

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

ARTICLES OF AGREEMENT

This Agreement between **CITY OF COLUMBUS, OH, DEPARTMENT OF TECHNOLOGY** as "CLIENT", and **LUCITY, INC.**, as "CONTRACTOR".

WITNESSETH:

Whereas, the CONTRACTOR (a Kansas Corporation with offices located at 10561 Barkley, Suite 500, Overland Park, KS 66212) owns certain software programs that are licensed under individual program titles which are known collectively as "Lucity Software"; and

Whereas, the CLIENT (located at 1111 East Broad St, 3rd Floor, Columbus, OH 43205) would like to use, and the CONTRACTOR would like to grant the CLIENT the right to use, those software programs accessing databases residing at the CLIENT's site, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property they contain; and

Whereas, the CLIENT is authorized and empowered to contract with the CONTRACTOR to provide professional services as hereinafter described; and

Whereas, the CONTRACTOR is registered in accordance with the laws of the State of Kansas, and is qualified to provide the professional services desired by the CLIENT; now, therefore,

IT IS AGREED THAT:

SECTION I – SOFTWARE LICENSE

The CONTRACTOR agrees to furnish various Lucity software programs, and grant the CLIENT a license to use these programs, in consideration of the mutual covenants and obligations expressed in the Lucity Software License Agreement attached as Exhibit "A". These programs shall consist of the items listed in the Schedule of Software attached as Exhibit "B".

SECTION II – SCOPE OF SERVICES

The basic Scope of Services for the supply, implementation, support and maintenance of an **ASSET, INVENTORY & WORK ORDER SYSTEM**, herein referred to as "PROJECT", is as follows:

1. The CONTRACTOR agrees to furnish and perform various professional services related to on-going software technical support and maintenance items outlined in the Software Support and Maintenance Provisions attached as Exhibit "C".
2. The CONTRACTOR agrees to furnish and perform various professional services related to the items outlined the Schedule of Services attached as Exhibit "D".

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Any items beyond the basic Scope of Services shall be considered as Additional Services. If authorized in writing by CLIENT, CONTRACTOR shall furnish, or obtain from others, services resulting from significant changes in the basic Scope of Services.

The cost to perform Additional Services shall be based on the rates outlined in the Schedule of Costs and Payments attached as Exhibit "E".

SECTION III – RESPONSIBILITIES OF THE CLIENT

The CLIENT shall provide information and assistance as follows:

1. Assist CONTRACTOR by placing at their disposal all available information pertinent to the PROJECT including data, standards, specifications, processes, workflows, and reports relative to the CONTRACTOR'S services.
2. Give prompt written notice to CONTRACTOR whenever CLIENT observes or otherwise becomes aware of any development that affects the Scope or timing of CONTRACTOR'S Services.
3. Bear all costs incident to compliance with the requirements of this Section III.

SECTION IV – SCHEDULE OF SERVICES

It is anticipated that the PROJECT as described in Section II will be completed and submitted to the CLIENT in accordance with the estimated schedule for major work items as shown on Exhibit "D".

The work items described shall be carried out as expeditiously as possible. The CONTRACTOR shall not be liable to the CLIENT, if delayed in, or prevented from performing the work as specified herein through any cause beyond the control of the CONTRACTOR, and not caused by his own fault or negligence including acts of nature or the public enemy, inclement weather conditions, acts, regulations, or decisions of the Government or regulatory authorities after the effective date of this Agreement, fires, floods, epidemics, strikes, jurisdictional disputes, lockouts, and freight embargoes.

SECTION V – FEES AND PAYMENTS

The CLIENT shall compensate the CONTRACTOR for the Scope of Services as described in Section II of this Agreement an amount not exceeding the total cost as shown on Exhibit "E". The maximum compensation shall not be exceeded without further authorization of Additional Services.

Labor costs, costs associated with subcontract work, bonding costs, and direct expenses such as shipping, printing, telephone and commercial computer software are included in the maximum compensation.

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Payment to the CONTRACTOR shall be made in accordance with the estimated schedule of billings for work items as shown on Exhibit "E". Invoices shall be due and payable to the CONTRACTOR within thirty (30) days of each billing.

Once this Agreement expires, or final payment has been requested and made, the CONTRACTOR shall have no more than thirty (30) days to present or file claims against the CLIENT concerning this Agreement. After that period, the CLIENT shall consider the CONTRACTOR to have waived any right to claims against the CLIENT concerning this Agreement.

The Fees and Payment provisions for the PROJECT, applicable to the Lucity software program licenses, provided in this Section V supersede the License Fee payment provisions provided in Section 6(a) of Exhibit "A".

SECTION VI – TERMINATION

- A. The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- B. In the event of termination by the CLIENT, the CONTRACTOR shall be paid for all services rendered up to and including the date of termination.
- C. In the event that the CLIENT, for any reason, decides not to proceed with the PROJECT, this Agreement shall then be considered terminated; the CONTRACTOR shall be entitled to payment as described herein for all services provided under this Agreement. In such event, the CLIENT shall promptly notify the CONTRACTOR in writing of its decision not to proceed with the PROJECT so that the CONTRACTOR can reassign his personnel and revise work schedules as may be required.

The Termination provisions for the PROJECT provided in this Section VI are applicable to the Scope of Services as described in Section II of this Agreement. The Term and Termination provisions provided in Section 12 of Exhibit "A" are applicable to the Lucity software program licenses.

SECTION VII – INDEMNIFICATION

The CONTRACTOR shall indemnify and hold the CLIENT harmless from any and all liability, loss or damage the CLIENT may suffer as a result of claims, demands, costs or judgments against it arising out of the CONTRACTOR'S negligence in the performance of this Agreement.

The Indemnification provisions for the PROJECT provided in this Section VII are applicable to the Scope of Services referenced in Section II. The Limitations of Liability provisions provided in Section 11 of Exhibit "A" are applicable to the Lucity software program licenses.

SECTION VIII – GENERAL CONSIDERATIONS

And, finally it is agreed that:

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- A. All services shall be under the direction of qualified personnel.
- B. The Scope of Services covered by this Agreement shall be subject to modification and supplementation upon the written agreement of the duly authorized representatives of the contracting parties. Modification of the terms of this Agreement may be made that would modify the maximum fees stated in the Agreement when mutually agreed by and between the CONTRACTOR and the CLIENT, and shall be incorporated in written amendments to this Agreement. The CONTRACTOR shall have no obligation to perform services in connection with a change in the Scope of Services unless the cost thereof shall be agreed to under this paragraph.
- C. The CONTRACTOR reserves the right to renegotiate this Agreement if this agreement is not signed by the CLIENT within ninety (90) days after submittal.
- D. The following Exhibits are attached to and made a part of this Agreement:
 - Exhibit "A" - Lucy Software License Agreement
 - Exhibit "B" - Schedule of Software
 - Exhibit "C" - Software Support and Maintenance Provisions
 - Exhibit "D" - Schedule of Services
 - Exhibit "E" - Schedule of Costs and Invoicing

IN WITNESS WHEREOF, the CLIENT and CONTRACTOR, by their authorized representatives, have hereunto subscribed their names this _____ day of _____, 2012.

Executed in duplicate with copies to the CLIENT and CONTRACTOR.

LUCITY, INC.

**CITY OF COLUMBUS, OH DEPARTMENT
OF TECHNOLOGY**

By: _____
James C. Graham, P.E.

By: _____
Gary R. Cavin

Title: Vice President & Chief Operating Officer

Title: Director

Attest: _____

Attest: _____

By: _____

By: _____

Title: _____

Title: _____