

**FUJITSU COMPUTER SYSTEMS CORPORATION ("FCS")
PRODUCTS AND SERVICES AGREEMENT**

FCS agrees to provide and Customer agrees to acquire the Products and/or Services listed on products and services orders executed by Customer and accepted by FCS ("Products and Services Orders") and/or the Consulting Services set forth in statements of work or work order agreements executed by Customer and accepted by FCS ("SOW"), which Products and Services Orders and SOW incorporate by reference the terms and conditions of this Products and Services Agreement ("Agreement") (Product and Services Orders and SOW, collectively, "Order(s)"). "Products" shall collectively refer to Equipment and/or Software provided by FCS. Warranty and Maintenance Services shall refer to the warranty and maintenance services provided by FCS. Consulting Services shall refer to the services and deliverables set forth in any SOW. "Services" shall collectively refer to Warranty and Maintenance Services and Consulting Services provided by FCS. An Order may be in any written form provided by or acceptable to FCS. Where the Order is in the form of a Customer purchase order, only the transaction specific terms, such as product type, quantity and price, that match the quotation/information provided by FCS and that are placed on the face of the purchase order shall apply, and any additional or different terms and the pre-printed terms and conditions on such form shall be void and of no legal effect even if such Order is accepted by FCS.

TERMS APPLICABLE TO ALL TRANSACTIONS

1. PAYMENT TERMS

1.1 Except as may be otherwise specified, Customer shall pay any amounts due hereunder within thirty (30) calendar days after the date of invoice. If Customer fails to pay any charges when due, Customer agrees to pay a late payment charge of 1½ percent per month, but not in excess of the lawful maximum, on the past due balance.

1.2 If the invoiced amount is equal to \$100,000 or greater, payment shall be made by wire transfer to the account stated on the invoice. If the invoiced amount is less than \$100,000, payment may be made by wire transfer to such account, or by check to the address stated on the invoice.

1.3 FCS shall retain a purchase money security interest in items of Equipment until it has received payment of the purchase price in full and any other related charges. Customer agrees to execute any financing statements or other documents requested by FCS, which may be reasonably necessary to perfect such security interest.

2. TAXES

Customer agrees to pay all taxes or levies of whatever nature arising out of or in connection with this Agreement, including the sale, delivery, ownership, or use of the Products and Services, or any other activities hereunder, excluding taxes based on FCS's net income. Customer shall reimburse FCS in full for any of the foregoing taxes or levies that are paid by FCS for which Customer is responsible hereunder. If Customer asserts that any transaction under this Agreement is tax exempt, Customer shall provide to FCS a tax or levy exemption certificate acceptable to the taxing or levying authority.

3. HIGH RISK ACTIVITIES

3.1 THE PRODUCTS AND SERVICES ARE NOT DESIGNED OR INTENDED FOR USE IN ON-LINE CONTROL OF AIRCRAFT, AIR TRAFFIC, AIRCRAFT NAVIGATION OR AIRCRAFT COMMUNICATIONS, OR IN THE DESIGN, CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY NUCLEAR FACILITY OR FOR USE IN THE CONTROL OF MASS TRANSIT OR MEDICAL APPLICATIONS OR IN ANY OTHER INHERENTLY DANGEROUS APPLICATION. FCS AND ITS SUPPLIERS DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH USES AND SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM SUCH USE IF THE CUSTOMER USES THE PRODUCTS AND SERVICES IN SUCH APPLICATIONS.

3.2 CUSTOMER AGREES NOT TO USE OR RESELL THE PRODUCTS AND SERVICES FOR SUCH PURPOSES AND AGREES TO INDEMNIFY FCS AND ITS SUPPLIERS FOR ANY AND ALL CLAIMS FOR LOSSES, COSTS, DAMAGES OR LIABILITY, WITHOUT LIMITATION, ARISING OUT OF OR IN CONNECTION WITH A BREACH OF THIS SECTION.

4. LIMITATION OF LIABILITY

4.1 FCS's entire liability to Customer for damages in any way related to the subject matter of this Agreement shall not exceed the following applicable amounts for the Products or Services that caused the damage or are directly related to the cause of action: (i) the purchase price for any

item of Equipment, (ii) the initial license fee for any item of Software, (iii) the aggregate of the fees paid for any Warranty and Maintenance Services (not to exceed the aggregate of fees paid during the preceding one year period), and (iv) the greater of \$25,000 or the total of the fees (excluding expenses) due FCS under the SOW. This provision shall not limit the extent of the indemnity set forth in the Section entitled "Intellectual Property Infringement," nor shall the limitation set forth herein apply to claims for personal injury or for damages to real or tangible personal property to the extent caused by FCS's fault or negligence.

4.2 IN NO EVENT SHALL FCS OR ITS SUPPLIERS OR CUSTOMER BE LIABLE IN ANY WAY FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST BUSINESS OR LOST PROFITS, OR LOSS OF OR DAMAGE TO RECORDS OR DATA WHETHER FORESEEABLE OR NOT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF THIS AGREEMENT.

5. INTELLECTUAL PROPERTY INFRINGEMENT

5.1 FCS shall, at its expense, defend Customer against all claims asserted by any person that Equipment or Services (including the work product of Services) infringe a patent, copyright, trade secret or any other intellectual property right enforceable in the United States, and shall pay the costs, damages and attorneys' fees finally awarded against Customer in any such action, or pay the settlement of such action or claim, provided that FCS shall have the exclusive right to control and conduct the defense and settlement of all such actions or claims. Each party agrees to notify the other promptly of any matters to which this provision may apply. Customer agrees to do all acts, at FCS's expense, that may be reasonably required by FCS in connection with such defense or settlement.

5.2 If a preliminary or final judgment shall be obtained against Customer's operation or use of Equipment or Services (including the work product of Services) or any part thereof by reason of any alleged infringement, or if, in FCS's opinion, such items are likely to become subject to a claim for infringement, FCS shall, at its expense and option, either (a) modify the items so that they become non infringing; or (b) procure for Customer the right to continue to use the items; or (c) substitute for the items other equipment or services having an equivalent capability. If FCS determines that the foregoing options are not reasonably available, FCS may recover the items and refund the applicable purchase price or Service fees paid by Customer, less a reasonable amount for use or damage. FCS shall have no liability for any claim based upon the combination, operation, or use of the Equipment or Services with any equipment, software or services with which they were not designed to operate, or any alteration to the Equipment or Services not made by FCS.

5.3 Customer's rights regarding intellectual property infringement claims with respect to Software shall be governed solely by the terms and conditions of the software license agreement applicable to such Software pursuant to Section 13 below. FCS shall have no liability hereunder

regarding intellectual property infringement claims with respect to Software.

5.4 The foregoing states the entire liability of FCS for intellectual property infringement.

6. WARRANTY DISCLAIMER

EXCEPT AS EXPRESSLY STATED HEREIN, FCS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.

7. CONFIDENTIALITY

Customer and FCS acknowledge that information supplied by either party in connection with work performed under any Order and designated by such party as confidential is the confidential information of the disclosing party. The receiving party agrees: (i) to hold the confidential information in confidence using the same degree of care that it uses to protect its own confidential information of similar importance, but not less than a reasonable degree of care; (ii) not to make use of confidential information other than to perform the obligations under the Order and (iii) not to reproduce confidential information except as required for completion of the Order. The receiving party's obligations with respect to confidentiality do not apply to information which: (i) becomes generally available to the public other than as a result of unauthorized disclosure by receiving party, (ii) is disclosed to receiving party by a third party whom receiving party has no reason to believe is under any obligation of confidentiality with respect to such information, or (iii) was in receiving party's possession prior to disclosure by disclosing party, or (iv) was developed by receiving party independent of the confidential information disclosed by disclosing party.

8. GENERAL TERMS

8.1 FCS and Customer each warrant that they have the authority to agree to and execute this Agreement. If required, Customer will notify all other parties having any interest in relevant equipment, software, and other assets that the Services will be performed by FCS and shall obtain consent from any such party.

8.2 Other than Customer's obligation to make payment for amounts due and payable under this Agreement, neither party shall be responsible for delays in fulfillment of obligations under this Agreement due to causes beyond its reasonable control.

8.3 The legal protections afforded to FCS under this Agreement shall be extended to FCS, its parent companies, its subsidiaries and affiliates, and its subcontractors and other suppliers.

8.4 Any notices required or permitted to be given pursuant to this Agreement shall be in writing, by confirmed facsimile, or sent via certified mail, return receipt requested, or delivered by hand, addressed as set forth in the applicable Order or to such other address as may be specified from time to time by notice in writing to the other party, and shall be deemed to have been given when received.

8.5 All provisions that by their nature would be expected to survive termination of this Agreement shall so survive, including, without limitation, provisions relating to confidentiality, warranty, limitation of liability, and legal status of the parties. No term or provision of this

Agreement shall be deemed waived by either party, and no breach excused by either party, unless the waiver or consent shall be in writing signed by an authorized representative of the party granting such waiver or consent. If any term or provision of this Agreement shall be found to be illegal or unenforceable then such term or provision shall be deemed stricken and all other terms and provisions shall remain in full force and effect.

8.6 Customer may not assign this Agreement or any Order without the prior written consent of FCS and any assignment attempted in violation of this provision shall be void.

8.7 Neither this Agreement nor the terms of any Order shall constitute appointment by either party as the agent or legal representative of the other party for any purpose whatsoever nor shall either party hold itself out as such, nor shall they create a partnership, joint venture of relationship of associates or principal and agent between the parties. Both parties are independent contractors and principals for their own accounts.

8.8 In the event that either party is required to resort to litigation or other legal or equitable action in order to enforce its rights under this Agreement, the prevailing party shall be entitled to reimbursement from the other party for all reasonable costs and expenses, including, without limitation, reasonable attorneys fees.

8.9 Each party agrees to comply with all laws and regulations applicable to its performance under this Agreement and to be responsible for obtaining any approvals or licenses necessary to maintain such compliance, including, without limitation, the export control laws of the United States which is further explained in 8.10 below. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California without regard to the conflict of laws provisions thereof.

8.10 Customer acknowledges that Products may be subject to export control laws and regulations of the United States and other countries. Customer is responsible for compliance with all applicable export control laws and regulations. Customer represents that they will not export, re-export, or transfer indirectly or directly any Products provided by FCS outside of the United States without obtaining proper authorization from the applicable government agencies. Customer will not export, re-export, or transfer directly or indirectly any said Products either (i) to an embargoed/terrorist supporting country, including without limitation to Cuba, Iran, Libya, North Korea, Syria, Sudan, or any other such country as determined by the US government, (ii) to a person or entity barred by the US Government on export activity lists, including without limitation to persons or entities on the Treasury Department Specially Designated National List, Entities List, and Denied Persons List or (iii) to any destination for a prohibited end use. Customer agrees to defend and hold FCS harmless against all claims, damages or liability resulting from breach of the foregoing.

8.11 This Agreement together with any Orders hereto constitute the entire understanding between Customer and FCS and supersedes all prior oral and written communications and proposals and may be amended or modified only in writing signed by both parties. In the event of a conflict between these Terms and the terms of any SOW, the terms of the SOW shall control.

TERMS APPLICABLE TO EQUIPMENT SALES

9. PURCHASE PRICE, TITLE AND RISK OF LOSS

9.1 Customer shall pay FCS the Purchase Price for the Equipment set forth on the applicable Order in accordance with Section 1 above.

9.2 All Equipment shall be shipped F.O.B. Origin. FCS shall select the mode of transportation to Customer's location. Customer agrees to pay FCS's such transportation and freight charges.

10. INSTALLATION

Customer shall be responsible for installation of the Equipment and shall

prepare and maintain the installation site in accordance with FCS's applicable specifications.

11. EQUIPMENT WARRANTIES

11.1 FCS warrants that on the date title to the Equipment passes to Customer, the Equipment shall meet FCS's or the manufacturer's applicable functional specifications. FCS's sole obligation under this warranty shall be to repair or replace any defective or non-conforming component in accordance with the Warranty and Maintenance Services terms set forth below. If FCS is unable to repair or replace any defective

or non-conforming component, FCS shall accept return of the defective Equipment and refund to Customer any amounts paid for the Equipment.

11.2 FCS further warrants that it will provide Warranty and Maintenance Services necessary to keep the Equipment in good working order at no charge to Customer during the Warranty Period, if any, specified in the applicable Order. The Warranty Period will commence upon shipment of the Equipment to Customer. All Warranty and Maintenance Services will be provided pursuant to the Warranty and Maintenance Services terms set forth below, unless otherwise specified in the applicable Order.

12. LICENSED INTERNAL CODE

13. SOFTWARE USAGE

All Software provided to Customer is distributed by FCS pursuant to applicable distribution agreements between FCS and various third party software manufacturers and vendors. FCS shall distribute the Software to Customer subject to the applicable third party's software license terms, generically referred to as "shrink wrap" licenses, which shall be provided to Customer in printed or electronic form (by appearing on Software documentation or packaging materials, or on a computer screen when using the Software or accessing a specified Website URL). Customer agrees that all of its rights regarding its use of the Software shall be governed exclusively by such license terms. In the event that Customer has previously agreed to a master software license agreement with the applicable third party software manufacturer/vendor, the terms of such agreement may supersede the "shrink wrap" license terms upon the prior written consent of the applicable manufacturer/vendor. If FCS makes any Software available under its own license terms, FCS will notify Customer as to whether "shrink wrap" license terms apply or FCS requires the execution of a separate software license agreement.

16. FOR ALL SERVICE ORDERS

In the event that a party breaches any terms applicable to any Order for Services, the non-breaching party shall send the breaching party a written notice specifying the nature of the breach and providing the breaching party a cure period of fifteen (15) calendar days after receipt of the notice. If the breaching party fails to cure the breach within the cure period, the non-breaching party may terminate the Order upon written notice.

17. WARRANTY AND MAINTENANCE SERVICES

17.1 FCS shall provide Services to support and maintain the Products listed on the applicable Order in good condition and working order, in accordance with FCS's standard Warranty and Maintenance Services offerings and related policies. Services for Equipment shall include support for any Licensed Internal Code or other microcode or firmware provided with the Equipment. Services for Software shall include support for the specified release of operating systems, Software application programs or Software utility programs provided by FCS. Unless otherwise specified on the Order, the Services shall be provided at FCS's standard rates in effect at the time of the Order and are subject to availability of facilities and/or personnel.

17.2 FCS shall perform preventive and remedial maintenance on Equipment in accordance with the Service Levels specified on the Order. FCS's standard Warranty and Maintenance Services offerings, including available Service Levels, are more fully described at <http://www.computers.us.fujitsu.com/www/terms.shtml>. FCS shall install engineering changes on the Equipment, and maintenance releases and/or program updates for the Software, as deemed necessary by FCS. Replacement parts provided by FCS will be new, or equivalent in performance to new when used with the Equipment.

17.3 FCS will respond to service communications from up to three (3) persons designated by Customer for each Designated Customer Location at no additional charge. A Customer Designated Location is one or more Equipment installation sites defined and mutually agreed to by Customer and FCS. Additional fees shall apply if Customer desires to designate

The Equipment contains internal system code ("Licensed Internal Code") that executes below the external user interface and which is integral to the operation of the Equipment. FCS, or its suppliers, owns all copies of Licensed Internal Code. FCS hereby grants Customer, only for so long as Customer shall use the Equipment, a non-exclusive license to use Licensed Internal Code as part of the normal operation and maintenance of the Equipment. Customer shall not otherwise copy, print, or alter or under any circumstances reverse assemble, decode or translate Licensed Internal Code. Customer is permitted to transfer Licensed Internal Code only in conjunction with and as part of the sale of the Equipment to a third party. Customer agrees that these provisions shall also apply to any copies of Licensed Internal Code in equipment it acquires from third parties.

TERMS APPLICABLE TO SOFTWARE LICENSES

14. SOFTWARE WARRANTY

14.1 FCS warrants that it has the right to distribute the Software as described in Section 13 above. Customer shall obtain all other Software warranties and warranty-related services from the directly from the Software licensor, unless otherwise stated on the applicable Order.

15. SOFTWARE LICENSE FEES AND SUPPORT SERVICES

15.1 Notwithstanding anything contained in Section 13 to the contrary, Customer shall pay FCS all Software license fees specified on the applicable Order in accordance with Section 1 above.

15.2 FCS may or may not provide Warranty and Maintenance Services in support of the Software. In the event that FCS and Customer agree that FCS will provide such Services, the applicable Order shall specify all fees and other terms regarding the Services. Any Services in support of the Software shall be rendered by FCS pursuant to the Warranty and Maintenance Services terms set forth below.

TERMS APPLICABLE TO SERVICES

more than three persons to communicate with FCS at a Designated Customer Location.

17.4 Customer shall, at its expense: (i) provide a safe work environment with full and free access to the Products at mutually agreeable times; (ii) provide adequate, secure storage within a reasonable distance from the Products for FCS's materials, including but not limited to spare parts, technical manuals, diagnostic software, productivity tools, and test equipment; (iii) provide adequate work space including heat, light, ventilation, and electrical outlets; and (iv) maintain the Product installation site and operating environment, including required utility and communications services, according to applicable specifications.

17.5 FCS will not: (i) perform electrical work external to the Products; (ii) repair damage to, or defects in, the Products resulting from causes external to the Products (including neglect, misuse, or failure of the installation site to conform to applicable specifications), use of the Products for other than their intended purpose, or alterations to or maintenance or repair of the Products by anyone other than FCS during the term of the applicable Order; (iii) furnish supplies or accessories, or paint or refinish the Products; (iv) maintain Products not listed on an Order, including any attachments to Products; or (v) service Product failures caused by other equipment or software for which FCS has no responsibility.

17.6 If Products are altered, changed or serviced by anyone other than FCS or are in any way rendered unsafe for Services through no fault of FCS, FCS may, at its option and without liability, suspend Services for the affected Products.

17.7 Title to any replacement parts and other tangible items delivered by FCS shall vest with Customer upon installation in a Product, and title to any removed parts shall vest with FCS upon removal.

17.8 Other Recurring or Non-Recurring Services

(i) FCS shall provide other recurring or non-recurring Services to Customer as may be set forth on the applicable Order.

(ii) If Customer orders installation Services as indicated on the Order, (i) FCS will install the Equipment in accordance with the terms applicable to Services as described herein and (ii) in the event that FCS does not install the Equipment or fails to install it according to the applicable specifications, Customer's exclusive remedy and FCS's entire liability will be the issuance of a credit equivalent to the installation fee only.

17.9 Term of Orders for Recurring Services

(i) The initial term during which Warranty and Maintenance Services and other recurring Services will be provided is stated on each Order ("Initial Term") and will begin upon shipment of the Products, unless otherwise indicated on the Order.

(ii) Upon expiration of the Initial Term, the Order shall automatically extend for consecutive twelve (12) month periods ("Renewal Term(s)"). An Order may not be terminated or cancelled by either party during the Initial Term, other than as stated in Section 16. Either party may terminate an Order without cause during any Renewal Term upon ninety (90) days' prior notice to the other party unless the Order is for third party Equipment ("MVES"). Refer to (iii) in regards to termination for MVES. A party that terminates an Order earlier than allowed by this provision shall be liable to the other party in an amount equal to the sum of all service charges for the period affected by the early termination.

(iii) Upon expiration of the Initial Term for an MVES Order, the MVES Order shall be extended for a Renewal Term in increments of twelve (12) months if mutually agreed upon by FCS and Customer. It may only be cancelled upon at least ninety (90) days' notice to the other party prior to the anniversary of the next Renewal term. A party that terminates an MVES Order earlier than allowed by this provision shall be liable to the other party in an amount equal to the sum of all service charges for the period affected by the early termination.

17.10 Service Charges and Other Fees

(i) For all Warranty and Maintenance Services, Customer shall pay FCS the Periodic Maintenance Charge ("PMC") and other fees referenced in the applicable Order in accordance with Section 1 above. The PMC and related fees will be invoiced in advance at the billing frequency specified on the Order. Charges for a portion of a month shall be prorated. FCS may suspend any and all services hereunder if Customer fails to make timely payment of any service charges or fees.

(ii) The PMC may be changed upon ninety (90) days' prior notice to Customer. The new PMC shall not exceed FCS's then current commercial PMC in effect for such Products. If FCS increases the PMC, Customer may, on the effective date of such increase, terminate Services for any Products affected by the increase by giving FCS at least thirty (30) days' prior written notice. If FCS decrease the PMC, any prepaid fees that were previously discounted (off of the then current commercial PMC) by FCS in exchange for Customer's prepayment shall not be refunded or credited.

(iii) If Products are relocated from the site specified on the applicable Order, FCS reserves the right to: (a) charge for travel related expenses and/or increase the PMC; or (b) terminate Services for any Products relocated to a site outside of an existing FCS service area. Customer shall give FCS at least ninety (90) days' notice before relocating Products.

(iv) For all other recurring or non-recurring Services, Customer shall pay FCS the charges and fees set forth on the applicable Order in accordance with Section 1 above.

18. CONSULTING SERVICES

18.1 Customer agrees to pay FCS the professional fees as detailed on SOW. Customer also agrees to reimburse FCS for all reasonable and actual expenses incurred by FCS on behalf of Customer that are reasonably necessary and appropriate in connection with the performance of any SOW.

18.2 Ownership Rights

(i) Except as set forth in (ii) below, FCS assigns to Customer upon delivery all rights, title, and interest in any Deliverables identified in a

SOW.

(ii) FCS shall retain all copyright, patent and intellectual property rights with respect to any software FCS may develop in the performance of the SOW, including the format of any templates that may be required to display the data and/or information included in the Deliverables. FCS grants to Customer a non-exclusive license to use and employ such software solely within its enterprise.

(iii) The ideas, concepts, methodologies, processes, inventions and tools (including computer hardware and software where applicable) that FCS supplies, together with the methods and techniques that FCS uses to produce the Deliverables under the SOW, are collectively defined as the "Consulting Methodology". All rights, title, and interest in and to the Consulting Methodology used in performance of a SOW remain the property of FCS. No rights, title or interest in the Consulting Methodology shall pass to Customer by operation of estoppel or otherwise.

18.3 Project Change Requests

(i) A Project Change Request ("PCR") is a written document that requests a change in the scope of Consulting Services described in a SOW, an adjustment of the prices, or an adjustment in the time of performance.

(ii) The parties shall agree upon changes or additions to the SOW by executing a PCR that describes the requested changes or adjustment in detail. If a PCR will increase or decrease the cost or time required to complete the SOW, then the PCR shall set forth the appropriate adjustment to completion deadlines or compensation.

(iii) Changes requested by either party shall not be implemented until the PCR is approved in writing by both parties.

18.4 During the term of any SOW, and for a period of six (6) months following the completion, expiration or termination thereof, neither party will, except with the other party's prior written approval, hire or solicit to hire, either directly or indirectly, the personnel of the other party. This prohibition does not apply to personnel of either party who respond to a public advertisement or who otherwise participate in a public job solicitation. This prohibition includes contracting with an independent contractor to utilize the services of a party's personnel who have performed Consulting Services under the SOW.

18.5 Cancellation

Subject to the provisions in Section 18.2, Ownership Rights, in the event of termination pursuant to Section 16, Customer retains all rights to any Deliverable then in progress, provided FCS is paid an equitable amount for the work completed as of the date of termination.