

**SOFTWARE SUPPORT & MAINTENANCE AGREEMENT  
For 2012**

AGREEMENT to begin on January 1, 2012 between **Freight Management Systems, Inc.** (hereinafter referred to as "**COMPANY**") and our Customers (hereinafter referred to as "**CUSTOMER**").

**WHEREAS**, CUSTOMER is desirous of securing the services of COMPANY to support and maintain certain software and COMPANY is desirous of providing such maintenance services.

**NOW THEREFORE**, for and in consideration of the mutual promises of the parties contained herein, and other good and valuable consideration, it is agreed as follows:

1. **TERM:** This Agreement shall be for a term of one (1) year beginning at 12:01 a.m. on January 1, 2012 and expiring Midnight of the preceding calendar day one year thereafter.
2. **HOURS:** Support and maintenance for the specified software shall be provided between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, E.S.T., holidays excepted. Support and maintenance shall begin as soon as reasonable after notification from CUSTOMER, excluding holidays and weekends.
3. **NOTICE:** The notification, either written or verbal, shall be delivered to COMPANY at its address, email address or telephone number noted below.
4. **SOFTWARE:** The support and maintenance services to be performed under this Agreement shall be performed on the software in its most current version which is described as follows:

Freight Management Systems software, Visual LOADPlus most current version or LOADPlus Release 11.5.

5. **SUPPORT AND MAINTENANCE:** COMPANY agrees to provide the following support and maintenance services on the software:
  - (a) Identification and correction of defects and "bugs" at no charge.
  - (b) Distribution of **updates and enhancements** at no charge.
  - (c) Unlimited application support per month, support to be performed by email or telephone, under the provisions of Paragraph 2 above and item (e) below.

- (d) **You must have a broadband connection.**
  - (e) **You must BACKUP your system and know how to restore all or selected files. We recommend daily backups with a minimum of 10 days of historical backup. We are NOT responsible for and CANNOT recover your DATA files.**
  - (f) **Support for QUERY does NOT include writing queries for you.** We will assist with the writing of queries for the first 12 months following your initial purchase of Visual LOADPlus provided you have a current 'Software Upgrade and Support Agreement'. If after the first year you want us to write queries for you, there will be a fee incurred.
6. **ACCESS:** CUSTOMER shall provide to COMPANY access to the installed software and its affiliated hardware during regular business hours, and for reasonable periods of time for the purpose of testing, identification of defects, and installation of fixes. Under appropriate circumstances, at the sole discretion of COMPANY, changes, fixes or upgrades may be delivered through appropriate magnetic media or electronically.
7. **EXCLUSION OF WARRANTY: COMPANY DOES NOT MAKE AND CUSTOMER DOES NOT RECEIVE FROM COMPANY ANY WARRANTIES WHATEVER WITH RESPECT TO THE SOFTWARE, PARTICULARLY NOT THE WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT.**  
In no event shall COMPANY be liable for special, consequential, exemplary, indirect or incidental Damages beyond the cost to repair and correct software defects introduced in the original software or by changes, fixes or upgrades provided by company under the provisions of the Agreement.
8. **EXCLUDED SERVICE: COMPANY is not obligated to provide service under this Agreement for the purpose of installing improvements, upgrades or enhancements, or to provide service necessitated by vandalism, theft, misuse, hardware malfunction, neglect, viruses, acts of third parties, fire, water, casualty, act of God, mob violence, labor disputes, malfunction of affiliated equipment, unauthorized modifications to the software, electrical failure, accidents, or from other causes unrelated to the ordinary operation of the software. SEE ADDENDUM A.**

This Agreement is void if service is performed on the software by unauthorized individuals, or if attempts are made to modify the software or use the software in a manner not set out in the instruction manual or license agreement.

**Software upgrades to the VISUAL DATAFLEX runtime, or any other product not written by Freight Management are not covered under this license agreement.** Each customer shall be responsible for the cost and installation of upgrades to VISUAL

DATAFLEX or other software products when from time to time these products are upgraded by their respective authors.

Freight Management Systems, Inc. will notify each customer when an upgrade is available. If your system is not on the current software release, support may not be possible.

9. **ENHANCEMENTS AND IMPROVEMENTS:** COMPANY shall give CUSTOMER notice of the availability of improvements, upgrades or enhancements. Service excluded under the provisions of Paragraph 8 above, including the installation of improvements, upgrades or enhancements, will be performed at the request of CUSTOMER and will be billed at the 'time and materials rate' then in effect.

**SEE ADDENDUM B for costs.**

**SEE ADDENDUM C for notification requirements.**

10. **PRICE:** The services set out under the terms of this Agreement shall be provided for the sum listed on the 2012 Support & Maintenance invoice dated November 1, 2010. If system is purchased mid-year, support is prorated.

**COMPANY shall not be obligated to provide the services described unless payment in full has been received by January 1, 2012.**

**IN WITNESS WHEREOF,** the parties hereto have set their hands and seals effective the date first set out above.

**COMPANY:**

**Freight Management Systems, Inc.**

P.O. Box 290343

Ft. Lauderdale, FL 33329

Telephone: 954-252-0031

email: support@freight-mngt.com

<p><b>PAYMENT OF THE SUPPORT AND MAINTENANCE INVOICE CONSTITUTES ACCEPTANCE OF THE TERMS OF THIS CONTRACT.</b></p>
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## ***LOADPlus/Visual LOADPlus***

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FREIGHT MANAGEMENT SYSTEMS, INC.

### **ADDENDUM A**

COMPANY may, at its prerogative, provide support for the services listed in paragraph 8 in the SOFTWARE UPGRADE & SUPPORT AGREEMENT hereafter called LEVEL 2 SUPPORT. Rates for LEVEL 2 SUPPORT are listed below:

\$175 per hour with a 1 hour minimum

### **ADDENDUM B**

Freight Management offers upgrade installation. This service includes checking file sizes, a second backup prior to installation and testing to insure the upgrade was successful. This service requires the use of a high speed internet connection (DSL or T1, etc.).

1st Hour (minimum)	\$125.00
Each Additional Hour	\$ 75.00

### **ADDENDUM C**

**Each customer will provide to and maintain with Freight Management Systems, Inc. a current contact person, phone number and email address. This email address will be utilized by Freight Management to notify the customer of enhancements, updates, news, etc.**