



## 1. NETWORK MANAGEMENT AGREEMENT

1.1. FCS and CUSTOMER agree that the following terms and conditions will apply to services under this Agreement, or to any other services that may be provided hereunder by FCS via authorized Addendum to this Agreement, or to any CUSTOMER order accepted by FCS to provide services.

1.2. This Agreement shall remain in force beginning on Effective Date and ending on Expiration Date, or termination, as elsewhere so provided herein.

## 2. ON-SITE SUPPORT SERVICES

2.1 Technical Support Services shall consist of FCS providing assistance to CUSTOMER in the resolution of network and/or network related problems via remote control software over the Internet, TELNET sessions to network devices, or on-site visits.

2.3 FCS will use its best efforts to perform procedures and services to maintain the computer network at optimal operating efficiency so as to mitigate the frequency and severity of computer network problems or inadequate performance that compromise CUSTOMER's ability to conduct its business in a manner and to the standards required by CUSTOMER

2.4 FCS shall act as a liaison between CUSTOMER and designated software and hardware manufacturer(s) for problem resolution. In the event services are required from the manufacturer, it shall be the CUSTOMER's responsibility to pay the manufacturer for such services. In the event a manufacturer provides FCS with a "fix" and FCS installs such fix, upon CUSTOMER request and FCS acceptance, CUSTOMER will be billed by FCS for such installation service at its then current hourly rates and terms in effect.

## 3. PHONE SUPPORT

3.1 FCS will provide phone support for CUSTOMER during the business hours of 8:30a.m to 5:00p.m., Monday through Friday excluding federal, state and company holidays. CUSTOMER may contact FCS to resolve any network related problem that may arise on CUSTOMERS local network environment.

3.2 Should Server Emergency Service be required outside the standard business hours, the CUSTOMER shall call the main FCS After Hours number (800-xxx-xxxx)

3.3 FCS will attempt to resolve issues over the phone. If the problem cannot be resolved over the phone within a 15-minute time limit, FCS will schedule a network analyst to remotely access CUSTOMER's network, or schedule an on-site visit.

3.4 Application software support is not included in this service. FCS's network analysts will always provide their "Best Effort" to resolve application issues and they may contact the application vendor on CUSTOMER's behalf. Additional Help Desk Services may be available for support of most commercial application software.

4. NETWORK DEVICE MONITORING

4.1 FCS will monitor the network devices listed below 24 hours a day, 7 days a week via an Internet connection from FCS corporate offices.

4.2. All Devices under this agreement will be monitored for up/down status (HEARTBEAT). Should a device go off-line, FCS will notify the CUSTOMER immediately during normal business hours.

4.3 Devices being monitored under this agreement are:

Device/Server Name Device/Server Make & Model

1.		
2.		
3.		
4.	TBD	

5. MONTHLY NETWORK AUDIT

5.1 FCS will perform an on-site network audit of CUSTOMER's network environment once a month from the signing of this contract.

5.2 A FCS network analyst will perform an inspection of the physical network environment (hubs, switches, routers, cabling, etc.), review current power management configuration, and server hardware.

5.3 A FCS network analyst will perform preventative maintenance on each server covered under this contract. This may consist of, but is not limited to: Updating Operating System service packs, Creating Emergency Repair disks, or cleaning tape drive units.

6. INSTALLATION

Windows 2000/2003

6.1a FCS will establish a remote connection to CUSTOMER's server(s). CUSTOMER is responsible for all costs related to acquisition and installation of telecommunications to achieve this connection. Appropriate telecommunication lines include ISDN, PRI, T1, Fractional T1, or xDSL with a STATIC IP address.

6.2a If necessary, FCS will configure CUSTOMER's existing firewall to allow connectivity for remote access.

6.3a FCS will install the appropriate remote control software on all servers listed under this agreement.

6.4a FCS will test and verify connectivity from the remote access station located at FCS's operation facilities to each server covered under this agreement.

6.5a If required, FCS will install and configure TCP/IP for each server listed under this agreement.

6.6a If the current anti-virus software will allow, FCS will configure the software to send an e-mail in the event a virus is detected on each server listed under this agreement.

6.7a If the current backup software will allow, FCS will configure the software to send an e-mail with the results of all backups performed.

6.8a FCS will create an e-mail account for CUSTOMER at FCS's station to allow forwarding of monitoring data to FCS's service center.

## 7. CHARGES

### 7.1 DUE UPON SIGNING

CUSTOMER will provide FCS with the following balance due upon signing of this agreement to begin service: TBD

### TOTAL DUE UPON SIGNING

7.2 All technical service performed remotely by FCS on CUSTOMER's network outside the original scope of this contract will be billed at FCS's published hourly rates in quarter (¼) hour increments with a quarter hour (¼) minimum.

7.3 All service performed on-site by FCS on CUSTOMER's network will be billed at FCS's published hourly rates with a one (1) hour minimum.

7.4 FCS will invoice CUSTOMER for additional services or products not specifically included in the scope of this agreement.

7.5 The actual charges incurred in this agreement are not subject to offset against any other support agreement amount that CUSTOMER may have in effect with FCS.

7.6 There shall be added to the charges due an amount equal to all taxes based upon all services, equipment, hardware, software, freight and other applicable charges. This includes all state and local sales and use taxes based on gross revenue, and any taxes or amount in lieu thereof paid or payable by FCS in respect to the foregoing.

7.7 FCS will invoice CUSTOMER for all approved services, charges, hardware, software, and taxes on a monthly basis. All fees for the services provided in this agreement are invoiced in advance and pre-paid.

7.8 All invoices and payments are due according to pre-approved terms by FCS.

## 8. CUSTOMER RESPONSIBILITIES

8.2 CUSTOMER must maintain a dedicated connection to their Internet Service Provider with a STATIC IP address. Appropriate telecommunication lines include ISDN, PRI, T1, Fractional T1, or xDSL.

8.3 CUSTOMER must provide FCS with the name and contact information for the current ISP, if applicable.

8.4 CUSTOMER must provide FCS with the TCP/IP scheme for the organization, if applicable.

8.5 CUSTOMER must provide FCS with all appropriate usernames and passwords required to access network resources (i.e. Administrator usernames and passwords, router telnet passwords).

8.6 CUSTOMER agrees to allow FCS service engineers or its subcontracted service technician's reasonable access to the premises and facilities where the CUSTOMER equipment is located. CUSTOMER agrees to provide an adjacent work area that includes adequate lighting, power outlets, a telephone line and at least one data transmission line, if applicable, for troubleshooting and testing communications.

8.7 CUSTOMER acknowledges that FCS is involved in a highly strategic and competitive business. CUSTOMER further acknowledges that CUSTOMER would gain substantial benefit and that FCS would be deprived of such benefit, if CUSTOMER were to directly hire any personnel employed by FCS. Except as otherwise provided by law, CUSTOMER shall not, without the prior written consent of FCS, solicit the employment of FCS personnel during the term of this Agreement and for a period of one (1) year following the termination or expiration of this Agreement. CUSTOMER agrees that FCS damages resulting from breach by CUSTOMER of this provision would be impracticable and that it would be extremely difficult to ascertain the actual amount of damages.

Therefore, in the event CUSTOMER violates this provision, CUSTOMER shall immediately pay FCS an amount equal to US \$75,000 for non-exempt employees and US \$200,000 for exempt employees, as liquidated damages and FCS shall have the option to terminate this Agreement without further notice or liability to CUSTOMER. The amount of the liquidated damages reflected herein is not intended as a penalty and is reasonably calculated based upon the projected costs FCS would incur to identify, recruit, hire and train suitable replacements for such personnel.

8.8 IT IS THE RESPONSIBILITY OF THE CUSTOMER TO ENSURE THAT PRESCRIBED BACKUP OPERATIONS PERFORMED BY THE CUSTOMER ARE ADEQUATE. FCS WILL NOT BE RESPONSIBLE FOR CUSTOMER'S FAILURE TO DO SO, NOR FOR THE COST OF RECONSTRUCTING DATA STORED ON DISK FILES, TAPES, MEMORIES, ETC., LOST DURING THE PERFORMANCE OF SERVICE PERFORMED HEREUNDER.

## 9. DEFAULT AND TERMINATION

9.1 FCS, by written notice to CUSTOMER, may terminate this Agreement within ten (10) days after written notice of any delinquency in the payment of any invoice amount.

9.2 CUSTOMER may terminate Services prior to the end of the Term with a thirty (30) day written notice to FCS. Should CUSTOMER choose to terminate service prior to the end of contract term, CUSTOMER will be subject to early termination charges equal to twenty percent (20%) of the number of months remaining in the Term multiplied by the monthly rate for the Services. Early termination charges are due in full immediately with written termination notice. Termination will not be accepted until balance is paid in full.

9.3 FCS will provide services in a competent manner, comparable to industry standards. If FCS does not provide services in such manner and cannot rectify the problem(s), within thirty (30) days from CUSTOMER written notice in which CUSTOMER identifies the problem(s), CUSTOMER will have the right to terminate this Agreement without paying early termination charges.

9.4 FCS, at its sole discretion, may terminate this Agreement if CUSTOMER: (a) becomes the subject of any proceedings under the Bankruptcy Act or other insolvency law, voluntary or involuntary, if such proceeding is not dismissed within ninety (90) days; (b) suffers a receiver to be appointed for its affairs or property; or (c) enters into an assignment, or other an arrangement, for the benefit of its creditors, or suffers an attachment against or a seizure of a substantial par of its assets, equipment or its parts and inventories. However, CUSTOMER's responsibility for past due amounts shall survive each bankruptcy proceeding provided the acknowledgment of such liability by CUSTOMER will not affect the discharge of CUSTOMER regarding other general creditors.

9.5 In the case of default by either party under this Agreement, the defaulting party will reimburse the non-defaulting party for all costs and expenses arising from the default, including reasonable attorney fees if the non-defaulting party engages in legal counsel to preserve or enforce such rights under this Agreement, including the collection of any payments due.

9.6 Termination of this Agreement will not adversely affect any right existing as the effective date of termination. The rights and remedies provided under this Agreement are cumulative and in addition to any other rights or remedies available at law and in equity, and any other contract instrument or paper.



**Microsoft**  
**GOLD CERTIFIED**  
*Partner*

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Networking Infrastructure Solutions



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