

Fourth Generation

“FGSS Computer Software Services Agreement”

BY SIGNING THE ESTIMATE, QUOTE OR PROPOSAL WHICH CONTAINS A LINK TO THIS AGREEMENT, CUSTOMER ACKNOWLEDGES THAT THEY HAVE READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY IT. IF CUSTOMER DOES NOT AGREE TO ANY OF THE TERMS BELOW, FOURTH GENERATION SOFTWARE IS UNWILLING TO PROVIDE CONSULTING SERVICES (AS DEFINED BELOW) TO CUSTOMER, AND CUSTOMER SHOULD REFUSE SUCH SERVICES.

This Computer Software Services Agreement ("Agreement") is a Consulting Agreement entered into at the time of execution of a software services estimate, quote or proposal which depends on this Agreement by and between you ("Customer") and Fourth Generation Software Solutions, Corp. ("FGSS") a Georgia Corporation (hereinafter "Consultant"). Consultant agrees to provide consulting services to Customer, and Customer agrees to accept these consulting services, in accordance with the terms and conditions of this Agreement.

Section 1. SCOPE OF SERVICES

1.1 Services. Consultant shall provide design, development, integration, implementation and support services in support of the Fitrix or Fourth Generation Application Software and custom software additions, as more fully described in Part 1 of Exhibit A attached hereto. As part of such services, Consultant shall use its best efforts to prepare, complete and install the programming and materials identified as to be furnished by Consultant in Part 2 of Exhibit A attached hereto (the "Software").

1.2 Conduct of Services. All work shall be performed in a workmanlike and professional manner by employees of Consultant having a level of skill commensurate with the requirements of this Agreement. Consultant shall require its employees at all times to observe security and safety policies of Customer.

Section 2. METHOD OF PERFORMING SERVICES

2.1 Method of Performing Services. Consultant shall have the right to determine the method, details, and means of performing the work to be performed for Customer. Customer shall have no right to, and shall not, control the manner or determine the method of accomplishing Consultant's services. Customer may, however, require Consultant's personnel at all times to observe security and safety policies of Customer. In addition, Customer shall be entitled to exercise broad general power of supervision and control over the results of work performed by Consultant's personnel to ensure satisfactory performance, including the right to inspect, the right to stop work, the right to make suggestions or recommendations as to the details of the work, and the right to propose modifications to the work.

2.2 Assignment of Personnel. Customer may interview the personnel Consultant assigns to Customer's work. If Customer determines that such personnel are not appropriate for the work being assigned based on their specific or general skills or their background and experience, Consultant shall make a reasonable effort to assign other qualified personnel. Consultant will assign a project manager to manage this engagement. Consultant employs a team approach and will assign personnel to each

portion of this engagement according to the skill set required for each task. Consultant will make it's best efforts to keep key team members that are assigned to this project (project leader, lead developer(s)) in place for the duration of the project in an effort to provide continuity and the greatest productivity.

2.3 Scheduling. Consultant will try to accommodate work schedule requests to the extent possible. Should any personnel of Consultant be unable to perform scheduled services because of illness, resignation or other causes beyond Consultant's reasonable control, Consultant will attempt to replace such employee within a reasonable time, but Consultant shall not be liable for delays resulting from factors beyond its control. Consultant personnel will adhere to Consultant's corporate holiday schedule. Services will be performed primarily during normal business hours, Monday through Friday, 8:30am to 5:30pm EST. However, Consultant and Customer recognize that certain activities may require scheduling of services outside of these hours. The Project Manager will determine scheduling of non-standard work hours and additional fees may apply as defined in Exhibit B.

2.4 Reporting. Customer will advise Consultant of the individuals to whom Consultant's personnel will report for purposes of day-to-day work assignments. Customer and Consultant shall develop appropriate administrative procedures for coordinating with Consultant's personnel. Customer shall periodically prepare an evaluation of the performance of Consultant's personnel. Should Customer not be satisfied with the performance of one or more of Consultant's personnel, Customer may request, on reasonable notice, that Consultant terminate their assignment to Customer's work.

2.5 Place of Work. Consultant's personnel will perform their work for Customer primarily at Consultant's premises, with remote access to the Customer's computers except when such projects or tasks may, as agreed by Customer, be performed at the Customer's premises. Customer agrees to provide working space and facilities, and any other services and materials Consultant or its personnel may reasonably request in order to perform the work assigned to them.

2.6 Remote access to Customer's computers. Customer agrees to provide full time high speed internet access to all servers and workstations to be accessed by Consultant for the fulfillment of this Agreement. Customer agrees that any time required by Consultant to gain access to their systems for the fulfillment of the duties of this Agreement will be billable services under this Agreement.

2.7 Changes to the Statement of Work. Customer and Consultant understand that business requirements change and may impact the project scope, or activities can change which will potentially impact and effect performance.

As Consultant's Staff becomes aware that changes have the potential to impact the project, the Consultant's Project Manager will notify Customer in writing (email will be considered in writing). Any items known or uncovered that have such potential impact will be detailed as Special Provisions and included as a separate addendum to this agreement.

As the Customer's Staff becomes aware that changes have the potential to impact the project, they will take action to remedy the situation or, mutually agree with Consultant on required changes to this engagement. Any such changes that may be required will be set forth in writing (email will be considered in writing), and included as a separate addendum to this agreement.

Section 3. TERM AND TERMINATION

3.1 **Term.** The term of this Agreement shall commence on the date set forth above and shall continue through the completion of the services set forth in Exhibit A hereto, and thereafter for so long as Customer seeks or obtains services from Consultant.

3.2 **Termination.** This Agreement may be terminated by either party for any reason upon 60 days written notice. Upon receipt of such notice, Consultant shall advise Customer of the extent to which performance has been completed through such date, collect and deliver to Customer whatever work product then exists in the manner requested by Customer. Consultant shall be paid for all work performed through the date of termination.

3.3 **Remaining Payments.** Within 60 days of termination of this Agreement for any reason, Consultant shall submit to Customer an itemized invoice for any fees or expenses theretofore accrued under this Agreement. Customer, upon payment of accrued amounts so invoiced, shall thereafter have no further liability or obligation to Consultant whatsoever for any further fees or expenses arising hereunder. In the event Consultant terminates this Agreement because of the breach of Customer, Consultant shall be entitled to a pro rata payment for work in progress based on the percentage of work then completed, plus the full amount of payment attributable to services and materials already furnished by Consultant. Notwithstanding any termination of the terms of this Agreement, the rights and licenses granted under Section 4 hereof shall continue in effect in accordance with their terms.

Section 4. FEES, EXPENSES, AND PAYMENT

4.1 **Fees.** In consideration of the services to be performed by Consultant, Customer shall pay Consultant the fees set forth in Exhibit B hereto.

4.2 **Reimbursement of Expenses.** In addition to the foregoing, Customer shall pay Consultant its actual out-of-pocket expenses as reasonably incurred by Consultant in furtherance of its performance hereunder. Consultant agrees to provide Customer with access to such receipts, ledgers, and other records as may be reasonably appropriate for Customer or its accountants to verify the amount and nature of any such expenses.

4.3 **Additional Work.** The fees and charges for any follow-on or additional work not described in Exhibit A shall be performed at Consultant's then-current rates for such work.

4.4 **Payment.** Customer shall pay all fees and expenses owing to Consultant hereunder within 30 days after Consultant has submitted to Customer an itemized invoice therefor. Consultant will generate an invoice for services delivered under this Agreement Semi-monthly. Payment shall be due and payable upon invoice, and delinquent thirty (30) days after the invoice date. Customer agrees to pay a finance charge of 1.5% per month on any delinquent amounts. Consultant reserves the right to suspend all activities associated with this engagement and Customer agrees that all target dates and deadlines will slip accordingly in the event that any invoices associated with this engagement are delinquent. Customer agrees to review all invoices in a timely manner and that it will notify Consultant in writing of any potential discrepancies before the affected invoice becomes delinquent. Customer agrees that any discrepancy not identified and notified before an invoice becomes delinquent will not be considered and agrees to pay all delinquent amounts and finance charges as indicated above.

Section 5. TREATMENT OF PERSONNEL

5.1 **Compensation of Consultant's Personnel.** Consultant shall bear sole responsibility for payment of compensation to its personnel. Consultant shall pay and

report, for all personnel assigned to Customer's work, federal and state income tax withholding, social security taxes, and unemployment insurance applicable to such personnel as employees of Consultant. Consultant shall bear sole responsibility for any health or disability insurance, retirement benefits, or other welfare or pension benefits (if any) to which such personnel may be entitled. Consultant agrees to defend, indemnify and hold harmless Customer, Customer's officers, directors, employees and agents, and the administrators of Customer's benefit plans from and against any claims, liabilities or expenses relating to such compensation, tax, insurance or benefit matters; provided that Customer shall promptly notify Consultant of each such claim when and as it comes to Customer's attention, Customer shall cooperate with Consultant in the defense and resolution of such claim, and Customer shall not settle or otherwise dispose of such claim without Consultant's prior written consent, such consent not to be unreasonably withheld.

5.2 Worker's Compensation. Notwithstanding any other workers' compensation or insurance policies maintained by Customer, Consultant shall procure and maintain workers' compensation coverage sufficient to meet the statutory requirements of every state where Consultant's personnel assigned to Customer's work are located.

5.3 Consultant's Agreements With Personnel. Consultant shall obtain and maintain in effect written agreements with each of its personnel who participate in any of Customer's work hereunder. Such agreements shall contain terms sufficient for Consultant to comply with all provisions of this Agreement.

5.4 State and Federal Taxes. As neither Consultant nor its personnel are Customer's employees, Customer shall not take any action or provide Consultant's personnel with any benefits or commitments inconsistent with any of such undertakings by Consultant. In particular:

- Customer will not withhold FICA (Social Security) from Consultant's payments;
- Customer will not make state or federal unemployment insurance contributions on behalf of Consultant or its personnel;
- Customer will not withhold state and federal income tax from payment to Consultant;
- Customer will not make disability insurance contributions on behalf of Consultant;
- Customer will not obtain workers' compensation insurance on behalf of Consultant or its personnel.

Section 6. PREEXISTING WORKS AND OTHER INTERESTS

6.1 Preexisting Works of Consultant. Consultant hereby reserves and retains ownership of the works identified in Exhibit C hereto, which Consultant created before entering into this Agreement.

6.2 Residuals. It is mutually acknowledged that, during the normal course of its dealings with Customer and the Software under this Agreement, Consultant and its personnel and agents may become acquainted with ideas, concepts, know-how, methods, techniques, processes, skills, and adaptations pertaining to the Software, including those which Customer considers to be proprietary or secret. Notwithstanding anything in this Agreement to the contrary, and regardless of any termination of this Agreement, Consultant shall be entitled to use, disclose and

otherwise employ any ideas, concepts, know-how, methods, techniques, processes, and skills, and adaptations, including generalized features of the sequence, structure and organization of any works of authorship, in conducting its business (including providing services or creating programming or materials for other customers), and Customer shall not assert against Consultant or its personnel any prohibition or restraint from so doing.

6.3 Third-Party Interests. Customer's interest in and obligations with respect to any programming, materials, or data to be obtained from third-party vendors, whether or not obtained with the assistance of Consultant, shall be determined in accordance with the agreements and policies of such vendors.

Section 7. RESPONSIBILITIES OF CUSTOMER FOR SOFTWARE

7.1 Qualified Operator. Customer is responsible for selecting an operator who is qualified to operate the Software on Customer's own equipment and is familiar with the information, calculations, and reports that serve as input and output of the Software. Customer accepts sole responsibility for the use of the Software in its business and operations.

7.2 Environment and Utilities. Customer is responsible for ensuring a proper environment and proper utilities for the computer system on which the Software operates, including an uninterrupted power supply.

7.3 Right to Inspect. Customer hereby authorizes Consultant to enter Customer's premises in order to inspect the Software in any reasonable manner during regular business hours for purposes of verifying Customer's compliance with the provisions of this Agreement.

7.4 Obsolescence. Except as otherwise agreed by Consultant with reference to further work orders, Consultant is not responsible for obsolescence of the Software that may result from changes in Customer's requirements. Consultant assumes no responsibility for the use of superseded, outdated, or uncorrected versions of the Software.

7.5 Assignment of Team Members. To ensure the success of this project Customer will assign (The same person may fill more than one role):

1. A management liaison responsible for assigning work direction and determining priorities.
2. A Project Leader(s) responsible for approving software designs, answering questions about the Customer's business practices and requirements and providing the Consultant with access to any other information required.
3. A Technical liaison responsible for providing access to the Customer's servers and workstations and coordinating any technical aspects of the project that the Customer will be responsible for.

Section 8. PROPRIETARY INFORMATION

8.1 Trade Secrets. Customer acknowledges that in order to perform the services called for in this Agreement, it shall be necessary for Consultant to disclose to Customer certain Trade Secret(s) that have been developed by Consultant at great expense and that have required considerable effort of skilled professionals. Customer further acknowledges that the Software will of necessity incorporate such Trade

Secrets. Customer agrees that it shall not disclose, transfer, use, copy, or allow access to any such Trade Secrets to any employees or to any third parties, excepting those who have a need to know such Trade Secrets in order to give effect to Customer's rights hereunder and who have bound themselves to respect and protect the confidentiality of such Trade Secrets. In no event shall Customer disclose any such Trade Secrets to any competitors of Consultant.

8.2 Scope of Restriction. As used herein, the term "Trade Secret(s)" shall mean any scientific or technical data, information, design, process procedure, formula, or improvement that is commercially valuable to Consultant and not generally known in the industry.

Section 9. WARRANTIES

9.1 By Customer. Customer warrants that it owns all right, title, and interest in and to, or has full and sufficient right and authority to use in the manner contemplated by this Agreement, any programming, materials, or data furnished by Customer to Consultant in connection with Consultant's performance of the services called for by this Agreement.

9.2 By Consultant. Consultant warrants that:

a. Consultant's performance of the services called for by this Agreement do not and shall not violate any applicable law, rule, or regulation; any contracts with third parties; or any third-party rights in any patent, trademark, copyright, trade secret, or similar right; and

b. Consultant has sufficient right, title, and interest in and to the Software, exclusive of rights respecting programs, data, and materials identified as furnished to Customer by third-party vendors, to grant and convey the rights accorded to Customer under Section 6 hereof.

9.3 Conformity of Software. All services provided under this agreement are best efforts, Consultant makes no warranty as to the conformity of any software or other services developed under this agreement to Customer's requirements. EXCEPT AS SET FORTH IN THIS SECTION 9, CONSULTANT MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Section 10. LIMITATION OF LIABILITY

10.1 No Consequential Damages, etc. In no event shall Consultant be liable to Customer for any incidental, indirect or consequential damages or lost profits of Customer.

10.2 Loss of Data. In no event shall Consultant be liable for loss of data or records of Customer, it being understood that Customer shall be responsible for assuring proper and adequate back-up and storage procedures.

10.3 Force Majeure. Consultant shall not be liable to Customer for any failure or delay caused by events beyond Consultant's control, including, without limitation, Customer's failure to furnish necessary information, sabotage, failure or delays in transportation or communication, failures or substitutions of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials or equipment, or technical failures.

Section 11. HIRING OF CONSULTANT'S PERSONNEL

11.1 Additional Value from Hiring. Customer acknowledges that Consultant provides a valuable service by identifying and assigning personnel for Customer's work. Customer further acknowledges that Customer would receive substantial additional value, and Consultant would be deprived of the benefits of its work force, if Customer directly hired Consultant's personnel after they have been introduced to Customer by Consultant.

11.2 No Hiring Without Prior Consent. Without the prior written consent of Consultant, Customer shall not recruit or hire any personnel of Consultant who are or have been assigned to perform work until Two (2) years after the termination of this Agreement.

11.3 Hiring Fee. In the event that Customer hires any personnel of Consultant who are or have been assigned to perform work for Customer, within two (2) years of the date of such hiring, Customer shall pay Consultant an amount equal to Two Hundred percent (200%) of the total first year compensation Customer pays such personnel as a fee for the additional benefit obtained by Customer.

Section 12. MISCELLANEOUS

12.1 Governing Law. This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Georgia, USA as they apply to a contract entered into and performed in that State.

12.2 Independent Contractors. The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Customer and either Consultant or any employee or agent of Consultant.

12.3 Notices. All notices required or permitted hereunder shall be in writing addressed to the respective parties as set forth herein, unless another address shall have been designated, and shall be delivered by hand or by registered or certified mail, postage prepaid.

12.4 Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior representations, proposals, discussions, and communications, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the party sought to be bound.

12.5 Parties in Interest. This Agreement is enforceable only by Consultant and Customer. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any personnel assigned to Customer's work, or any beneficiary of any such personnel, and no such personnel (or any beneficiary thereof) shall be a third-party beneficiary under or pursuant to the terms of this Agreement.

Customer Address for correspondence:

will be the most recent address on an executed estimate, quote or proposal for services or the most recent change of address notice delivered to Consultant by Customer, whichever is most recent.

FOURTH GENERATION SOFTWARE SOLUTIONS CORPORATION (Consultant)
Address for correspondence:

4644 Powder Springs Dallas Road, #217
Powder Springs, Georgia 30127
770-432-7623
www.fourthgeneration.com

Exhibits:	
Exhibit A:	<p>Consulting Services (Part 1) and Programming and Materials (Part 2) to be furnished by Consultant</p> <p>Part 1: The Following Consulting Services are provided under this Agreement:</p> <p>Software design, development, consulting, DBA (Database) support, training, programming, implementation, installation, and other services in conjunction with the Fourth Generation Application software products including customizations for the Customer and additional software used by the Customer in conjunction with these applications.</p> <p>Services as defined in 1 or more estimates, quotes or proposals, or as authorized in writing (including email)</p> <p>Part 2: Programming and Materials:</p> <p>Consultant may provide packaged software to be used in conjunction with the services defined in this Agreement. If so, this software will be provided and licensed under separate agreements.</p> <p>Consultant may develop program customizations and/or new programs in conjunction with the services defined in this Agreement</p>

Exhibit B:	<p>Fees</p> <p>All services provided in this Agreement are billable by the hour in increments of .25 hours at the billing rates quoted on each estimate, quote or proposal for the services. Should Customer agree to services in writing (including by email) that are not included on any estimate, quote or proposal, these services will be billed at the then current billing rates in effect for the type of service.</p> <p>After hours and extended hours work performed at the request of the Customer must be approved in writing and will be billed as follows: regular non-business hours: 1.5 times regular hourly rate; Holiday: 2 times regular hourly rate; Double shift (more than 8 hours straight work): 2 times regular hourly rate; triple shift (more than 16 hours straight work): 2.5 times regular hourly rate. Regular business hours are any 9-hour period between 7AM to 6PM Monday-Friday EST (or local time for Customer on-site work), which includes up to a 1-hour lunch break.</p> <p>All reasonable travel and living expenses are the responsibility of the Customer and actual travel and living expenses will be billed. Out of town (over 200 miles) en route travel time will be billed at 50% of the agreed hourly rate for the personnel traveling. For air travel the time billed is 1.5 hours before scheduled take off to 1.0 hours after landing (2.5 hours for international travel). In town (200 miles and under) en route travel will be billed at the same rate as the project services.</p>
Exhibit C:	<p>Preexisting Works of Consultant:</p> <p>All Fitrix and Fourth Generation Application and Tool software products licensed under separate agreements.</p>