation to collect or pay the same. The amount of such taxes shall be paid to Interstates immediately upon request or, in lieu thereof, a tax exemption certificate, in a form satisfactory to the taxing authority, must be presented to Interstates.
- 3.4. Escalation: If the contract extends beyond one year or is delayed beyond the agreed-upon contract term, and the delay is not caused by Interstates, the remaining work may be subject to billing at higher rates due to labor or material costs escalation.
4. Insurance:
 - 4.1. Coverage: Interstates shall arrange for, pay for and maintain in full force and effect, at all times during the performance of its Services and until final acceptance of the Services, policies of insurance which afford the following coverage: Worker's Compensation including employer's liability; general liability; professional liability.
5. Limits of Liability
 - 5.1. TO THE FULLEST EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY IS LIABLE TO THE OTHER FOR DAMAGES RESULTING FROM LOSS OF DATA, LOSS OF PROFITS, COST OF COVER OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES ARISING IN ANY WAY OUT OF THE AGREEMENT. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND INTERSTATES, THE RISKS HAVE BEEN ALLOCATED SUCH THAT CLIENT AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF INTERSTATES AND INTERSTATES' OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, SHAREHOLDERS, OWNERS AND SUBCONSULTANTS FOR ANY AND ALL CLAIMS, LOSSES, COSTS, DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING INTERSTATES' PROFESSIONAL NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY, SO THAT THE TOTAL AGGREGATE LIABILITY OF INTERSTATES AND INTERSTATES' OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, SHAREHOLDERS, OWNERS AND SUBCONSULTANTS SHALL BE LIMITED TO A MAXIMUM OF THE NET FEE RECEIVED BY INTERSTATES OR \$15,000.00, WHICHEVER IS GREATER.
6. Changes in Scope
 - 6.1. Changes to work that are considered by Interstates to be beyond the scope of the present contract will be addressed to Client in writing, explaining the complete scope, cost, and schedule impact of the desired changes. Interstates will take action on the changes when Client has responded in writing that he agrees with the scope, cost, and schedule impacts.
7. Delays
 - 7.1. Delays caused by Client, its agents or subcontractors that impact the productivity of Interstates will be considered a reimbursable claim. The cost impact will be negotiated with Client. The time and material rate in effect at that time will be utilized to calculate the value of time lost and reimbursable costs. Interstates' representative is to submit, by way of written notice, the impacts due to delays.
 - 7.2. Force majeure: If Interstates is unable to perform its obligations due to wars, acts of terrorism, riots, acts of governmental authorities, acts of God, civil disturbances, explosions, and other such acts, Interstates may, at its option, extend the schedule equal to the period of the delay and its consequences, or terminate this Agreement and have no liability under the terms of this Agreement.
8. Termination of Contract
 - 8.1. Cancellations or stop-work requests by Client or Interstates, on any order or part thereof, must be made in writing. Client agrees to pay Interstates' standard contract labor rate for all labor incurred and Interstates' net material costs plus standard markup for all materials purchased for that order, including any restocking charges incurred.
9. Staffing
 - 9.1. To allow Interstates to be able to manage its participation in the project most effectively, Interstates reserves the right to determine the personnel or subcontractor to perform the work. Client's reasonable objections will be considered.
 - 9.2. Non-solicitation of employees: Client shall not hire directly or indirectly through a third Parties Interstates personnel during the engagement or within 1 year from such individual's completion or termination of a Client authorized assignment. If Client hires, directly or indirectly through a third Parties, Interstates personnel within 1 year from such personnel's completion or other termination of a Client authorized assignment, Client agrees to pay a fee to Interstates equal to 33% of such personnel's estimated annualized gross billing for employment as determined by Interstates. This fee is due and payable within 10 calendar days from the date such personnel commence with Client.
10. Dispute Resolution

- 10.1. Direct Discussions: If the parties cannot reach resolution on a matter relating to or arising out of this Agreement, the parties shall endeavor to reach resolution through good faith direct discussions between the parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the parties' representatives are not able to resolve such matter within five (5) business Days, the parties' representatives shall immediately inform senior executives of the parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the parties shall meet within five (5) business days to endeavor to reach resolution. If the matter remains unresolved after fifteen (15) days from the date of first discussion, the parties shall submit such matter to mediation as described below.
- 10.2. Mediation: If direct discussions pursuant to the subsection above do not result in resolution of the matter, the parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), or the parties may mutually agree to select another set of mediation rules. The administration of the mediation shall be as mutually agreed by the parties. The mediation shall be convened within thirty (30) working days of the matter first being discussed and shall conclude within forty-five (45) working days of the matter being first discussed. Either party may terminate the mediation at any time after the first session by written notice to the non-terminating party and to the mediator. The costs of the mediation shall be shared equally by the Parties. The mediation shall be held in the place where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- 10.3. Arbitration: If the matter is unresolved after submission of the matter to a mitigation procedure or mediation, the parties shall submit the matter to binding Arbitration using the current Construction Industry Arbitration Rules of the AAA, or the parties may mutually agree to select another set of arbitration rules. The administration of the arbitration shall be as mutually agreed by the parties. The costs of any binding dispute resolution procedure or litigation and reasonable attorneys' fees shall be borne by the non-prevailing party, as determined by the adjudicator of the dispute. The arbitration shall be conducted in the jurisdiction of the project work site.
- 10.4. If Interstates' personnel are called or subpoenaed for depositions, examination or court appearances in any dispute arising out of the project, where Interstates is not a party to the dispute, Interstates shall be reimbursed by Client on a time-and-material basis in accordance with Interstates' then current, standard billing rates, including all out-of-pocket costs incurred in connection with such matters.
- 10.5. This Agreement shall be governed by the laws of the State of Iowa.
11. Confidentiality
- 11.1. Any information, suggestions, or ideas transmitted by either Party in connection with performance hereunder are to be regarded as secret or submitted in confidence except as may be otherwise provided in writing signed by a duly authorized representative of the disclosing Parties.
12. Intellectual Property: In the event that the scope of this project requires Interstates to provide engineering, computer programming, software, or related Services, the following provisions apply:
- 12.1. Canned software: In the event that the scope of this project requires Interstates to purchase canned software for Client, Client authorizes Interstates to purchase said software in Client's name. Client also agrees to comply with all license agreements, terms and conditions and shall indemnify and hold harmless Interstates and all of its personnel from and against any and all claims, damages, losses, and expenses (including reasonable attorney's fees) arising out of or resulting from any failure to comply.
- 12.2. Drawings and documents: Client shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data, and information (hereinafter "Documents") prepared, provided, or procured by the Interstates or by consultants retained by Interstates and distributed to Client for this Project, upon payment for all sums due to the Interstates. After completion of the project, Client may reuse, reproduce, or make derivative works from the Documents solely for the purposes of maintaining, renovating, remodeling, or expanding the project at the worksite. Client's use of the Documents without the Interstates' involvement or on other projects is at Client's sole risk, and Client shall defend, indemnify, and hold harmless the Interstates and its consultants, and the agents, officers, directors, and employees of each of them, from and against any and all claims, damages, losses, costs, and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from any such prohibited use.
- 12.3. Interstates' software: Subject to any confidentiality obligations specified in this Agreement, Interstates reserves all rights to computer software which is originally provided by Interstates in the performance of the Services and which is enhanced or further developed in the performance of the Services ("Interstates' Software"). All rights of copyright and intellectual property in the Interstates' Software remains the sole property of Interstates, and Client will not have any claim whatsoever in relation to the Interstates' Software. Any enhancements to any intellectual property provided by Client shall be the property of Client. Subject to Client complying with its obligations under the Agreement, Interstates grants to Client a perpetual, non-exclusive, royalty-free and irrevocable license to use (and allow others to use) any Interstates' Software arising out of the provision of the Services for the purpose of running and maintaining the system for which it was

acquired. Client shall not sell, license, disclose, give away, assign, or transfer the Interstates' Software or any interest therein to anyone. Client, however, may engage other persons or firms to modify or add to the Interstates' Software, limited to the system for which such Interstates' Software was acquired, in which case such other persons or firms may modify or add to the Interstates' Software for no purpose other than for Client's internal benefit. Such person or firm shall first execute and deliver to Interstates a confidentiality agreement indicating they shall not otherwise use, disclose or give away or transfer any interest in the Interstates' Software to anyone, as well as an indemnification agreement indicating that they will defend, indemnify, and hold harmless Interstates from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses relating to or arising from the modifications and/or changes to the Interstates' Software.

13. Interstates Software Support: Interstates shall, for a period of 90 days from installation of the automation system, correct, repair or replace software that fails to meet the design requirements of the project under normal use. This obligation is void if anyone other than Interstates has modified the software in any way. Failure to purchase adequate training for those using the system will void this obligation. Interstates' sole obligation, and Client's sole remedy, under this section is to use reasonable efforts to correct or replace any non-conforming software at Interstates' expense, including parts, labor and travel expenses related to maintenance and correct service during such ninety (90) day period.
14. Equipment: In the event that the scope of this project requires Interstates to provide computer hardware or other equipment or goods, the following terms apply:
 - 14.1. Shipping: All Products shall be delivered Delivery at Place (DAP). Interstates may make partial shipments. Shipping dates are approximate only and Interstates shall not be liable for any loss or expense (consequential or otherwise) incurred by Client if Interstates fails to meet the specified delivery schedule. Client is responsible for providing and maintaining adequate insurance for the Products against loss or damage by fire or other causes between the receipt of shipment and final payment.
 - 14.2. Returns: All goods and Services described herein are sufficiently unique to prohibit any return for full or partial credit, other than warranty, unless specifically stated otherwise in the proposal. Interstates is not responsible for loss of or damage to goods returned to it, unless notified in advance of the return and Client is given authority by Interstates to return the goods.
 - 14.3. Warranty: Interstates warrants all hardware, equipment, and goods ("Products") supplied to the extent of any manufacturer's warranty to Interstates that is applicable to such Products. If, at Client's request, Interstates elects to service or replace Products on account of misuse, Interstates reserves the right to charge the full cost of such service or replacement to Client, including travel expense. Interstates' sole obligation, and Client's sole remedy, under this section is to use reasonable efforts to enforce the terms of the manufacturer's warranty.
15. Disclaimer: EXCEPT AS SET FORTH IN THIS AGREEMENT WITH REGARD TO BOTH GOODS AND SOFTWARE, INTERSTATES MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF FREEDOM FROM PATENT INFRINGEMENT, OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE OR OTHER EXPRESS OR IMPLIED WARRANTIES.
16. Miscellaneous:
 - 16.1. Terms and Conditions shall inure to the benefit of, and be binding upon, the successors and assignees of the Parties. The invalidity of any segment of these Terms and Conditions shall in no way operate to invalidate any other portion and, except for the invalid segment, the entire balance of these Terms and Conditions shall be and remain in full force and effect. Interstates and Client have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Parties shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Parties. This Agreement constitutes the entire Agreement of the parties regarding the subject matter of the Agreement and supersedes all prior and contemporaneous statements, promises, understandings or agreements, written or oral, regarding the subject matter of this Agreement. This Agreement cannot be amended except by written agreement of the parties hereto. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, and signature pages may be exchanged by facsimile or other electronic communication. All of such counterparts together shall constitute one instrument.