



Services Brief

ARROW FUSIONSM

NETAPP DATA ONTAP V7 UPGRADE SERVICE

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DOCUMENT REVISION HISTORY

Revisions			
Name	Date	Version	Description
Justin Current	12/22/2009	1.0	First Version
Fidel Figueroa	10/21/2010	2.0	RIS update
Fidel Figueroa	12/20/2010	3.0	Acceptance update

GOALS AND OBJECTIVES

This service brief describes the Arrow FusionSM NetApp Data ONTAP v7 Upgrade Service for NetApp FAS series filers. . This Service Brief includes the following components:

- Data ONTAP v7 upgrade

This Service Brief is by and between Arrow ECS (“Arrow”) and the Authorized Reseller for the End User (“Customer”) identified in the email this brief is attached to.

In the absence of an effective, written agreement between the parties, expressly governing the performance of professional services (“Professional Services”) by Arrow, this Service Brief is subject to and governed exclusively by the Arrow ECS Professional Services Standard Terms and Conditions listed

METHODOLOGIES

Arrow uses the Analyze, Design, Plan, and Implement model as a standard for all projects. This model is an industry accepted best practice that allows for the optimal system configurations and usage of appropriate tools / functionality.

SERVICES

Arrow, through its employees or other agents shall provide to Customer the services described as follows:

NetApp Data ONTAP v7 Upgrade

Preparation

- Pull AutoSupport to check for any failed hardware configuration issues
- Run the upgrade advisor to document the process for the system to be upgraded
- If standalone system the upgrade will require a reboot
- If clustered the systems can go through the giveback/takeover process

Onsite Tasks

- Download the desired version of NetApp Data ONTAP (v7 series only)
- Place into the /etc/software directory on each controller to be upgraded
- For standalone systems the following will be completed:
 - Make sure the customer is aware the system is going to be rebooted (request connected systems be taken offline)
 - Install the new version of NetApp Data ONTAP

- Reboot the controller
- Verify the new version of software
- Notify the customer to bring their systems back online
- For clustered systems the following will be completed (recommend systems be taken offline during the upgrade):
 - Install the new version of NetApp Data ONTAP on controller 1
 - Perform a cluster takeover
 - Reboot the node that was taken over
 - Perform a cluster giveback
 - Install the new version of NetApp Data ONTAP on controller 2
 - Perform a cluster takeover
 - Reboot the node that was taken over
 - Perform a cluster giveback
 - Verify the new version of software
 - If systems were taken offline, notify the customer to bring their systems back online

Deliverables

1. WireGuage Report
2. AutoSupport report, as permitted by end-user

Changes

Any changes or additions to the Services or Deliverables set forth in this Service Brief/SOW require, prior to the initiation of work effort being performed, a mutually executed Change Order (see Exhibit A) describing the cost and schedule impact.

Project Close

Upon completion of the engagement, the Customer will receive a Certificate of Completion for signature. If not signed within 5 business days from the Customer's receipt, work will be deemed accepted, unless the Customer submits a written notification of a service performance issue.

ASSUMPTIONS

The project time estimates and associated fees quoted within this Statement of Work are based on the following assumptions and responsibilities. Should any element(s) of these be lacking during execution of services, additional time and associated fees and expenses may be required to complete this Statement of Work.

1. Arrow has made every attempt to accurately estimate time required to successfully complete the project. Customer acknowledges all listed assumptions and responsibilities and agrees that should these be violated, if impediments or complications arise or if changes in scope are requested or required, the length of the project and associated price could be impacted.
2. If Arrow is masquerading as the Customer, prior to the start of the engagement, Customer will provide the engineer(s) assigned to the project with Customer email alias, instructions, and login credentials.
3. Arrow is not responsible for delays caused by failures, including but not limited to, failures caused by systems, personnel or environmental causes or in using incorrect or insufficient data provided by or Customer or END USER
4. Knowledge Transfer "KT" does not replace NetApp University training. KT is delivered as part of the engagement and as one (1) session lasting 1-2 hours. The Customer must have all necessary staff available for the KT session. KT must take place during the onsite engagement.
5. Arrow will not develop applications as a part of this Statement of Work.
6. Arrow engineers shall not be asked to perform, nor volunteer to perform, engineering and/or consulting tasks that are outside their skill sets and experience and that Arrow consultants have the right to decline a Service request if the request falls outside the scope of their experience and expertise.
7. The Professional Services described in this Service Brief specifically does not include the following:
 - a. Configuration, installation, or testing of any portion of the data network
 - b. Stress Testing
 - c. Migrating data
 - d. Setting up backup and recovery
 - e. Integration of new systems with existing systems
8. All network connections will be in place

Arrow Responsibilities

1. Provide professional, knowledgeable and qualified staff to deliver Services as described in this Statement of Work.
2. Deliver all documentation to Customer within ten (10) business days after the completion of the onsite portion of this Service Brief/SOW.

Customer Responsibilities

Customer is responsible for informing END USER of the following responsibilities:

1. Performing a full working backup of its network prior to commencement of the Services. Arrow is not responsible for lost data.

2. Must provide a resource dedicated to this project and the extent of the knowledge transfer is dependent upon the availability of this resource. Please note that the time designated for knowledge transfer is throughout the project.
3. Must provide all necessary hardware to complete the project.
4. Must provide Arrow in writing with any restrictions or requirements regarding the Arrow consultant's use of personal equipment in advance of the commencement of the project.
5. Must make the necessary administrative usernames and passwords available to the Arrow consultant.
6. Must provide Arrow with detailed and accurate information regarding its current network environment. This information may include the technical configuration of the domain environment.
7. Must provide Arrow with a professional workspace and network access to provide the Services.
8. Must provide Arrow with access to building(s) and room(s) as necessary to complete the Services.
9. Is responsible for providing all hardware and/or software and licensing required to perform the Services, including ensuring that all wiring, hardware, and software required to perform the Services are in working order.
10. Must provide Arrow with a technical point of contact during performance of the Services.
11. Request a Change Order authorizing overtime Service before any overtime Services will be performed. "Overtime" is defined as any work performed outside the hours of 8:00 AM to 6:00 PM Monday through Friday local time.
12. Customer will complete all necessary facilities arrangements prior to the commencement of the Professional Services which will include but are not be limited to such items as power, network connections, floor space, and cooling. Such required facility arrangements must be in place for the duration of this Service Brief.
13. Customer will make knowledgeable staff and systems administrators available to Arrow promptly upon a request via pager, telephone, or cell phone.
14. Customer will be responsible for any business and data application testing
15. Should the project plan rely on electronic/network transfer of data, Customer will provision and enable any network components or services required to facilitate the data transfer.
16. Customer shall be solely responsible for management and adequacy of its data back-up, data recovery, and disaster recovery measures. Notwithstanding anything to the contrary herein, Arrow shall not be responsible or held liable for any Customer internal processes, procedures, or requirements, or otherwise to insure the protection against loss or corruption, availability, confidentiality, or security of data or information or lack thereof.
17. If required by Arrow, Customer will participate in testing as directed by Arrow.

18. Customer warrants that it has obtained any and all permissions and/or licenses from third parties necessary for Arrow or an Arrow subcontractor to successfully perform the Professional Services, and hereby grants Arrow and its subcontractors all necessary licenses for Arrow or an Arrow subcontractor to successfully perform the Professional Services.

LOCATION

The location of services to be provided is:

To be provided in the PO required to purchase these professional services

SCHEDULING

The anticipated engagement start date is within two (2) weeks of the date that the Customer's purchase order is accepted by Arrow or upon another start date mutually agreed upon between the parties. Unless otherwise specified or agreed upon by Arrow, the Professional Services described in this Service Brief will be delivered on consecutive business days during normal business hours (8:00 a.m. to 6:00 p.m. customer local time, weekdays).

PERSONNEL

The number of personnel to be provided:

One (1) qualified and certified Consultant

ACCEPTANCE AND DELIVERABLE SCHEDULE

Acceptance occurs upon completion of the Services and delivery of any documentation or reports. Arrow will invoice Customer for services rendered upon receipt of the Project Completion Form but no later than five (5) business days after delivering the final Deliverables to Customer.

METHODOLOGY OF STATUS REPORTING

Arrow agrees to submit project status reports to Customer a daily basis via E-Mail, Fax or Phone.

FEES AND PAYMENT SCHEDULE

- Prior to Arrow performance of any professional services, Arrow requires an executed purchase order from the Reseller, acceptable to Arrow.
- The Customer authorizes Arrow to invoice for and shall pay additional amounts related to the performance outside normal business hours or consecutive days.
- The Customer will pay invoices Net 30 from the date of the Arrow invoice.

GENERAL TERMS AND CONDITIONS

Definitions

“**Vendor**” means Arrow Enterprise Computing Solutions.

“**CUSTOMER**” means those persons or entities that have entered into an Agreement with Vendor whereby Vendor will provide onsite or remote technical services to market and sell to their clients and prospects that are End Users.

“**End User**” means a person or entity that contract on site or remote Services with a Customer for internal business purposes or personal use and not for resale and whose relationship is with a Customer.

“**Change Order**” means the document executed by the Parties identifying a modification to a Service Brief/SOW on a Project.

“**Confidential Information**” means any confidential or proprietary information of a Party, whether of a technical, business or other nature (including, but not necessarily limited to, trade secrets, knowhow and information relating to the technology, customers, business plans, promotional and marketing activities, finances and other business affairs of such Party).

“**Effective Date**” means the date on which the Service Brief/SOW is signed and dated by a duly authorized representative of both Parties.

“**Project**” is the term used for general reference, to describe this Service Brief/SOW being performed by Vendor for the Customer, either remote or at the site of the End User.

“**Satisfactory Completion**” shall mean the End User has accepted the Final Deliverables and the Customer has signed and dated the Project Acceptance Form, evidencing that the Arrow has satisfactorily completed the Services listed in this Service Brief/SOW.

“**Service(s)**” shall mean the providing of qualified, and as required, certified engineering and security consultant skills of the Vendor to conduct on-site or remote technical services for a Project.

“**Service Brief/SOW**” shall mean this Statement of Work outlining the details for each individual Service(s) with respect to a Project.

“**Term**” means the period described in the paragraph “Term and Termination” of this Service Brief/SOW.

“**Trademarks**” means the trademarks, trade names, service marks and logos of Trademark Owner.

Relationship of Parties

Relationship. This Service Brief/SOW shall control the relationship between Arrow and Customer but only to the extent so far as Arrow is providing Services for a Project pursuant to this Service Brief/SOW as more fully defined herein. To the extent of a conflict between this Service Brief/SOW and any other

agreement between Arrow and Customer, this Service Brief/SOW is limited to the application as set forth above and shall control in the applicable context. In connection with other agreements between the Parties, the other agreements shall control in their applicable context.

Arrow as Subcontractor. Customer desires Arrow to perform the Services set forth in this Service Brief/SOW for sale by Customer to End User. Customer will enter into agreements with its End User for the provision of Services. In its sole discretion, Arrow may use subcontractors to perform the Services.

Agreement Modification. The only means by which the Parties may modify this Service Brief/SOW is by mutual agreement as evidenced by a written Change Order or other mutually acceptable change form that has been executed by both Parties and attached to and made part of this Service Brief/SOW.

Independent Contractor

Neither Arrow nor its employees is an employee of Customer for any purpose whatsoever, but is an independent contractor. Arrow and its employees will have sole control over the manner and means of performing Services under this Service Brief/SOW. Customer will not have the right to require that Arrow or its employees to do anything that would jeopardize the relationship of independent contractor between Customer and Arrow or its employees. Arrow and its employees do not and will not hold themselves out as having any right, power or authority to create any contract or obligation, either express or implied, on behalf of, or binding upon Customer unless Customer will consent with prior written authorization. Arrow will have the right to appoint and will be solely responsible for Arrow employees and subcontractors. All Arrow employees, agents, and representatives will work at Arrow's expense and supervision, and will not have any claim against Customer for compensation or reimbursement.

Ability to Perform Work

Customer agrees that in order for Arrow to complete the tasks set forth in this Service Brief/SOW it may be necessary for Arrow to modify the operating environment with software patches. These patches are commonly known as Service Packs or Hot Fixes. If Customer or End User denies Arrow the right to apply such software patches Arrow will not be able to complete the Services and any such inability will not be considered a breach of this Service Brief/SOW. Customer further agrees that they will still be liable for all fees including travel expenses.

Waiver, Amendment, Modification

No waiver, amendment or modification of this Service Brief/SOW will be effective unless in writing and signed by the Party against whom such waiver, amendment or modification is sought to be enforced. No waiver by any Party of any default in performance by the other Party under this Service Brief/SOW or of any breach or series of breaches by the other Party of any of the terms or conditions of this Service Brief/SOW will constitute a waiver of any subsequent default in performance under this Service Brief/SOW or any subsequent breach of any terms or conditions of that Service Brief/SOW. Performance of any obligation required of a party under this Service Brief/SOW may be waived only by a written waiver signed by a duly authorized officer of the other Party, that waiver will be effective only with respect to the specific obligation described in that waiver.

Cancellation Fee

Should Customer terminate this Service Brief/SOW without cause, Arrow reserves the right to charge and Customer agrees to pay a cancellation fee of 50% of the total fees set forth herein plus all incurred non-refundable travel expenses if canceled within thirty (30) days prior to the scheduled beginning of the project. If cancelled is less than five (5) business days prior to the scheduled beginning of the project a cancellation charge of 100% of the total fees plus all incurred non-refundable travel expenses will be invoiced.

Intellectual Property

Customer is the owner (or licensee as the case may be) of any designs, drawings, software, or other intellectual property furnished by Customer to Arrow in connection with the work performed under this Service Brief/SOW. Customer grants to Arrow and, if applicable End User, a license under any copyright, patent, trade secret or other proprietary right as may be necessary for performance of the Services hereunder based in whole or part on such intellectual property. Customer represents and warrants that intellectual property furnished by Customer does not infringe the proprietary rights of any third party. Customer agrees to indemnify Arrow and hold Arrow harmless from any cost, loss, or damage (including reasonable attorneys' fees and court costs) that result from a breach or alleged breach of any of these representations and warranties or other obligations contained in this Service Brief/SOW.

Arrow is the owner of any designs, drawings, derivative works, software, or other intellectual property previously owned by Arrow and furnished in connection with the Services performed under this Service Brief/SOW. Arrow grants to Customer or End User a license to use such intellectual property to the extent necessary for Customer or End User to use Deliverables provided by Arrow hereunder. Arrow represents and warrants that such intellectual property does not infringe the proprietary rights of any third party. Arrow agrees to indemnify Customer and hold Customer harmless from any cost, loss, or damage (including reasonable attorneys' fees and court costs) that results from a breach or alleged breach of any of these representations and warranties or other obligations contained in this Service Brief/SOW.

Warranty

Quality of Services. Arrow warrants that its Services will be of professional quality (performed in a good and workmanlike manner) and will conform to generally accepted industry standards for such Services and to the requirements specified in this Service Brief/SOW. Arrow's personnel shall be competent and qualified to perform the tasks to which they are assigned. In the event of any breach of this warranty, Arrow, at its sole expense and without delay, shall re-perform the non-conforming Services to the applicable standard.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Personal Injury/Property Damage, Indemnification. The Parties agree to indemnify and hold each other harmless from and against any third party claims arising from death, personal injury, or property damage caused by, resulting from, arising out of any act, or occurring in connection with this Service Brief/SOW or the Deliverables.

Changes in Scope

Change Orders. Should the Parties desire to change the scope of this Service Brief/SOW, they will notify each other to agree on the changes and issue a written Change Order detailing the impact to deliverables, cost and schedule. Customer shall not be obligated to pay for any modification to the Services and Arrow shall not be obligated to perform any modification to the Services in the absence of a duly executed Change Order signed by the Parties hereto.

Term and Termination

Term. The term of this Service Brief/SOW begins on the Effective Date and shall continue in full force and effect thereafter unless and until terminated in accordance with the provisions of this section.

Termination Without Cause. Either Party may terminate this Service Brief/SOW, without cause, at any time upon thirty (30) days prior written notice to the other Party. Upon receipt of such notice from Customer, Arrow will cease the performance of Services. Should Customer terminate this Service Brief/SOW without cause any such termination will be subject to the cancellation charges, if any, set forth in the Service Brief/SOW. Should no cancellation charges apply, Customer shall pay Arrow for the Services provided prior to the date of termination and a prorated portion of any non-refundable travel expenses.

Termination for Cause. Either Party may terminate this Service Brief/SOW for a material breach by the other party of the terms herein if such breach is not cured within thirty (30) days after the breaching Party's receipt of written notice thereof.

Effect of Termination. Any Termination will be without prejudice to any other right or remedy afforded to the Parties and will not affect any rights or obligations, which have occurred prior to such termination.

Miscellaneous

Limitation on Action. No action, suit or other proceeding, regardless of form, arising out of or related to the transactions covered by this Service Brief/SOW may be brought by either party against the other party more than twelve (12) months after the cause of action arose.

Limitation on Liability. Notwithstanding anything to the contrary contained in this Service Brief/SOW or any purchase order/release issued under this Service Brief/SOW, neither Party will have any liability under any contract, negligence, strict liability or other legal or equitable theory, for any special, exemplary, incidental, cover, lost profit or consequential damages, howsoever caused, arising from any failure to perform hereunder or the use of failure of any deliverables furnished hereunder. Arrow's sole liability for any deliverable failure shall be to repair or replace, at Arrow's option, any nonconforming deliverables, re-perform the Services, or refund the fees paid.

Governing Law; Venue. This Service Brief/SOW will be governed by and interpreted in accordance with the local laws of the State of New York, without regard to its conflicts of law provisions and not including the provisions of the 1980 U.N. Convention in Contracts for the International Sale of Goods. Both Parties agree in so far as the law allows waiving any right to a jury trial.

Employee Solicitation.

The Parties agree that they will not directly solicit for employment nor hire each other's employees during the term of this Service Brief/SOW where such employee contact was initiated pursuant to this Service Brief/SOW for a period of one year after the completion of the Services. The foregoing shall specifically

exclude any general solicitations for employment by either Party through indirect means, such as solicitations through print media or other forms of publication.

Force Majeure. Neither Party shall be considered in default or liable for or held responsible for any delay or failure in performance hereunder caused in whole or in part by fires, strikes, floods, unusually severe weather conditions, embargoes, labor disputes, acts of terrorism or sabotage, quarantine restrictions, insurrection, riots, accidents, delays of carriers or suppliers, voluntary or mandatory compliance with any governmental act, regulation or request, acts of God or by public enemy, acts or omissions or other causes beyond such Party's control or without the fault or negligence of such party, provided the non-performing party notifies the other party within fifteen (15) calendar days of the occurrence and provided further that the non-performing Party uses reasonable efforts to avoid or remove such causes of nonperformance and continues performance hereunder with reasonable dispatch when such causes are removed.

Confidential Information. In the performance of or otherwise in connection with this Service Brief/SOW, either Party ("Disclosing Party") may disclose to the other party ("Receiving Party") certain Confidential Information as confidential and proprietary of the Disclosing Party and will use such Confidential Information solely for the purposes for which it is provided by the Disclosing Party. Without limiting the generality of the foregoing, the Receiving Party will take reasonable precautions to prevent any unauthorized use or disclosure of such Confidential Information. The obligations under this Section will not apply to any:

- (a) Use or disclosure of any information necessary to the exercise of the Disclosing Party's rights under this MA.
- (b) Information that is now or later becomes part of the public domain through no fault of the Receiving Party.
- (c) Information that is obtained by the Receiving Party from a Third Party (other than in connection with this MA) who was not under any obligation of secrecy or confidentiality with respect to such information.
- (d) Information that is independently developed by the Receiving Party (e.g., without reference to any Confidential Information).
- (e) Disclosure required by applicable law (e.g. pursuant to applicable securities laws or legal process), provided that the Receiving party will use commercially reasonable efforts to give advance notice to and cooperate with the Disclosing Party in connection with any such disclosure.
- (f) Disclosure with the written consent of the Disclosing Party.

Both parties agree that the provisions of this section shall survive the termination, for any reason, of the Service Brief/SOW.

Dispute Resolution: Both parties will attempt to settle any claim or controversy arising out of this Agreement through consultation and negotiation in good faith and a spirit of mutual cooperation. If those attempts fail, then the dispute will be mediated by a mutually acceptable mediator to be chosen by both parties within forty-five (45) days after written notice by one of the parties demanding mediation, such notice shall be by overnight mail delivery service which includes evidence of receipt as part of its normal practices, or transmitted by facsimile if confirmed by such mailing, to the addresses indicated in this Agreement (or to a new address about which the other party has been properly notified). Neither Party may unreasonably withhold its consent to the selection of a mediator, and both parties will share the costs of the mediation equally. By mutual agreement, however, both parties may postpone mediation until each has completed some specified but limited discovery about the dispute. The parties may also agree to replace mediation with some other form of non-binding alternative dispute resolution (ADR), such as neutral fact-finding or a mini-trial. Any dispute which the parties cannot resolve between them through negotiation, mediation, or some other form of non-binding ADR within six (6) months from the date of the initial demand for it by one of them may then bring a lawsuit at a court in the State of New York. The use

of any ADR procedures will not be construed under doctrines of laches, waiver or estoppel to affect adversely the rights of either party. Further, nothing in this section will prevent either party from resorting to judicial proceedings if (1) good faith efforts to resolve the dispute under these procedures have been unsuccessful, or (2) interim relief from a court is necessary to prevent serious and irreparable injury to one party or to others.

EXHIBIT A

Project Change Request

Customer :		End User:	
Address:		Project Name:	
Customer Contact:		ATG Consultant:	
Date Submitted:		Change Request #: 1	
REQUESTOR INFORMATION			
Name		Title:	
Telephone	800-544-7674	Project ID:	
E-mail Address	AlttechEngineeringProjectMgmt@alttech.com		
Detailed Description of Proposed Change (Add Attachments If Necessary)			
Reason For Proposed Change (Add Attachments If Necessary)			
Impact of Change to Be Implemented (Add Attachments If Necessary)			
Project schedule impact:			Contract Amendment Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Project cost impact:			
APPROVED BY		DATE APPROVED	SIGNATURE
Customer Business Owner		Date:	
Customer Project Manager		Date:	
Alternative Technology		Date:	

Please fax/email signed document to: 720-873-8451 or email to AlttechProjectMgmt@alttech.com

EXHIBIT B

Project Completion Form

Project Information			
Project Name:		Project ID:	Service Brief/SOW /Agreement Version (including change orders):
Customer:		End User:	
Project Start Date:		Project End Date:	
Customer Contact:		ATG Consultant:	
ATG Account Manager:		ATG Project Manager:	
Documentation Deliverables			
Document Name	Date Due	Date Delivered	
Additional Opportunities / Potential Follow On Opportunities Identified			
Documentation Receipt and Project Acceptance			
CUSTOMER		Arrow ECS/ATG	
Name:		Name:	
Title:		Title:	
Date:		Date:	
<i>Signature of CUSTOMER confirms receipt of documentation, services identified in the project agreement were completed as requested, and project is now considered closed.</i>			

Please fax/email signed document to: 720-873-8451 or email to AlttechProjectMgmt@alttech.com

Let us know your level of satisfaction on this engagement! Please complete this 30 second survey: http://www.surveymonkey.com/s.aspx?sm=U_2fKKATaRkRzK6xl2_2bmX4SQ_3d_3d