



# Service Agreement for Individuals

**Client:** \_\_\_\_\_

## Section 1. Applicability

This **Service Agreement for Individuals** (hereinafter referred to as the “**Agreement**”) sets forth the terms by which the above-referenced Client (hereinafter referred to as “**Client**”) may contract for and utilize services from J.D. Fox Micro.

This Agreement constitutes a binding contract, and supersedes any prior Per-Incident Service Agreement, Standard Terms of Service, or other equivalent agreements between J.D. Fox Micro and the same Client and computer equipment covered.

This Agreement shall go into effect when signed by both parties. It shall remain in effect until superseded or terminated.

## Section 2. Services Provided by J.D. Fox Micro

### A. Aspects Covered

Client may request services on the following aspects of Client’s computers and peripherals:

#### Equipment

- a. Proper basic functioning of physical equipment, such as any computer, computer peripheral, network/communications device, and related electronic devices or accessories.
- b. Proper basic functioning of software, including all programs for user applications, data processing, system and data management, device operations, and communications.

## **Security**

- a. Theft and vandalism risk reduction.
- b. Protection from unauthorized access to data and resources.
- c. Data and communications authentication (prevention of impersonation).
- d. Software policies, including security patches and “anti-virus.”
- e. Security auditing and monitoring.
- f. Existing and pending security breaches.

## **Continuity**

- a. Fault Tolerance Plan (a set of configurations and design parameters involving duplication and dispersal of equipment and data, implementation of excess capacity, etc., for the purpose of allowing Client’s computers to maintain operations continuously, if necessary, and prevent data loss despite loss of function due to faults that may occur).
- b. Plan for regular testing of Fault Tolerance Plan mechanisms.

## **Services and Applications**

- a. Services and applications, including proper functioning, proper use of resources, and status of updates or configuration changes that may be required to improve performance and/or security.
- b. Data management plan, including logical and physical storage structure.
- c. Public Internetwork Profile (the set of parameters relating to names for publicly-accessible resources, public internetwork addressing, any external routing considerations, third-party service provider parameters, public communications authentication, public communications reputation, and other related parameters, which are used to facilitate and control communications and data-sharing with the public).

## **B. Service Procedures**

Upon request by Client, a qualified agent of J.D. Fox Micro, based on availability and an agreed-upon time, will travel to Client’s site to perform consultation and service on an hourly basis for the hourly fee as posted on the J.D. Fox Micro public website at the time Client requests service, with a minimum of two hours billed per visit. The agent will continue working in close cooperation with Client at that hourly rate, up to a maximum time limited by availability of the agent, or until released by Client. There is no charge for travel time or travel expenses.

While onsite, the agent of J.D. Fox Micro will employ all effort, skill, and expertise to meet Client’s expectations efficiently and effectively, to include:

- a. Assisting Client with determining the best configuration of Client’s computers and software to meet Client’s operational and/or technical requirements.
- b. Implementing and testing these configurations.
- c. Ensuring that Client understands the work performed during the visit.
- d. Ensuring that Client understands his/her responsibilities in properly operating and maintaining the computers and peripherals as modified by J.D. Fox Micro once the visit is complete.

Because Client’s computers are not formally managed by J.D. Fox Micro under this Agreement, J.D. Fox Micro makes NO WARRANTY regarding operation of the computers once a service visit is complete. Any further visits requested by Client to make adjustments or fix problems, even if apparently related to previous work, will be subject to the same conditions and fees listed above.

This Agreement does not guarantee that an agent of J.D. Fox Micro will be available to provide service at the time of Client’s request.

## C. Services Not Provided

The following services are not provided by J.D. Fox Micro under this Agreement.

- a. Remote services, such as troubleshooting, configuration, or operations assistance via telephone or by accessing Client's computer via the Internet or similar means.
- b. Emergency or after-hours service.
- c. Development of custom databases or user applications; or development, management, editing, or hosting of web sites or other such content.
- d. Forensic investigation.
- e. Rental or loans of software.
- f. Disposal or recycling of disused equipment.

## Section 3. Equipment

### General

Client may purchase new equipment from J.D. Fox Micro by placing an order in person, via e-mail, via telephone, via U.S. Mail, or via the J.D. Fox Micro Secure Website. If Client wishes to cancel an order before delivery, the Return Policy listed below shall apply.

All equipment provided by J.D. Fox Micro is new unless otherwise indicated. Where possible, J.D. Fox Micro obtains equipment and software direct from manufacturers or their authorized top-tier distributors to assure it is not counterfeit or some other type of illegal copy.

Due to the volatility of the IT equipment market, J.D. Fox Micro cannot guarantee delivery dates for equipment purchases.

### No Warranty

FOR ALL EQUIPMENT AND SOFTWARE PROVIDED TO CLIENT UNDER THIS AGREEMENT, J.D. FOX MICRO EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, TO INCLUDE FITNESS-FOR-PURPOSE AND MERCHANTABILITY. EQUIPMENT AND SOFTWARE ARE SOLD ON AN "AS IS" BASIS. APART FROM ANY MANUFACTURER'S WARRANTY, OR ANY THIRD-PARTY WARRANTY CLIENT MAY ELECT TO PURCHASE, CLIENT ASSUMES THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE EQUIPMENT, AND THE ENTIRE COST OF ALL NECESSARY SERVICING OR REPAIR SHOULD THE EQUIPMENT PROVE DEFECTIVE. J.D. FOX MICRO SHALL IN NO WAY BE RESPONSIBLE FOR THE CONDITIONS, TERMS, OR FULFILLMENT OF ANY WARRANTY BY ANY MANUFACTURER, RETAILER, OR OTHER THIRD PARTY.

### Return Policy

Client may request to return equipment or software purchased from J.D. Fox Micro. In general, returns will be accepted only for equipment in condition for resale or return to the vendor, which may vary depending on the type of equipment to be returned. Restocking fees charged by the distributor from which J.D. Fox Micro acquired the product, or other reasonable charges, may apply, and will be deducted from the refund credited. J.D. Fox Micro shall advise Client of the refund amount before the return is accepted. Client shall be responsible for transporting the equipment to J.D. Fox Micro in order to receive refund/credit.

## Section 4. Billing

### Invoices

J.D. Fox Micro shall send, and Client shall accept, all invoices via the following methods.

Regular mail: \_\_\_\_\_

E-mail: \_\_\_\_\_

Web: **<https://secureweb.jdfoxmicro.com>**

Invoices shall be issued upon completion of work or delivery of equipment, and payment shall be due 15 days from the date of the invoice.

Client payment method shall be paper check, cash or cash equivalent, credit card (VISA, MasterCard, Discover, or American Express), and/or ACH transfer. For payment made via paper check, cash or cash equivalent, or ACH transfer, Client may take a 1% discount. Returned ACH items will incur a fee of \$50.00.

Payment by ACH or credit card may be made via the J.D. Fox Micro secure website.

### Additional Terms

Client's failure to pay any invoice by the specified due date may result in suspension or termination of services provided by J.D. Fox Micro under this or any related agreement or work plan. Suspension or termination of services shall not relieve Client of the obligation to make up back payments in full in order to resume services, nor shall it relieve Client of its obligations regarding any related agreements.

For past-due invoices, late fees of 1.5% simple interest on the outstanding balance will be assessed on each unpaid invoice on the first day of each subsequent calendar month. J.D. Fox Micro shall have the right to pursue lawful and reasonable collection actions on past-due invoices, and Client shall reimburse J.D. Fox Micro, to the extent allowed by law, for direct collection costs reasonably incurred. The terms specified in this paragraph shall survive expiration or termination of this Agreement.

## Section 5. Communications

Formal written notices required under this Agreement shall be transmitted and addressed as follows:

For Client: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For J.D. Fox Micro: J.D. Fox Micro  
1539 Sawtelle Blvd., Ste. 16  
Los Angeles, CA 90025

or PKI signed e-mail to the following:

For Client: \_\_\_\_\_  
For J.D. Fox Micro: **[businessadmin@jdfoxmicro.com](mailto:businessadmin@jdfoxmicro.com)**

A copy of all formal communications from J.D. Fox Micro will be available on the website of J.D. Fox Micro in Client's secure area.

The effective date of any notice pursuant to this Agreement shall be no earlier than as follows: If personally delivered, upon receipt; if by U.S. mail, five (5) calendar days after mailing; if via commercial overnight delivery service, two (2) business days after sending.

If valid written notice is refused by either party, that communication will be deemed to have been received for purposes of meeting requirements for written notification.

## **Section 6. Termination**

Either party may terminate this Agreement at any time for any reason upon written notice to the other party, effective no earlier than the date notice is received. Client shall remain liable for any charges incurred.

## **Section 7. Additional Terms**

### **Employment Solicitation**

Client acknowledges the investment required by J.D. Fox Micro to secure and train qualified engineers to assist in executing its obligations under this Agreement. Client also acknowledges the overall long-term investments required by J.D. Fox Micro in technical training and experience to earn and keep service contracts with its clients, for which it needs its employees to faithfully execute. Client further acknowledges the severe financial impact J.D. Fox Micro would suffer if Client were to hire or contract separately with any employee or agent of J.D. Fox Micro to supplant this Agreement. Client therefore agrees not to solicit for employment, hire, or contract with any employee or agent of J.D. Fox Micro, where such solicitation is intended to supplant this Agreement, for a period of 180 days following the last day work is performed by that employee or agent under this Agreement, without the prior written permission of J.D. Fox Micro. The provisions of this paragraph shall survive the termination of this Agreement. Breach of this covenant shall be construed as a material breach subject to payment of monetary damages by Client to J.D. Fox Micro.

### **Legal Compliance**

Client acknowledges its responsibility to seek legal advice to assure compliance with all legal requirements directly or indirectly related to its operation. J.D. Fox Micro shall not be liable for Client's nonconformance with any applicable codes, regulations, or laws, including but not limited to commercial, electrical, building, safety, health, employment discrimination, intellectual property, or data security, even if Client's computer configuration or operation is a factor in the violation. Client shall indemnify, hold harmless, and defend J.D. Fox Micro against any and all claims by any person, or public or private entity, alleging liability of J.D. Fox Micro with respect to or related to the services provided pursuant to this Agreement.

### **Confidentiality**

In connection with this Agreement, J.D. Fox Micro may have access to or possession of proprietary information of Client, such as trade secrets, contact lists, and accounting information. J.D. Fox Micro understands that all such information is and shall remain the property of Client, and, except for information already conspicuously available to the public, is of a confidential nature. J.D. Fox Micro shall not disclose such information to any other party, nor utilize such information for the benefit of itself or any other party, except specifically for the purpose of performing services under this Agreement. J.D. Fox Micro agrees only to use or store Client's proprietary information as absolutely necessary for performing its duties under this Agreement, and will keep Client's information and material in a secure manner, under access restrictions designed to prevent disclosure or copying to unauthorized persons and in a manner no less strict than employed by J.D. Fox Micro to protect its own proprietary information. Upon termination of this Agreement, J.D. Fox Micro will destroy any copies of

Client's proprietary information. The covenant in this paragraph shall survive the expiration of this Agreement in perpetuity.

### **Limitation of Liability**

**Service Levels.** The maximum liability of J.D. Fox Micro under this Agreement shall be provision of services as explicitly called for in this Agreement. Under no circumstances will J.D. Fox Micro be liable to provide services beyond the scope of this Agreement, nor be liable in any manner for any direct, special, incidental, or consequential damages resulting from any legal theory, including but not limited to strict liability, regulatory or statutory liability, loss of use, lost profits/revenue, loss of anticipated savings, loss of goodwill, cost of repair or recovery for damage to other equipment and property, or third-party claims for damages, arising from the use of, inability to use, or malfunction of Client's computers or related peripherals or software, or for any lost or corrupted data stored or processed with Client's computers or related peripherals or software, or from Client or its agents following or attempting to follow advice given by J.D. Fox Micro.

**Force Majeure.** Neither Client nor J.D. Fox Micro shall be liable for any failure to perform under this Agreement where such failure results from forces beyond reasonable control, such as but not limited to acts of God (such as fire, flood, earthquake, storm, or other natural disaster), acts of war, civil unrest, terrorist activities, nationalization, government sanction or embargo, labor disputes, accidents, or other unavailability of equipment and services from third-party providers (including but not limited to vendors, distributors, resellers, shipping contractors, electricity providers, public voice or data network service providers, application service providers, etc.). Upon the occurrence of any such event and to the extent such occurrences interfere with the performance by Client or J.D. Fox Micro of its obligations under this Agreement, upon notice to the other party, this Agreement shall be suspended provided each party uses reasonable efforts to work around or remove such causes of nonperformance.

**Software Licensing.** Consulting services regarding software licensing are limited to providing guidance and technical assistance with compliance, and/or providing tools with which to control software use in order to assure compliance. Client is ultimately responsible for assuring that all software used on Client's computers is properly licensed. Under no circumstances will J.D. Fox Micro be held responsible for damages which may be levied against Client or any other party if the copyright-holder and/or licensor of any software product or other intellectual property determines that Client has violated copyright law by unlicensed or under-licensed use of said software, even if 1) the software was installed or configured by J.D. Fox Micro and/or provided as part of this Agreement, and/or 2) Client believes J.D. Fox Micro failed to inform Client that the software or Client's intended use of it is or was unlicensed or under-licensed.

### **Miscellaneous**

- a. This Service Agreement constitutes the entire understanding and contract between the parties, and supersedes any and all prior oral and written representations, communications, and understandings between the parties with respect to this Agreement. The parties agree that neither Client nor J.D. Fox Micro is entering into this Agreement on the basis of any representations or promises not expressly contained herein.
- b. No failure to strictly enforce any provision of this Agreement shall be construed as a waiver of that provision or a change in terms, and any such provisions so waived shall remain enforceable and in effect.
- c. If any portion of this Agreement is found void or unenforceable, the remainder will remain valid and enforceable according to its terms.
- d. Client represents that it is the owner of all equipment covered under this Agreement, or that it has the owner's authorization for J.D. Fox Micro to perform services under this Agreement.
- e. Client represents and warrants that it has full power to enter into this Agreement and that it has not assigned, encumbered, or in any manner transferred all or any portion of this Agreement.
- f. Neither party may assign to another entity any interest, right, or obligation it has in this Agreement without the prior written consent of the other party, which consent shall not unreasonably be withheld.
- g. J.D. Fox Micro and Client are independent contractors, and each will not be considered an agent, partner, or employee of the other.
- h. This Agreement shall be construed and governed under the laws of the State of California. Venue for any action arising out of this Agreement shall be the Superior Court of California, County of Los Angeles.

- i. J.D. Fox Micro makes no representation as to exclusivity of this Agreement, and reserves the right to maintain and/or effect similar Agreements with other clients so long as obligations incurred by J.D. Fox Micro from these other Agreements do not interfere with the ability of J.D. Fox Micro to faithfully execute its responsibilities under this Agreement.
- j. Both Client and J.D. Fox Micro will comply with all requirements, negotiate on offers, and make assessments, as called for in this Agreement, in good faith.
- k. Under no circumstances will J.D. Fox Micro provide or assist Client in obtaining unlicensed, counterfeit, pirated, or illegal software.

**Copyright**

This document, all electronic and physical copies, and the intellectual property contained herein are the property of J.D. Fox Micro and are protected by copyright. Client may make, use, and keep copies of this Agreement only for legitimate administration of business related to this Agreement. J.D. Fox Micro reserves all other rights under the laws of the United States and applicable international law. Any other use of this Agreement or the intellectual property contained herein, such as sharing with third parties, without express written permission of J.D. Fox Micro, is a violation of copyright law, which would subject the violator(s) to damages recoverable by J.D. Fox Micro.

**for Client:**

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**for J.D. Fox Micro:**

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date