

### I. DEFINITIONS

The following definitions of various terms to be used throughout this Agreement.

**A. Maintained Software** means the FOURTH GENERATION computer program(s) supported by Fourth Generation Software as referenced by License + maintenance or maintenance renewal on the Fourth Generation Software Invoice(s). For purposes of this Agreement, Software will also include any additional FOURTH GENERATION software licensed to Licensee during Maintenance Periods such as the Product Updates, and the Product Upgrades.

**B. Product Update** means a revision, enhancement, or a new release of the software or user manuals designed to correct an error or improve the product.

**C. Product Upgrade** means a new copy of the software provided, for a fee, for the purpose of increasing the number of licensed users, or transferring the software and license to a different Computer Platform.

**D. Computer Platform** means a single computer with one or more processors, running a designated operating system.

**E. Maintenance Contact** means the authorized individual(s) specified on the Maintenance Agreement with whom Fourth Generation Software Solutions (FGSS) communicates when providing maintenance services. The MAINTENANCE CONTACT may be you, your employee, or a consultant providing services directly to you. The MAINTENANCE CONTACT should be knowledgeable about how the maintained software is being used and the operating environment, and may be required at the discretion of FGSS to attend an appropriate training course to obtain this knowledge.

**F. A Software Problem** is defective software distribution media and/or software function that is inconsistent with the documentation.

### II. SERVICE PROVIDED BY FGSS

The Maintenance Agreement provides:

**A. Product Updates.** FGSS has a policy of constantly enhancing its products. FGSS will make these product updates available as they are made commercially available by FGSS. Notification will be made via email or letter and the updates will be provided at the discretion of the customer. Installation of the updates onto the customer's system(s) can be provided by FGSS on a time and materials basis billed at our current hourly rate. A media

charge, and freight will be invoiced with each update requested.

**B. Product Upgrades/Platform Transfers.** This agreement gives the maintenance customer the right to upgrade their existing number of licensed users to a higher user level, and/or to transfer the licensed software to another Computer Platform then made commercially available by FGSS for a licensing fee calculated as the difference between the then current license fee for the existing user count on the existing platform, and the then current license fee for the new user count on the new platform. The minimum fee for transferring the license to a new computer platform will be \$250US.

**C. Informix & O/S Ports.** FGSS will provide to the maintenance customer media required to run the supported software on the Designated Computer Platform for any new versions of Informix products or new versions of the operating system listed under 'Designated Computer Platform' as such media is made commercially available by FGSS. A media charge, and freight will be invoiced with each port requested.

**D. Written Problem Assistance.** Maintenance customers can submit written requests for software assistance or software improvements. A prompt written response will be sent. Fourth Generation Software Solutions will follow up response by telephone at its discretion. Electronic mail will be used for this purpose if possible. Facsimile may also be used.

**E. Telephone Assistance.** The MAINTENANCE Contact will be given the telephone number of the Customer Maintenance Center. By calling this number, the MAINTENANCE CONTACT can contact a trained Maintenance Analyst to ask questions or seek advice relating to any problems with the MAINTAINED SOFTWARE, and in identifying and providing a work around, if possible for SOFTWARE PROBLEMS found in MAINTAINED SOFTWARE. Assistance may include communicating via terminal from FGSS Software Maintenance Center. Telephone Assistance shall be available from hours of 9:00 AM to 6:00 PM (eastern standard time) Monday through Friday (excluding holidays). Calls will be responded to within four working hours of receipt.

**F. Documentation.** As updated documentation is made commercially available by FGSS, these will be made available to Maintenance Customers. Typically, these revisions coincide with new software revisions. New documentation manuals (or updates) will be sent out on request, and are available at the prices set forth in the then current FGSS Documentation Price List.

**G. Training (Not Included)** This Maintenance Agreement is provided to enable the Maintenance Customer to maintain a current, fully functioning version of the latest Fourth Generation software available. The Agreement does NOT provide for product training. All product training services provided by FGSS will be billed at our current prevailing rates for these services. FGSS reserves the right to refuse written problem(s) (II.D.) and telephone assistance (II.E.) to any maintenance contact who has not successfully attended an appropriate training course for the product or module in question.

### III. LIMITATIONS OF SOFTWARE MAINTENANCE AGREEMENT

**A. Maintained Software Versions.** FGSS will provide maintenance for only the current versions of the FOURTH GENERATION Software packages, and will maintain the previous versions for a period of 12 months following the announcement of the new version.

**B. The Following are Not Covered Under This Agreement:**

1. Altered or modified software.
2. Consulting services, including applications design or recommendations, recovery of lost data, or any customer purchase recommendations.
3. Problems created by your negligence or fault.
4. Software problems that do not significantly impair or affect the operation of maintained software.
5. Software problems resulting from hardware malfunction.
6. Maintained software used on a computer system other than that specified by FGSS to be technically accepted.
7. Maintenance of software not sold by FGSS or software sold by FGSS that is not covered under this Maintenance Agreement.
8. Accounting principle, theory, or practice.
9. Software used on a computer system other than specified by Licensee on the Maintenance Agreement Registration form.
10. Software not licensed by FGSS, under the Software Agreement or this Agreement.
11. Training on the use or benefits of the software.
12. Installation of Software Updates, Patches, or Bug Fixes on the Maintenance Customer's computer system. Installation services are available, and will be billed at the current prevailing rate.

### IV. CUSTOMER RESPONSIBILITIES.

Licensee agrees to limit use of Maintenance to occasions when the Software fails to function as described in the Documentation. Licensee agrees to furnish descriptions of Software Problems in the form requested by FGSS' Maintenance staff. Licensee also agrees to assist FGSS' efforts to duplicate the Software Problem.

### V. LICENSEE AGREEMENT.

All PRODUCT UPDATES, user manuals, media and services provided thereunder are subject to all terms and conditions of the executed License Agreement between MAINTENANCE CUSTOMER and FGSS including but not limited to the LIMITED WARRANTY contained therein.

### VI. EXTRAORDINARY CIRCUMSTANCES.

FGSS shall not be responsible for failure to fulfill, or delay in fulfilling its obligations under this Agreement due to causes beyond its control.

### VII. TERMS AND TERMINATION OF AGREEMENT.

This AGREEMENT will go into effect on the date that the fully executed AGREEMENT is received by FGSS or on the date payment for the contract is received by FGSS, whichever is later. This Agreement will remain in effect for the period of one (1) year from the effective date of this Agreement and will be automatically renewed for successive one year renewal terms, unless terminated by either party by reason of and upon any violation of the terms and condition herein. FGSS may terminate this Agreement if you default on any payment due to FGSS thereunder.

### VIII. MISCELLANEOUS.

You may not assign this Agreement to any third party without written consent of an officer of FGSS. This Agreement and the Software License Agreement will be the only agreements between the customer and FGSS in respect to maintenance of the MAINTAINED SOFTWARE. This Agreement cannot be modified or amended unless an officer of FGSS executes a written amendment or modification. This Agreement supersedes all prior Agreements, written or oral, relating to the maintenance the MAINTAINED SOFTWARE. The laws of Georgia shall govern the validity of these Agreements, the construction of their terms and the interpretation of the rights and duties of the parties. If any legal action is brought by either party to these Agreements regarding their subject matter, the prevailing party shall be entitled to recover, in addition to any other relief, reasonable attorney's fees and costs.

FGSS shall pay for outbound telecommunications services and other costs associated with Maintenance, except that FGSS reserves the right to charge Licensee for shipping, handling, media or documentation expenses in connection with Maintenance provided thereunder.

LIMITATION OF WARRANTY. FGSS MAKES NO WARRANTIES REGARDING MAINTENANCE, THE DOCUMENTATION, OR THE SOFTWARE, INCLUDING WITHOUT LIMITATION, EXPRESS OR IMPLIED

WARRANTIES AND EXPRESSLY DISCLAIM THE WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

In witness whereof, the parties have duly executed and delivered this Agreement on the last date indicated below.

**FOURTH GENERATION SOFTWARE SOLUTIONS, CORP. ("FGSS")**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Notice Address: 4644 Powder Springs Dallas Road, #217  
Powder Springs, Georgia 30127

**MAINTENANCE CUSTOMER: \_\_\_\_\_**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Notice Address: \_\_\_\_\_