

Software License Agreement

This Software License Agreement ("Agreement") is between BENEDICT GROUP, Inc., at 900 Small Drive, Elizabeth City, NC 27909 ("BGI"), and Florida Housing Finance Corporation, at 227 N. Bronough St Suite 5000, Tallahassee, FL 32301 ("FHFC").

In consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. LICENSE

This Agreement is effective from the date of execution and will remain in effect indefinitely unless terminated pursuant to this Agreement.

BGI grants to FHFC a non-transferable and non-exclusive license to use BGI's LOANS! For .Net™ software application (the "Licensed Software"). For the purposes of this Agreement, Licensed Software will include all documentation, schema information, materials, and software modifications related to the LOANS! For .Net™ software application that BGI may provide hereunder, but will not include its source code. The Licensed Software is licensed to FHFC solely for the management and processing of loans that it owns or that its employees service for others, upon the terms and conditions herein.

FHFC represents and warrants that it is not a software vendor, service bureau, application service provider, software-as-a-service provider, or competitor of BGI, and that under no circumstances will it allow a software vendor, service bureau, application service provider, software-as-a-service provider, or competitor of BGI to access the Licensed Software.

2. NUMBER OF USERS

FHFC agrees to limit its use of the Licensed Software to no more than eight (8) concurrent Users at any time. A "User" is defined as any person or computer-based process that is accessing the Licensed Software in any way, whether by means of the standard menu functions within the Licensed Software or otherwise, including without limitation third-party products such as Crystal Reports, any ODBC connection, or any other method of access. If it wishes to expand this level of usage in the future, FHFC agrees to notify BGI in writing at that time, and pay BGI's then-current license fee for the number of additional Users required.

3. OWNERSHIP AND COPYING OF LICENSED SOFTWARE

FHFC acknowledges that the Licensed Software is proprietary, that BGI is the owner of the Licensed Software and has exclusive rights to its licensing, and that BGI will at all times retain title to the Licensed Software.

FHFC acknowledges that the Licensed Software is not the property of FHFC and that FHFC's rights in and to the Licensed Software are solely those expressly granted in this Agreement, and that they may not be assigned, licensed, sublicensed, or otherwise transferred voluntarily or by operation of law without the prior written consent of BGI. Any such assignment, license, sublicense, or transfer, whether voluntary or involuntary, is void. Any rights not expressly granted herein to FHFC are reserved by BGI.

FHFC will keep the Licensed Software free and clear of any and all claims, liens, and encumbrances attributable to the use or possession of the Licensed Software by FHFC. Any act of FHFC, whether voluntary or involuntary, purporting to create a claim or encumbrance or any such item will be void.

FHFC may copy the Licensed Software provided that in no event will FHFC cause or permit more than three (3) copies to be installed in total on its computers or file servers at any one time: one (1) copy for testing and backup purposes, one (1) copy for off-site recovery, and one (1) copy for production use. Each such copy of the Licensed Software will include all confidential, proprietary, and copyright notices or markings contained on the original provided by BGI.

Software License Agreement

FHFC may use the Licensed Software only for the uses specified herein on a maximum of three computers or servers at FHFC's location in the United States: one server for testing and backup purposes, one server for off-site recovery, and one server for production use.

4. CONFIDENTIALITY

FHFC acknowledges being advised that the Licensed Software constitutes a TRADE SECRET of BGI, is protected by civil and criminal law, and by the law of copyright, is valuable and confidential to BGI, and that its use and disclosure must be carefully and continuously controlled.

FHFC agrees that it will (a) treat the Licensed Software, including ideas, algorithms, models, processes, and techniques, as the confidential property of BGI; (b) not disclose or otherwise make available the Licensed Software, in whole or in part, to any third party without the prior written approval of BGI, unless otherwise required by a law or a court of competent jurisdiction; (c) maintain the security and confidentiality of the Licensed Software as it would its own most highly confidential information, and (d) exercise reasonable efforts to safeguard the confidentiality of the Licensed Software. Included in these efforts, FHFC agrees to clearly notify its employees of its obligations hereunder.

FHFC agrees to notify BGI forthwith if it obtains information as to any unauthorized possession, use, or disclosure of any item of the Licensed Software by any person or entity, and to cooperate with BGI in protecting BGI's proprietary rights.

FHFC agrees to indemnify BGI for all damages, costs and expenses (including court costs and reasonable attorney's fees) incurred by BGI in connection with any material failure of FHFC to comply with FHFC's obligations under this Agreement, and that BGI will be entitled to injunctive relief without any requirement or need to post bond in connection therewith in the event FHFC breaches the terms of this Agreement. The obligations of FHFC set forth above, however, will not apply to confidential property which (a) becomes publicly known, other than through the fault of FHFC; (b) is disclosed to FHFC by a third party which FHFC had no reason to believe is not legally entitled to disclose such information; (c) is known by FHFC prior to its receipt of the confidential property; (d) is subsequently developed by FHFC independently of any disclosures made hereunder by BGI; or (e) is disclosed with BGI's consent.

It is understood and agreed that BGI does not wish to receive any confidential information from FHFC. In the event that both parties agree such a disclosure is necessary under this Agreement, and the information is clearly marked as confidential, BGI agrees that it will (a) treat such information as the confidential property of FHFC; (b) not disclose or otherwise make it available, in whole or in part, to any third party without the prior written approval of FHFC, unless otherwise required by a law or a court of competent jurisdiction; (c) maintain the security and confidentiality of the information or materials as it would its own most highly confidential information, and (d) exercise reasonable efforts to safeguard the confidentiality of the information. Included in these efforts, BGI agrees to clearly notify its employees of its obligations hereunder.

Notwithstanding the foregoing, FHFC agrees that BGI may make modifications to the Licensed Software based partially or wholly on any confidential information disclosed by FHFC, including but not limited to information about its business practices, procedures, or plans, and that BGI will be the sole owner of copyright and to such modifications, without the necessity of any consideration to FHFC. To the extent that any preexisting FHFC rights are embodied or reflected in such modifications, FHFC hereby grants to BGI the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (a) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and any derivative works thereof, and (b) authorize others to do any or all of the foregoing.

The obligations in this Section 4 will survive the termination or rescission of this Agreement.

Software License Agreement

5. LICENSE FEE

FHFC agrees to pay BGI a one-time licensing fee of \$42,250 (US dollars) for the Licensed Software ("License Fee"). FHFC agrees to pay this License Fee in two (2) installments: 50% upon the signing of this Agreement; and 50% upon the initial delivery of the Licensed Software ("Initial Delivery"), which BGI agrees to do within 7-10 business days after the signing of this Agreement and receipt of the first License Fee payment.

6. SUPPORT

Following the Initial Delivery, BGI agrees to provide assistance to FHFC's IT staff with their installation of the Licensed Software, and to provide twelve (12) hours of structured training to FHFC's key business users via the Internet. Subject to FHFC's portfolio requirements, BGI will provide this training in 6-8 training sessions and include the following topics: (a) an overview of the Licensed Software and its key startup parameters and user-defined tables; (b) the Loan Master function, the Loan Inquiry function, and the setting up a new loan; (c) transaction processing, including reversals, lock box processing, and ACH processing; (d) loan servicing functions such as collections, ARM processing, and escrow processing; (e) batch processing, including key reports, monthend accruals, and the GL interface; (f) asset management functions including financial statement and rent roll tracking; and (g) the BGI sub-systems such as the ReportWriter and DataImporter, including how to use the DataImporter for the conversion of FHFC's loan data to the Licensed Software.

FHFC agrees to participate in these training sessions early in the implementation process in order to maximize their benefits. All training will be done at times that are mutually agreeable to both parties.

At its option, FHFC may request other training, development, implementation, and miscellaneous support from BGI ("Billable Consulting Support"). If and when requested by FHFC, BGI agrees to provide such Billable Consulting Support, at times that are mutually agreeable to both parties.

BGI agrees to make a reasonable effort to include any modifications, updates, improvements, or enhancements (collectively "Changes") made to the Licensed Software under this Agreement in BGI's standard release of the Licensed Software so as to facilitate the installation of future releases by FHFC. In all cases, BGI is and will be the sole owner of any Changes to the Licensed Software, and will retain the exclusive right to patent, copyright, license, sell, or otherwise make use of them.

For any Billable Consulting Support provided by BGI under this Agreement, FHFC agrees to pay BGI's then-current hourly rate. BGI agrees to keep this hourly rate at \$150/hour for the first twelve (12) months after the signing of this Agreement.

If FHFC requests that BGI personnel travel to FHFC's site, FHFC agrees to pay for two-thirds (2/3's) of BGI's commute time. For overnight travel, FHFC agrees to pay BGI for coach airfare, hotel, and other reasonable travel expenses. BGI will not bill for any expenses unless they are pre-approved by FHFC.

BGI will bill FHFC once a month for all Billable Consulting Support and expenses requested by FHFC. With each invoice, BGI will include a log of hours worked and receipts for any expenses incurred. FHFC agrees to pay all Billable Consulting Support invoices within 15 days of receipt.

Commencing on the thirtieth day following FHFC's receipt of an invoice from BGI, FHFC shall be liable for a monthly rate of interest of 1.5% or the highest rate permitted by law, whichever is lower, on any unpaid amounts, which interest shall be in addition to such fees due and owing to BGI.

7. LIMITED WARRANTY

BGI extends to FHFC a limited warranty for a period of 180 days following the Initial Delivery of the Licensed Software that the Licensed Software, other than any Changes or the like made to support FHFC's requirements, will substantially conform to its then-current specifications as described in BGI's

Software License Agreement

accompanying documentation, provided that FHFC notifies BGI in writing within thirty (30) days of any such nonconformance.

If the Licensed Software fails to substantially conform to its then-current specifications, BGI will, at BGI's sole option, either modify the Licensed Software so that it does conform, provide an alternative solution that is reasonably acceptable to FHFC, or agree to refund to FHFC the License Fee actually paid by FHFC for the Licensed Software hereunder and terminate the Agreement.

8. DISCLAIMER OF WARRANTIES

EXCEPT AS SET FORTH IN SECTION 7 OF THIS AGREEMENT, BGI GRANTS NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, AS TO THE LICENSED SOFTWARE OR SERVICES PROVIDED, OR AS TO ANY OTHER MATTER WHATSOEVER, AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES REGARDING THE CONDITION OF THE LICENSED SOFTWARE, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

BGI DOES NOT WARRANT THAT THE LICENSED SOFTWARE WILL MEET ALL OF FHFC'S BUSINESS REQUIREMENTS OR WILL OPERATE IN A PARTICULAR COMPUTER ENVIRONMENT.

9. LIMITATION OF LIABILITY

IN NO EVENT WILL BGI'S TOTAL LIABILITY HEREUNDER EXCEED THE TOTAL LICENSE FEE ACTUALLY PAID BY FHFC TO BGI FOR THE LICENSED SOFTWARE PURSUANT TO THIS AGREEMENT.

UNDER NO CIRCUMSTANCES WILL BGI BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, OR LOSS OF GOODWILL RESULTING FROM THE DELIVERY, INSTALLATION, OPERATION, MAINTENANCE, SUPPORT OR USE OF, OR INABILITY TO USE, THE LICENSED SOFTWARE REGARDLESS OF WHETHER BGI KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

FHFC ASSUMES FULL RESPONSIBILITY AND LIABILITY FOR (A) THE ACCURACY AND CORRECTNESS OF DATA INPUT, (B) MONITORING OUTPUT TO INSURE ACCURACY AND CORRECTNESS, (C) CORRECTING INVALID DATA, AND (D) ANY ACTION TAKEN BY FHFC OR OTHERS BASED UPON THE LICENSED SOFTWARE OR ITS DATA.

ANY ACTION REGARDLESS OF FORM, ARISING OUT OF ANY TRANSACTION UNDER THIS AGREEMENT THAT MAY BE BROUGHT BY FHFC, SHALL BE GOVERNED BY CH. 95, FLA.STATUTES, FROM WHEN FHFC KNEW OR REASONABLY SHOULD HAVE KNOWN OF AN EVENT WHICH GIVES RISE TO SUCH CAUSE OF ACTION OCCURS.

THE LIMITATIONS OF LIABILITY AND DISCLAIMERS OF WARRANTY STATED HEREIN FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES AND APPLY REGARDLESS OF WHETHER ANY LIMITED REMEDY HEREUNDER FAILS OF ITS ESSENTIAL PURPOSE.

10. INDEMNIFICATION

Notwithstanding any other Section of this Agreement, BGI does hereby indemnify and will hold harmless FHFC, any employee or agent of FHFC, against all liability to third parties arising from BGI's violation of any third party's trade secrets, proprietary information, trademark, copyright, or U.S. patent rights. BGI will pay all costs, damages, and reasonable attorneys' fees finally awarded by a court of competent jurisdiction against FHFC in such an infringement action, and all reasonable legal defense fees involved in such an action, provided that FHFC notifies BGI promptly in writing of the claim and complies with the provisions herein. Should the Licensed Software become or, in the opinion of BGI, be likely to

Software License Agreement

become, the subject of an infringement claim, BGI may either procure for FHFC the right to continue to use the Licensed Software, replace the Licensed Software or any part of it with a non-infringing and substantially equivalent substitute, modify the Licensed Software so as to be non-infringing, or refund the License Fee actually paid by FHFC for the Licensed Software and terminate the Agreement without incurring any further liability thereby. FHFC agrees that BGI will have the sole right to defend the claim in court and during all negotiations, on behalf of both parties, and FHFC will cooperate in defense of the claim as reasonably requested by BGI. Notwithstanding the foregoing, BGI will have no obligation to FHFC with respect to any infringement claim if the liability of such infringement claim would have been avoided by the use of BGI's most recent version available to FHFC, or if such infringement claim is based upon (a) FHFC's modification of the Licensed Software, (b) FHFC's use of the Licensed Software in a manner not expressly authorized by this Agreement, or (c) the combination, operation, or use of the Licensed Software with software which was not provided by BGI, if FHFC's liability for such infringement claim could have been avoided in the absence of such combination, use or operation.

FHFC does hereby indemnify and will hold harmless BGI, any employee or agent of BGI, and its subsidiaries against all liability to third parties arising (1) from FHFC's violation of any third party's trade secrets, proprietary information, trademark, copyright, or U.S. patent rights, (2) from FHFC's failure to use the Licensed Software correctly, or (3) from FHFC's failure to ensure that the information provided from the Licensed Software is accurate and correct. FHFC will pay all costs, damages, and reasonable attorneys' fees finally awarded by a court of competent jurisdiction against BGI in such an action, and all reasonable legal defense fees involved in such an action, provided that BGI notifies FHFC promptly in writing of the claim and complies with the provisions herein. BGI agrees that FHFC will have the sole right to defend a claim described herein in court and during all negotiations, on behalf of both parties, and BGI will cooperate in defense of the claim as reasonably requested by FHFC.

11. TERMINATION OF SOFTWARE LICENSE

FHFC can terminate this Agreement on thirty (30) days notice by FHFC in the event (a) that FHFC decides that it no longer wishes to use the Licensed Software, or (b) of any default by BGI of any material term, covenant, or obligation under this Agreement which is not cured within thirty (30) days of BGI's receipt of written notice specifying such default.

BGI can terminate this Agreement and any and all rights granted to FHFC hereunder will revert to BGI, on thirty (30) days notice by BGI in the event of any default by FHFC of any material term, covenant, or obligation under this Agreement including but not limited to a failure to pay the License Fee, which is not cured within thirty (30) days after FHFC's receipt of written notice specifying such default.

This Agreement will terminate forthwith should FHFC suspend business, make an absolute assignment of the bulk of its assets for the benefit of creditors, consent to the appointment of a trustee, custodian, or receiver, or be declared insolvent or bankrupt; or if a trustee, custodian or receiver is appointed for FHFC or for a substantial part of its property without its consent and is not discharged within sixty (60) days after such appointment; or if bankruptcy, reorganization, arrangement, insolvency, or liquidation proceedings are instituted by or against FHFC and are not dismissed within sixty (60) days of the commencement thereof.

The following conditions will apply upon termination: all rights of FHFC to the Licensed Software will cease; FHFC will discontinue use of the Licensed Software and will deliver to BGI the Licensed Software with all copies thereof within thirty (30) days after termination; and FHFC will erase or destroy any of the Licensed Software contained in computer memory or data storage apparatus under the control of FHFC and will remove the Licensed Software from any updated work. FHFC will certify its compliance in full with all its aforesaid obligations in writing to BGI within thirty (30) days after termination.

Termination of this Agreement will be in addition to and not in lieu of any additional remedies available to either party.

Software License Agreement

12. INDEPENDENT PARTIES

BGI and FHFC will each be and act as an independent party, and not as an agent or partner of, or joint venturer with the other party for any purpose, and neither party by virtue of this Agreement will have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other party.

13. MISCELLANEOUS

Waiver, amendment or modification of this Agreement will not be valid unless in writing and signed by both parties.

Subject to the prohibition against assignment, license, sublicense and transfer, this Agreement will be binding upon and will inure to the benefit of the successors and permitted assigns of the parties hereto.

FHFC agrees that it is responsible for, and will pay to its state or federal government, any sales, use, import, or other taxes or levies associated with this License Agreement, including those associated with any Billable Consulting Support provided by BGI.

This Agreement will be governed by and construed solely in accordance with (a) the laws of the State of Florida, and (b) if applicable, the copyright laws or other intellectual-property laws of the United States of America.

FHFC and BGI hereby expressly acknowledges and agrees that any legal action relating to this Agreement will be brought and maintained solely in the federal or state courts located in the State of Florida, with the venue in Leon County, Florida, and FHFC and BGI hereby expressly waives any and all objections that it might have in the nature of jurisdiction, venue, or otherwise with respect to any such court.

The United Nations Convention for the Sale of Goods will not apply to this Agreement.

In the event that any provision of this Agreement will be held invalid or unenforceable, such provision will be severable from, and such invalidity or unenforceability will not be construed to have any effect on, the remaining provisions of this Agreement, unless the Agreement would thereby fail of its essential purpose.

The captions of this Agreement are solely for reference and have no legal effect whatsoever and will not in any way affect the interpretation or construction of this Agreement.

Any waiver of any right or default hereunder will be effective only in the instance given and will not operate as or imply a waiver of any similar right or default on any subsequent occasion.

Neither party will be liable for damage due to any cause beyond its control, including without limitation to acts of God, acts of civil or military authority, labor disputes, failure or delay of suppliers, fire, riots, sabotage, war, embargo or acts or omissions or the other party caused by any of such events.

FHFC agrees and certifies that the Licensed Software is not intended to be shipped, transferred, or re-exported directly or indirectly into any country prohibited by federal laws and regulations. FHFC agrees to comply with all such laws and regulations pertaining to the export and use of the Licensed Software.

All notices will be in writing and will be deemed to be delivered when sent via (a) the US Postal Service; (b) a national overnight carrier such as Federal Express, DHL, or UPS; or (c) email; provided a receipt confirmation is required by the sender and provided by the receiver. All notices will be directed to FHFC or to BGI, its successors or assigns, at the respective addresses set forth on the title page of this Agreement or to such other addresses as a party may, from time to time, designate by written notice to the other party.

Software License Agreement

Both parties agree to keep the terms and conditions of this Agreement confidential.

14. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between BGI and FHFC pertaining to the subject matter hereof and supersedes all proposals or prior and contemporaneous agreements or understandings of the parties regarding such matter. Terms and conditions contained in any FHFC purchase order or other ordering document submitted pursuant hereto will not be deemed to modify or supersede the terms of this Agreement.

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same document. This Agreement may be executed and delivered by e-mail or facsimile, and copies of signatures hereon will be deemed as binding as originals.

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date last entered below.

Florida Housing Finance Corporation

By 

Name _____

Title Executive Director

Date 7/18/13

BENEDICT GROUP, Inc.

By 

Name Barry Benedict

Title PRESIDENT

Date 7/16/13