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|  | Network Management ***-Service Agreement -*** |

### CONTRACT NUMBER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Network management Agreement**
   1. DEALER and CLIENT 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 DEALER via authorized Addendum to this Agreement, or to any CLIENT order accepted by DEALER to provide services.
   2. This Agreement shall remain in force beginning on Effective Date and ending on Expiration Date, or termination, as elsewhere so provided herein.

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| --- |
| **Effective Date \_\_\_\_\_\_\_\_\_\_ Expiration Date \_\_\_\_\_\_\_\_\_\_** |

1. **Remote server Administration**
   1. DEALER will perform specific server administration identified below. Servers included in this agreement are:

|  |  |  |
| --- | --- | --- |
| **Server Description** | **Serial Number** | **Operating System** |
| 1. |  |  |
| 2. |  |  |

* 1. On a weekly basis, DEALER will connect to each of the specified servers via an Internet connection and perform the following tasks:
     1. Review daily backup events
     2. Review the Event Viewer for errors and warnings
     3. Analyze server utilization statistics
     4. Analyze server hard drive utilization
     5. Update network baseline statistics
     6. Update Performance Monitor parameters
  2. On a monthly basis, DEALER will connect to each of the specified servers via an Internet connection and perform the following additional tasks:
     1. Update latest virus signature files for the server
     2. Purge deleted files and optimize drive space
     3. Run UPS self test via server software
  3. If DEALER identifies a problem or alarm on any given server, DEALER will contact CLIENT to determine a resolution. All findings will be reported to the CLIENT immediately during normal business hours.

1. **ON-SITE SUPPORT SERVICES**
   1. DEALER will provide up to four (4) hours of technical services to CLIENT per month. All support services will be billed on a time and material basis and will be credited against the monthly 4 hours. Any service work exceeding 4 hours for the month will be invoiced at DEALER published hourly rates.
   2. Technical Support Services shall consist of DEALER providing assistance to CLIENT 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.
   3. DEALER 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 CLIENT’S ability to conduct its business in a manner and to the standards required by CLIENT
   4. DEALER shall act as a liaison between CLIENT and designated software and hardware manufacturer(s) for problem resolution. In the event services are required from the manufacturer, it shall be the CLIENT'S responsibility to pay the manufacturer for such services. In the event a manufacturer provides DEALER with a "fix" and DEALER installs such fix, upon CLIENT request and DEALER acceptance, CLIENT will be billed by DEALER for such installation service at its then current hourly rates and terms in effect.
2. **PHONE SUPPORT**
   1. DEALER will provide phone support for CLIENT during the business hours of 8:00a.m to 5:00p.m., Monday through Friday. CLIENT may contact DEALER to resolve any network related problem that may arise on CLIENT’S local network environment.
   2. Should emergency service be required outside the standard business hours, the CLIENT shall call the main DEALER number ( ) and select the voice mail option for Emergency Service
   3. DEALER will attempt to resolve issues over the phone. If the problem can not be resolved over the phone within a 15 minute time limit, DEALER will schedule a network analyst to remotely access CLIENT’S network, or schedule an on-site visit.
   4. CLIENT is limited to a maximum of 20 calls (new incidents) per month. Any additional calls will invoiced at $.00 per call.
   5. Application software support is not included in this service. DEALER network analysts will always provide their “Best Effort” to resolve application issues and they may contact the application vendor on CLIENT’S behalf. Additional Help Desk Services may be available for support of most commercial application software.
3. **NETWORK DEVICE MONITORING**
   1. DEALER will monitor up to three (3) network devices (servers, routers, switches, hubs, etc.) 24 hours a day, 7 days a week via an Internet connection from DEALER corporate offices.
   2. All Devices under this agreement will be monitored for up/down status (HEARTBEAT). Should a device go off-line, DEALER will notify the CLIENT immediately during normal business hours.
   3. Devices being monitored under this agreement are:

|  |  |  |
| --- | --- | --- |
|  | **Device/Server Name** | **Device/Server Make & Model** |
| 1. |  |  |
| 2. |  |  |
| 3. |  |  |

1. **QUARTERLY NETWORK AUDIT**
   1. DEALER will perform an on-site network audit of CLIENT’S network environment every three (3) months from the signing of this contract.
   2. A DEALER network analyst will perform an inspection of the physical network environment (hubs, switches, routers, cabling, etc.), review current power management configuration, and server hardware.
   3. A DEALER 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.
2. **INSTALLATION**

## Windows NT

* 1. DEALER will establish a remote connection to CLIENT’S server(s). CLIENT 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.
  2. If necessary, DEALER will configure CLIENT’S existing firewall to allow connectivity for remote access.
  3. DEALER will install the appropriate remote control software on all servers listed under this agreement.
  4. DEALER will test and verify connectivity from the remote access station located at DEALER operation facilities to each server covered under this agreement.
  5. If required, DEALER will install and configure TCP/IP for each server listed under this agreement.
  6. If the current anti-virus software will allow, DEALER will configure the software to send an e-mail in the event a virus is detected on each server listed under this agreement.
  7. If the current backup software will allow, DEALER will configure the software to send an e-mail with the results of all backups performed.
  8. DEALER will create an e-mail account for CLIENT at DEALER station to allow forwarding of monitoring data to DEALER service center.

## Novell

* 1. DEALER will establish a remote connection to a CLIENT’S workstation. CLIENT 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.
  2. DEALER will install the appropriate remote control software on a dedicated CLIENT workstation.
  3. DEALER will test and verify connectivity from the remote access station located at DEALER operations facilities to a designated workstation located at the CLIENT office(s).
  4. If required, DEALER will install and configure TCP/IP for each server listed under this agreement.
  5. If the current anti-virus software will allow, DEALER will configure the software to send an e-mail in the event a virus is detected on each server listed under this agreement.
  6. If the current backup software will allow, DEALER will configure the software to send an e-mail with the results of all backups performed.

1. **CHARGES**
   1. INITIAL SETUP FEES

DEALER will perform the INSTALLATION as detailed in Section 7. The scope of these services is limited to the tasks as defined in Section 7. If necessary, DEALER will make provisions for establishing this service through the CLIENT’S firewall. If DEALER personnel deem this task to be significantly more complex than our standard, routine process then the CLIENT will be notified and advised of additional fees that may be required to achieve this installation.

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| --- | --- |
| IT MANAGER FOR HIRE | |
| **Standard Setup Fee** | **$ .00** |

* 1. MONTHLY FEE

DEALER will provide the IT MANAGER FOR HIRE services to the CLIENT as detailed in Section 2 through 6 of this agreement. The monthly subscription fee will be invoiced on the first day of each month for the month services are provided:

|  |  |  |
| --- | --- | --- |
| IT MANAGER FOR HIRE | MONTHLY SUBSCRIPTION | ANNUAL CONTRACT AMOUNT |
| **Level 1 Service** | **$ .00** | **$ .00** |

* 1. DUE UPON SIGNING

CLIENT will provide DEALER with the following balance due upon signing of this agreement to begin service:

|  |  |
| --- | --- |
| **Setup Fees** | **$ .00** |
| **First Months Subscription** | **$ .00** |
| **Sub Total** | **$ .00** |
| **Tax** | **$** |
| **TOTAL DUE UPON SIGNING** | **$** |

* 1. All technical service performed remotely by DEALER on CLIENT’S network outside the original scope of this contract will be billed at DEALER published hourly rates in quarter (¼) hour increments with a quarter hour (¼) minimum.
  2. All service performed on-site by DEALER on CLIENT’S network will be billed at DEALER published hourly rates with a one (1) hour minimum.
  3. DEALER will invoice CLIENT for additional services or products not specifically included in the scope of this agreement.
  4. All rates in this Agreement are based upon services provided during normal business hours defined as Monday – Friday, 8am – 5pm CST.

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| --- | --- | --- |
|  | Service Hours | Surcharges |
| Normal | Monday through Friday, 8:00 AM to 5:00 PM | None |
| Extended | Monday through Friday, 5:01 PM to 7:59 AM  Saturday, 8:00 AM to 5:00pm | Contract Rate x 1.5  (2 hr. minimum) |
| Weekend | Sundays and National Holidays | Contract Rate x 2  (2 hr. minimum) |

* 1. DEALER will invoice for travel incurred outside a 30 mile radius of a DEALER service center. This includes mileage expenses, lodging, and other incidental travel expenses.
  2. The actual charges incurred in this agreement are not subject to offset against any other support agreement amount that CLIENT may have in effect with DEALER.
  3. 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 DEALER in respect to the foregoing.
  4. DEALER will invoice CLIENT 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.
  5. All invoices and payments are due according to pre-approved terms by DEALER.

1. **CLIENT Responsibilities**
   1. CLIENT must maintain a dedicated connection to their Internet Service Provider. Appropriate telecommunication lines include ISDN, PRI, T1, Fractional T1, or xDSL.
   2. CLIENT must provide DEALER with the name and contact information for the current ISP, if applicable.
   3. CLIENT must provide DEALER with the TCP/IP scheme for the organization, if applicable.
   4. CLIENT must provide DEALER with all appropriate usernames and passwords required to access network resources (i.e. Administrator usernames and passwords, router telnet passwords).
   5. CLIENT agrees to allow DEALER service engineers or its subcontracted service technician’s reasonable access to the premises and facilities where the CLIENT equipment is located. CLIENT 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.
   6. CLIENT acknowledges that DEALER is involved in a highly strategic and competitive business. CLIENT further acknowledges that CLIENT would gain substantial benefit and that DEALER would be deprived of such benefit, if CLIENT were to directly hire any personnel employed by DEALER. Except as otherwise provided by law, CLIENT shall not, without the prior written consent of DEALER, solicit the employment of DEALER personnel during the term of this Agreement and for a period of one (1) year following the termination or expiration of this Agreement. CLIENT agrees that DEALER damages resulting from breach by CLIENT of this provision would be impracticable and that it would be extremely difficult to ascertain the actual amount of damages. Therefore, in the event CLIENT violates this provision, CLIENT shall immediately pay DEALER an amount equal to US $25,000 for non exempt employees and US $75,000 for exempt employees, as liquidated damages and DEALER shall have the option to terminate this Agreement without further notice or liability to CLIENT. The amount of the liquidated damages reflected herein is not intended as a penalty and is reasonably calculated based upon the projected costs DEALER would incur to identify, recruit, hire and train suitable replacements for such personnel.
   7. It is the responsibility of the CLIENT to ensure that PRESCRIBED BACKUP OPERATIONS PERFORMED BY THE CLIENT ARE adequate. DEALER will not be responsible for CLIENT'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.
2. **Default and Termination**
   1. DEALER, by written notice to CLIENT, may terminate this Agreement within ten (10) days after written notice of any delinquency in the payment of any invoice amount.
   2. CLIENT may terminate Services prior to the end of the Term with a thirty (30) day written notice to DEALER. Should CLIENT choose to terminate service prior to the end of contract term, CLIENT 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.
   3. DEALER will provide services in a competent manner, comparable to industry standards. If DEALER does not provide services in such manner and can not rectify the problem(s), within thirty (30) days from CLIENT written notice in which CLIENT identifies the problem(s), CLIENT will have the right to terminate this Agreement without paying early termination charges.
   4. DEALER, at its sole discretion, may terminate this Agreement if CLIENT: (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, CLIENT'S responsibility for past due amounts shall survive each bankruptcy proceeding provided the acknowledgment of such liability by CLIENT will not affect the discharge of CLIENT regarding other general creditors.
   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.
   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.
3. **Insurance Coverage** 
   1. DEALER shall maintain at its sole expense commercial general liability insurance for personal injury and property damage for a general aggregate of $2,000,000; worker's compensation insurance as required by law; and hired and non-owned automobile liability insurance for the combined single limit of $1,000,000. At CLIENT’S request, DEALER further agrees to furnish CLIENT with certificates, including renewal certificates, evidencing such coverage within thirty (30) days of commencing performance under this Agreement, at every renewal and at other times as may be reasonably requested by CLIENT.
4. **Indemnity**
   1. Each party hereby agrees to indemnify and hold the other party harmless from and against any and all third party claims, demands, actions, losses, liabilities, costs and expenses (including reasonable attorney's fees) arising out of or resulting from the performance, or lack of performance, of each party's activities under this Agreement except to the extent caused by either party’s negligence or willful misconduct. DEALER shall defend and indemnify CLIENT against all claims, damages, etc. arising from DEALER employees’ and agents’ activities at CLIENT facilities.
5. **Force Majeure**
   1. DEALER shall not be liable for failure to perform any of its obligations under this Agreement during any period in which such performance is delayed by accidents beyond DEALER reasonable control, such as, but not limited to fire, flood, or other natural disasters, or, embargo, court order, riot, or other intervention of any government authority, provided that DEALER immediately notifies CLIENT of such delay. If DEALER performance is delayed for these reasons for a cumulative period of forty-five (45) days or more from the date of such notice, CLIENT may terminate this Agreement by giving DEALER written notice.
6. **Notices**
   1. All notices herein provided for or which may be given in connection with this Agreement shall be sent via regular mail, postage prepaid, or by facsimile. If any such notice shall be given by CLIENT to DEALER, it shall be addressed to:

DEALER

and if given by DEALER to CLIENT, such notice shall be addressed to:

#### CLIENT Contact: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CLIENT Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**CLIENT Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. **General**
   1. This Agreement shall be governed by the laws of the State of \_\_\_\_\_\_\_ and constitutes the entire Agreement between DEALER and CLIENT with respect to furnishing of services hereunder. No provision of the Agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification be in writing signed by the party against whom it is sought to enforce the waiver, amendment or modification.
   2. The foregoing terms and conditions shall prevail notwithstanding any variance with the terms and conditions of any order submitted by the CLIENT for service hereunder.
2. **CONFIDENTIALITY**
   1. DEALER recognizes that in the course of performing Services, it may have access to confidential and proprietary information, and trade secrets concerning CLIENT’S business and operations, including, without limitation, financial and tax information, business plans and development strategy, and marketing methodology, (collectively referred to as “Confidential Information”). DEALER recognizes that disclosure of the Confidential Information to competitors, non-authorized third parties or the general public would be detrimental to the Company. Accordingly, DEALER covenants and agrees with CLIENT that it will keep secret and treat confidentially the Confidential Information, and will not disclose any of the Confidential Information to any person or entity nor shall he use the Confidential Information for any purpose other than purposes which serve CLIENT.

**\* \* \* \* \* \* \***

BY THE SIGNATURES OF THE DULY AUTHORIZED REPRESENTATIVES BELOW, DEALER AND CLIENT, INTENDING TO BE LEGALLY BOUND, AGREE TO ALL OF THE PROVISIONS OF THIS AGREEMENT.

**DEALER CLIENT:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Authorized Signature) (Authorized Signature)

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(Type or Print Name) (Type or Print Name)

TITLE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ TITLE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_