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**SOFTWARE MAINTENANCE AGREEMENT  
& END USER LICENSE AGREEMENT**

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**Lexington Fayette Urban County Government**  
1055 Industry Road  
Lexington, Kentucky 40505

**Terms:**     *January 1, 2015*     *through*     *December 31, 2015*

**Year into 5 Year Guarantee**     4

<b>License:</b>	<b>Users:</b>	
Horizon Licensing	3	\$ 187.50
Software Maintenance (Help Desk)		319.20
Software Maintenance (Software Updates)		79.80
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Total Contract		<u>\$ 586.50</u>

**Notes:**     Visual Dataflex Licensing will be billed separately

**Horizon Software Modules**

*Rep Payee*



# HORIZON

INFORMATION | SYSTEMS

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## MAINTENANCE AGREEMENT

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Customer and Horizon Information Systems Inc., (Horizon) agree that the terms and conditions in this Agreement apply to any Standard Software and any Custom Software specified on the front of this agreement. In addition to other terms and conditions in Section A of this Agreement, Section B applies to the Standard Software, if any specified on the front of this Agreement, and Section C applies to the Custom Software, if any specified on the front of this Agreement.

**Renewal:** This agreement will be automatically renewed for successive 1-year term(s) upon Horizon's receipt of payment of fees in effect at the time of payment. Either party may cancel this agreement on thirty days prior written notice to the other party. Such payments are paid in advance for services to be rendered for the applicable term.

### **Section A. TERMS AND CONDITIONS APPLICABLE TO STANDARD SOFTWARE AND CUSTOM SOFTWARE.**

#### **1. Terms of Agreement**

In consideration of the Customer's payment of the 1-year maintenance fee, Horizon agrees to provide the services outlined in this Agreement during the initial 1-year term and any extension thereof. Horizon will render its initial billing along with this Agreement.

#### **2. Normal Service Coverage Period and Horizon Response time**

Horizon agrees to provide software maintenance services described in this Agreement between the hours of 8:30 A.M. and 5:00 P.M. EST, Monday through Friday, excluding Horizon holiday periods (hereafter "Service Coverage Period".) For maintenance required under this Agreement, Horizon agrees to provide an average response time.

#### **3. Maintenance Charges**

In addition to the annual maintenance charge, if Customer requests service outside the scope of this Agreement, Customer agrees to pay the Time and Materials charges then in effect for such service. (See Attached Rate Schedule)

- (d) Customer's modification of the Standard Software and/or Custom Software without prior authorization from Horizon;
- (e) Customer's use of the Standard Software, or Custom Software for purposes other than those for which they are designed or the use of accessories or supplies not approved by Horizon;
- (f) Any software not listed on the face of this Agreement.

Any maintenance necessary as a result of Section A.6 (a) through (f) shall be a charge to Customer at the then applicable Horizon Time and Materials rate.

7. **Responsibilities of Customer**

Customer agrees: (a) to provide Horizon personnel with full, free and safe access to Standard Software and Custom Software for purposes of maintenance, including use of data communications facilities, if required; (b) to maintain and operate the Standard Software and Custom Software in an environment and according to procedures which conform to Horizon specifications; (c) not to allow maintenance or repair of the Standard Software or Custom Software by anyone other than Horizon without prior authorization from Horizon.

8. **Default**

Horizon reserves the right to terminate or suspend maintenance service in the event Customer is in default under this or any other Agreement with Horizon and such default is not corrected within thirty (30) business days after written notice. In addition, this Agreement will terminate and all charges due hereunder will become immediately due and payable in the event that Customer ceases to do business as a going concern or has its assets assigned by law.

9. **Warranty Exclusion**

THE PARTIES AGREE THAT ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.

10. **Limitation of Liability**

Customer's sole remedy, and the sole liability of Horizon for any breach by Horizon shall be repeat performance of any repair, replacement, or maintenance required under this Agreement. IN NO EVENT WILL HORIZON BE LIABLE FOR (A) LOST PROFITS, LOST DATA OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES; OR (B) DAMAGES CAUSED BY CUSTOMERS'S FAILURE TO PERFORM ITS RESPONSIBILITIES. Horizon agrees to be liable for personal injury caused solely by the negligence of its employees.

- (c) Standard Software version upgrades and enhancements, if within the same or a like operating system and employee capacity as the Software originally covered under this Agreement. Customer agrees to pay for labor charges required to install such version upgrades and enhancements at a 25% discount of Horizon established labor rates if customer requests on-site installation;
- (d) Additional in-house retraining at a 25% discount of Horizon established rates; such retraining will be held at Horizon.

## 2 **Standard Software Exclusions**

Any Standard Software maintenance beyond that described in Section B.1 (a) through (f) above shall be charged to the Customer at the then applicable Horizon Time and Materials rate.

In addition to the exclusions specified in Section A.6 of this Agreement, Standard Software maintenance excluded:

- (a) Services required for application programs and conversions from products or software not supplied by Horizon;
- (b) Service for Horizon Custom Software.

## **Section C. TERMS AND CONDITIONS APPLICABLE TO CUSTOM SOFTWARE ONLY**

The following terms and conditions apply only to the Custom Software, if any, at the Customer's location(s). For the term of this Agreement, Horizon agrees to:

- (a) Provide remote diagnostic technical assistance through the Help Desk facility to resolve Custom Software functional problems and user problems;
- (b) Retain, only for Horizon's own internal use, the source code for the Custom Software;
- (c) Give Customer a twenty-five percent (25%) discount on additional Custom Software services required because of changes in versions of Horizon Standard Software, which renders the Custom Software obsolete;
- (d) Provide additional in-house retraining at a 25% discount of Horizon established rates; such retraining will be held at Horizon.

Any documentation provided to Customer relating to the Custom Software is the confidential and proprietary information of Horizon and shall not be transferred, reproduced or disclosed to any third party without prior written consent of Horizon unless required to be disclosed by the Kentucky Open Records Act.



# **HORIZON**

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## **END USER LICENSE AGREEMENT**

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Whereas, Horizon Information Systems, Incorporated, hereinafter referred to as ("HORIZON") develops proprietary computer programs and sells user licenses for such proprietary computer programs together with or apart from accompanying copyrighted material and documentation, and

Whereas, End User desires to obtain the benefits thereof and, in return for which, is willing to abide by the obligations and fee agreements applicable to HORIZON's user licenses in HORIZON's proprietary computer programs.

NOW THEN, for good and valuable consideration, including but not limited to license grant in accordance with this Agreement by HORIZON to End User's covenant regarding HORIZON's proprietary rights. HORIZON agrees to sell End User materials representing HORIZON's product or products subject to the following terms and conditions:

### **Section D. TERMS AND CONDITIONS APPLICABLE TO END USER LICENSES.**

#### **1 EXCLUSIVE SOURCE**

End User shall obtain all HORIZON authorized product materials through HORIZON or HORIZON's authorized Dealer and no other source. HORIZON authorized product materials include, but are not limited to, manuals, license agreements and media upon which company's proprietary computer programs are recorded, except for archival copies, as defined in ARCHIVE COPIES. End User shall make no copies of any kind of any of the materials furnished by HORIZON or HORIZON's authorized Dealer, unless specifically authorized to do so in writing signed by an officer of HORIZON.

#### **2. PROPRIETARY RIGHTS OF HORIZON**

End User agrees that HORIZON retains exclusive ownership of the trademarks represented by its company name and logo and product names including but not limited to Horizon Software and Stratus, and all of the documentation and computer recorded data related thereto. End User also agrees that all techniques, algorithms, and processes contained in HORIZON's computer program products or any modification or extraction thereof constitute TRADE SECRETS OF HORIZON and will be safeguarded by End User, but in no event shall End User exercise less than due diligence and care in accordance with the laws of the country of purchase and

compatible equipment. HORIZON will not honor any warranty for which there is no signed End User Agreement Acknowledgment on file at HORIZON offices. The products provided are intended for commercial use only.

7. **UPDATES**

HORIZON may, from time to time, revise the performance of its products and in doing so; incur NO obligation to furnish such revisions to any HORIZON customer unless otherwise specified in a Software Maintenance Agreement purchased by End User. At HORIZON's option, HORIZON may provide its End Users with a revision newsletter from time to time. (No update or customer service or newsletter distribution will be provided unless a properly signed End User Agreement Acknowledgment is on file at HORIZON offices.)

8. **CUSTOMER SUPPORT**

It is HORIZON's customary practice to offer purchase of a Software Maintenance Agreement to its customers to provide reasonable assistance and support in the use of HORIZON's products.

9. **TERMINATION OF LICENSE**

If any one or more of the provisions of this Agreement is breached, the license granted by this Agreement is hereby terminated. Nevertheless, in the event of such termination, all the provisions of this Agreement, which operate to protect the rights of HORIZON, shall continue in force.

10. **INJUNCTIVE RELIEF**

It is understood and agreed that, notwithstanding any other provisions of this Agreement, HORIZON has the unequivocal right to obtain timely injunctive relief to protect the proprietary rights of HORIZON.

11. **GOVERNING LAW**

When signed in the United States, this Agreement shall be interpreted in accordance with the laws of the State of Kentucky. When signed in any other country, this agreement will be interpreted in accordance with International Law. In the event any part of this Agreement is invalidated by court or legislative action of competent jurisdiction, the remainder of this Agreement shall remain in binding effect.

**ACKNOWLEDGEMENT**

**Horizon Software Maintenance Agreement**

The undersigned hereby agrees that by signing this document, he or she becomes a party to said Software Maintenance Agreement and agrees to be bound by all terms, conditions, and obligations contained therein.

Agreed and Accepted by:

Customer:

JIM GRAY Acceptance by  
*Jim Gray* Signature  
MAJOR Title  
2-18-2015 Date

Horizon Information Systems, Inc.

Mark D. Eppley Acceptance by  
*Mark D. Eppley* Signature  
CEO Title  
December 17, 2014 Date

I hereby waive the offer to purchase the Horizon Software Maintenance Agreement for the Horizon Standard Software and/or Horizon Custom Software specified on the front of this agreement.

Customer:

\_\_\_\_\_ Waived by  
\_\_\_\_\_ Signature  
\_\_\_\_\_ Title  
\_\_\_\_\_ Date

**Horizon End User License Agreement**

The undersigned hereby agrees that by signing this document, he or she becomes a party to said End User License Agreement and agrees to be bound by all terms, conditions, and obligations contained therein. End User recognizes that any use of Horizon products without the return of signed End User License Agreement will be considered a breach of contract, subject to liquidated damages and otherwise unlawful and an unauthorized use of Horizon's trade secrets and proprietary products.

Agreed and Accepted by:

Customer:

JIM GRAY Acceptance by  
*Jim Gray* Signature  
MAJOR Title  
2-18-2015 Date

Horizon Information Systems, Inc.

Mark D. Eppley Acceptance by  
*Mark D. Eppley* Signature  
CEO Title  
December 17, 2014 Date

The Horizon End User License Agreement cannot be waived.



**HORIZON**  
INFORMATION | SYSTEMS

**RATE SCHEDULE**  
(Discounted 25%)  
EFFECTIVE January 1, 2013

**Hourly Rates**

Programming	Level 1		<b>\$125.00</b>
Programming	Level 2		<b>\$100.00</b>
Implementation / Consulting	Level 1		<b>\$100.00</b>
Implementation / Consulting	Level 2		<b>\$80.00</b>
Implementation / Consulting	Level 3		<b>\$70.00</b>
Help Desk	Level 1		<b>\$80.00</b>
Help Desk	Level 2		<b>\$70.00</b>
Help Desk	Level 3		<b>\$65.00</b>
IT: Hardware Installation/Troubleshooting	Level 1		<b>\$100.00</b>
IT: Hardware Installation/Troubleshooting	Level 2		<b>\$80.00</b>
IT: Hardware Installation/Troubleshooting	Level 3		<b>\$70.00</b>
Clerical Support / Data Entry			<b>\$30.00</b>

**TRAVEL: Billed Time will include travel Time.**

**Other Travel Charges:**

0 to 10 Miles		<b>\$0.00</b>
11 to 20 Miles		<b>\$18.45</b>
21 to 50 Miles		<b>\$36.00</b>
51 to 80 Miles		<b>\$62.45</b>
81 to 120 Miles		<b>\$86.65</b>
121 to 150 Miles		<b>\$116.35</b>
151 to 180 Miles		<b>\$140.45</b>
181 to 210 Miles		<b>\$163.80</b>
211 to 240 Miles		<b>\$187.20</b>
241 to 270 Miles		<b>\$210.60</b>
271 to 300 Miles		<b>\$234.00</b>