

## AUTOBYTEL INC.

### AUDIT COMMITTEE CHARTER

AMENDED AND RESTATED AS OF DECEMBER 9, 2004

#### I. MISSION

1.1 **Amendment and Restatement.** The Board of Directors (the “**Board**”) of Autobytel Inc. (the “**Company**”) hereby amends and restates the charter for the Audit Committee of the Board (the “**Audit Committee**”). This Charter should be interpreted in the context of all applicable laws and the Company’s Certificate of Incorporation and Bylaws, as amended from time to time, as well as all other corporate governance documents adopted by the Board. This Charter is subject to modification from time to time by the Board as the Board may deem appropriate in the best interests of the Company or as required by applicable laws.

1.2 **Purpose.** The primary purpose of the Audit Committee is to oversee the Company’s accounting and financial reporting policies, processes, practices and internal controls. The Audit Committee shall be directly responsible for the appointment, compensation, retention and oversight of the independent auditors, and the independent auditors shall report directly to the Audit Committee. The Audit Committee shall also review the quality and objectivity of the Company’s independent audit and financial statements, act as a liaison between the Board and the Company’s independent auditors, and periodically report to the Board. In performing its duties, the Audit Committee shall have unrestricted access to the Company’s independent auditors, outside counsel, other third party advisors, as well as the executive and financial management of the Company.

#### II. ORGANIZATION

2.1 **Number of Members.** The Audit Committee shall be composed of at least three (3) members of the Board.

2.2 **Independence.** Each member of the Audit Committee shall be an “Independent” member of the Board as described under applicable law or regulation. In addition, no member of the Audit Committee shall (i) have participated in the preparation of the financial statements of the Company or any current subsidiary at any time during the past three years, (ii) other than in such member’s capacity as a member of the Board or any committee thereof, accept any consulting, advisory or other compensatory fee from the Company or any subsidiary of the Company (other than the receipt of fixed amounts of compensation under a retirement plan, including deferred compensation, for prior service with the Company, provided such compensation is not contingent in any way on continued service), or (iii) be an “affiliated person” (as defined in the Securities Exchange Act of 1934, as amended, and/or the rules and regulations promulgated thereunder) of the Company or any affiliate of the Company.

2.3 **Qualifications.** Key qualifications of Audit Committee members should include a broad business knowledge, independent judgment and financial literacy.

(a) **Financial Literacy.** All members of the Audit Committee must be able to read and understand fundamental financial statements.

(b) **Financial Experience.** At least one member of the Audit Committee shall have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background that results in the member's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

(c) **Financial Expert.** At least one member of the Audit Committee should be an "audit committee financial expert" as defined in and determined by the relevant regulations promulgated under the Exchange Act. Notwithstanding the foregoing, while the Audit Committee shall strive to have an audit committee financial expert at all times, it may not be feasible to satisfy this requirement under all circumstances, including due to the resignation, removal or death of the audit committee financial expert.

2.4 **Appointment and Removal.** The members of the Audit Committee shall be appointed by the Board. Members may be recommended to the Board by an appropriate committee of the Board as determined by the Board. Audit Committee members may be removed at the discretion of the Board with or without cause.

2.5 **Chair.** The Board shall designate one member of the Audit Committee to be Chair.

2.6 **Meetings.** The Audit Committee shall meet on a regular basis, but not less frequently than quarterly, with such additional meetings as the Chair of the Audit Committee deems necessary. A majority of the Audit Committee's members shall constitute a quorum. At any meeting of the Audit Committee, the decision of a majority of the members present and voting shall be determinative as to any matter submitted to a vote. The Audit Committee may act by unanimous written consent. The Chair or the Chief Financial Officer, at the direction of the Chair, shall establish an agenda for each meeting. The Audit Committee shall meet periodically with management. The Audit Committee shall also meet periodically with the independent auditors, with and without the participation of management. The Audit Committee may request any officer or employee of the Company or the Company's outside counsel or independent auditors to attend a meeting of the Audit Committee or to meet with any members of, or consultants to, the Audit Committee.

2.7 **Minutes.** The Audit Committee shall record and keep minutes of all Audit Committee meetings, which shall be available to the Board for its review.

2.8 **Reporting to Board.** The Chair shall report to the Board following regular meetings of the Audit Committee, and at such other times as the Chair determines appropriate.

### III. DUTIES AND RESPONSIBILITIES

#### 3.1 Oversight of Independent Auditors.

(a) **Appointment and Oversight.** The Audit Committee shall be directly responsible for the appointment, compensation, retention and oversight of the work of the Company's independent auditors, including the resolution of any disagreement between management and the independent auditors regarding financial reporting. The Audit Committee shall take appropriate action to provide that the Company's independent auditors report directly to the Audit Committee.

(b) **Independence of Auditors.** Consistent with Independence Standards Board Standard No. 1, the Audit Committee shall review the independent auditors' formal written statement delineating all relationships between such auditors and the Company. The Audit Committee shall discuss with the independent auditors any disclosed relationships or services that may impact the objectivity and independence of such auditors. The Audit Committee shall take, or recommend that the full Board take, appropriate action to satisfy itself that the independent auditors are independent of the Company as provided under the Exchange Act and the NASDAQ rules.

(c) **Qualifications.** The Audit Committee shall review and evaluate the experience and qualifications of the lead partner of the audit engagement team of the Company's independent auditors. The Audit Committee shall review and evaluate the qualifications and performance of the independent auditors. The Audit Committee shall take, or recommend that the full Board take, appropriate action to satisfy itself of the qualifications and performance of such auditors.

(d) **Partner Rotation.** The Audit Committee shall take reasonable steps to provide for the rotation of the lead (or coordinating) audit partner having primary responsibility for the audit and the audit partner responsible for reviewing the audit as required by the Exchange Act.

(e) **Non-Audit Services.** The Audit Committee shall take reasonable steps to provide that the Company's independent auditors do not render any non-audit services to the Company that would cause the independent auditors to no longer be independent from the Company under the Exchange Act.

(f) **Pre-Approval.** The Audit Committee shall pre-approve all audit (including the annual audit engagement letter with the independent auditors) and permitted non-audit services (including the fees and terms thereof) provided to the Company by the independent auditors, subject to the de minimus exception for non-audit services as described in the Exchange Act. The Audit Committee shall consult with management with respect to pre-approval, including whether the provision of permitted non-audit services is compatible with maintaining the auditors' independence, and shall not delegate these responsibilities to management. The Audit Committee may delegate to any member or members of the Audit Committee the power to grant any pre-approval, provided that such pre-approval is reported to the Audit Committee at the next scheduled Audit Committee meeting. The Audit Committee may adopt a pre-approval policy setting forth procedures by which such pre-approvals may be granted.

(g) **Independent Auditor Access.** The Audit Committee shall provide the Company's independent auditors full and free access to the Audit Committee to meet privately at such times as the independent auditors determine appropriate.

### 3.2 **Financial Statement and Disclosure Matters and Audits.**

(a) **Auditor Reports.** The Audit Committee shall obtain and review timely reports from the Company's independent auditors regarding (i) all critical accounting policies and practices to be used; (ii) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management of the Company, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditors; and (iii) other material written communications between the independent auditors and management of the Company, such as any management letter or schedule of unadjusted differences.

(b) **Audited Financial Statements and Annual Reports and Proxy Statements.** The Audit Committee shall review and discuss with management and the independent auditors the annual audited financial statements and the disclosures made in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" ("MD&A") section of the Company's annual reports on Form 10-K and such other disclosures as determined by the Audit Committee, and recommend to the Board whether the audited financial statements should be included in such Form 10-K. The Audit Committee shall review and discuss with management and the independent auditors the Company's proxy statements.

(c) **Financial Statements and Quarterly Reports.** The Audit Committee shall review and discuss with management and the independent auditors the financial statements and the disclosures made in the MD&A section of the Company's quarterly reports on Form 10-Q and such other disclosures as determined by the Audit Committee prior to its filing, including the results of the independent auditors' review of the financial statements, and discuss with the independent auditors the matters under Statements on Auditing Standards ("SAS") No. 61.

(d) **Financial Reporting Issues.** The Audit Committee shall review and discuss with management and the independent auditors the significant financial reporting issues and judgments made in connection with the preparation of the Company's financial statements, including any significant changes in the Company's selection or application of accounting principles.

(e) **Internal Control Over Financial Reporting and Fraud.** The Audit Committee shall review and discuss with management and the independent auditors any disclosures made to the Audit Committee by the Company's Chief Executive Officer and Chief Financial Officer during their certification process for the Company's annual report on Form 10-K and quarterly reports on Form 10-Q about (i) any significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information, or (ii) any fraud, whether or not material, that involves the Company, including management or other employees who have a significant role in the Company's internal control over financial reporting, and any special steps adopted in light of such disclosures. The Audit

Committee shall annually review all reports of management and the independent auditors on the Company's internal control over financial reporting.

(f) **Material Correcting Adjustments.** The Audit Committee shall review and discuss with management and the independent auditors any material correcting adjustments to the Company's financial statements identified by the independent auditors.

(g) **Off-Balance Sheet Arrangements.** The Audit Committee shall review and discuss with management and the independent auditors all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the Company with unconsolidated entities or other persons as defined in Item 303(a)(4) of Regulation S-K under the Securities Act of 1933, as amended.

(h) **Risk Assessment and Management.** The Audit Committee shall review and discuss with management the Company's major financial risk exposures and the steps management has taken to monitor and control such exposures, including the Company's risk assessment and risk management policies.

(i) **Press Releases and Pro Forma Information.** The Audit Committee or the Chair shall, prior to release, discuss with management the Company's earnings press releases, including the use of "pro forma" or "adjusted" non-generally accepted accounting principles information, as well as financial information and earnings guidance provided to analysts and rating agencies.

(j) **SEC Comments.** The Audit Committee shall review and discuss with management any comments from or matters raised by the staff of the Securities and Exchange Commission ("SEC") regarding the Company's financial statements or other documents filed with the SEC.

(k) **Changes to Accounting and Auditing Practices.** The Audit Committee shall consider and approve, if appropriate, any changes to the Company's accounting principles and practices proposed by management. The Audit Committee shall discuss with the independent auditors any significant changes in auditing standards or their auditing scope.

(l) **Audit Review.** The Audit Committee shall annually meet with the independent auditors and financial management of the Company to review the scope of the audit of the books of account of the Company and other operations and controls and the procedures to be utilized. At the conclusion of an audit, the Audit Committee shall review the results of such audit, including any comments or recommendations, with the independent auditors. The Audit Committee shall review the annual audit plans of the independent auditors and the capability of such auditors to accomplish such plans.

### 3.3 **Legal and Regulatory Compliance.**

(a) **Legal Matters and Contingencies.** The Audit Committee shall review and discuss with the Company's management, General Counsel, outside counsel, as deemed necessary, and independent auditors the substance of any significant issues raised by the General Counsel concerning litigation, contingencies, claims or assessments with respect to the Company, including the effectiveness of the Company's policies, procedures and control systems

in preventing illegal and improper acts and the effectiveness and timeliness of management's response in the event any instances of illegal or improper acts are discovered. The Audit Committee shall review and discuss with the General Counsel and, as deemed necessary, outside counsel legal matters that may have a material impact on the financial statements or the Company's compliance policies.

(b) **Illegal Acts.** The Audit Committee shall obtain from the independent auditors assurance that the independent auditors will inform the Audit Committee and management of any information indicating that an illegal act has or may have occurred.

(c) **Compliance.** The Audit Committee shall review and discuss with management any compliance matter brought to the attention of the Audit Committee. The Audit Committee shall inquire of management whether, to the knowledge of management, the Company and its subsidiaries and their directors and employees are in conformity with applicable legal requirements and the Company's policies and procedures, including the Company's code of conduct and ethics. The Audit Committee shall inform the Board of any material non-compliance, of which the Audit Committee is aware, by the Company or its officers and employees with the Company's policies and procedures, including the Company's code of conduct and ethics, and with laws and regulations applicable to the Company.

(d) **Audit Committee Reports.**

(i) **Proxy Report.** The Audit Committee shall provide the Board with an annual report to be included in the Company's proxy statement. Such report shall disclose whether (i) the Audit Committee reviewed and discussed the audited financial statements with management; (ii) the Audit Committee discussed with the independent auditors the matters required to be discussed by SAS No. 61, as may be modified or supplemented; (iii) the Audit Committee received the written disclosures and the letter from the independent auditors required by Independence Standards Board Standard No. 1, as may be modified or supplemented, and discussed with such auditors the auditors' independence; and (iv) it recommended to the Board that the audited financial statements be included in the Company's annual report on Form 10-K for filing with the SEC.

(ii) **Other Information and Reports.** The Audit Committee shall provide the Board with other information and reports required to be disclosed in the Company's proxy statement or other reports filed with the SEC, including information regarding the Audit Committee, the fees paid to the Company's independent auditors, the Audit Committee's pre-approval policies and procedures, and the services of the Company's independent auditors that have been approved.

### 3.4 **Other Responsibilities.**

(a) **Complaint Procedures.** The Audit Committee shall establish procedures for (i) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters, and (ii) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.

(b) **Related Party Transactions.** The Audit Committee shall take reasonable steps to provide that the Company conducts an appropriate review of all related party transactions for potential conflict of interest situations on an ongoing basis. The Audit Committee, in its discretion, must approve all related party transactions prior to the Company entering into any such transactions.

(c) **Review of Charter and Audit Committee.** The Audit Committee shall review and reassess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval or to an appropriate committee of the Board for review and submission to the Board for approval. The Audit Committee shall annually review the Audit Committee's own performance in accordance with this Charter, as may be amended from time to time.

(d) **Advisors.** The Audit Committee shall have the authority, to the extent it deems necessary or appropriate to carry out its duties, to retain special independent legal counsel and other advisors, including accounting, financial or other consultants, to advise the Audit Committee.

(e) **Funding.** The Company shall provide for appropriate funding, as determined by the Audit Committee, for payment of compensation to the independent auditors for the purpose of rendering or issuing an audit report and to any advisors retained by the Audit Committee.

#### **IV. LIMITATION OF AUDIT COMMITTEE'S ROLE AND LIABILITY**

4.1 **Responsibilities of Management and Independent Auditors.** While the Audit Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Audit Committee to plan or conduct audits or to determine that the Company's financial statements and disclosures are complete and accurate and are in accordance with generally accepted accounting principles and applicable rules and regulations. These are the responsibilities of management and the independent auditors.

4.2 **Subject to Delaware Law.** Subject to applicable federal law, nothing contained in this Charter is intended to, or should be construed as, creating any responsibility or liability of the members of the Audit Committee except to the extent otherwise provided under Delaware law.