

DREAM REPORT
SOFTWARE LICENSE PURCHASE AGREEMENT
Between
LOGIC, INC.
And
CITY OF COLUMBIA, MISSOURI

THIS AGREEMENT (hereinafter "Agreement") is by and between the City of Columbia, Missouri (hereinafter "City"), a municipal corporation whose address is 701 E. Broadway, Columbia, MO 65201 and Logic, Inc. (hereinafter "Logic"), a general corporation with the authority to transact business within the State of Missouri and whose address is 6085 Fee Fee Rd, Hazelwood, MO 63042, and is entered into on the date of the last signatory below (hereinafter "Effective Date"). City and Logic are each individually referred to herein as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, City wishes to purchase an automated and data analysis software for its operation of the Water Treatment Plant;

WHEREAS, Logic, in response to the City's request for proposal, represents that its software, Dream Report, will meet the City's needs; and

WHEREAS, City wishes to purchase, and Logic wishes to provide, license to use this software pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set out in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

1. **Definitions.** For purposes of this Agreement, the following words and terms shall have the meanings respectively ascribed:

(a) "*EULA*" shall mean the End User License Agreement, attached hereto as **Exhibit B** and made a part of this Agreement.

(b) "*Software*" shall mean the Dream Report software, and all of its accompanying parts and products, which is listed in full in Logic's Dream Report Quote, Quote Number 282929, attached hereto as **Exhibit A** and made a part of this Agreement.

2. **License Procurement & Support.** Logic agrees to provide City with license to use Software pursuant to the terms and conditions of its quote attached hereto as **Exhibit A**.

3. **Payment.**

(a) *Software License.* For license to use the Software, City agrees to make a one-time payment to Logic pursuant to the prices, terms and conditions provided in its quote attached hereto as **Exhibit A**.

(b) *Not To Exceed Amount.* It is expressly understood by both Parties that in no event will the total amount to be paid by City under the terms of this Agreement exceed **Ten Thousand Two Hundred Eighty-Four Dollars (\$10,284)**, unless otherwise agreed to by both Parties in writing and executed as an amendment to this Agreement.

4. End User License Agreement. The Parties agree that the terms of the End User License Agreement (hereinafter "EULA"), attached hereto as **Exhibit B** shall apply to the software procured by City from Logic.

5. Term. The initial term of this Agreement shall be one (1) year commencing on the Effective Date. Thereafter, the term of this Agreement shall automatically renew for successive one (1) year terms unless the Agreement is otherwise terminated as provided for herein.

6. Termination.

(a) *Termination for Convenience.* Either Party may terminate this Agreement for convenience at any time by providing no less than sixty (60) calendar days' written notice.

(b) *Termination for Default.* If either Party fails to perform its duties and obligations provided for herein, then that Party shall be in default. The non-defaulting Party may provide written notice outlining the default. If the default is not cured within thirty (30) calendar days' from receipt of the written notice of default, then the non-defaulting Party may terminate this Agreement in whole or in part for failure to perform by providing written notice of termination. The written notice of termination will be effective immediately upon its receipt. In such event, the defaulting Party shall be liable for all damages (including all costs and attorney's fees) arising out of or related to the default.

7. No Waiver of Immunities. In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either Party's rights or defenses with regard to each Party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or laws.

8. Governing Law and Venue. This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Agreement, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri.

9. Amendment. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any

provision or any remedy available to it, unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.

10. **Contract Documents.** The Contract Documents include this Agreement and the following attachments and exhibits which are incorporated herein by reference:

Exhibit:

- A Dream Report Quote No. 282929
- B EULA

In the event of a conflict between the terms of any of the Contract Documents and the terms of this Agreement, the terms of this Agreement control. In the event of a conflict between the terms of any Contract Documents, the terms of the documents control in the order listed above.

10. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the Parties relative to the contracted services herein. All previous or contemporaneous contracts, representations, promises and conditions relating to the contracted services herein are superseded.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives as of the date of the last signatory to this Agreement.

CITY: CITY OF COLUMBIA, MISSOURI

BY: _____
Mike Matthes, City Manager

DATE: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor [ak] AK

CERTIFICATION: I hereby certify that this contract is within the purpose of the appropriation to which it is to be charged, Account No. Org 27188331 Obj 604990, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

Michelle Nix, City Director of Finance

LOGIC: LOGIC, INC.

BY: _____
(Signature)

PRINTED NAME: Carrie A. Murray

TITLE: Office Manager

DATE: 2-19-2018



Quotation

Subject: Dream Report Software for Water Treatment Plant

Prepared For: Eric Worts
 City of Columbia, Missouri (Water)
 701 E. Broadway
 4th Floor
 Columbia MO 65201
 USA

Quote No: 282929

Date: 1/12/2018

Eric:

Here is pricing for the FULL Dream Reports license. We would credit back the original order.

Line #	Part #	Description	Quantity	Unit Price	Ext. Price
1	DR-1000-48	Dream Report, 1,000 Tags, v4.8. Includes 1 Development license for Dream Report and 1 Web Client. Supports Wonderware data sources plus other third party data sources.	1	\$8,714.00	\$8,714.00
2	CF-DR	Customer First for Dream Report	1	\$1,570.00	\$1,570.00
<i>Option for Adding more Web Clients</i>					
3	DR-WEB-5-48	Dream Report Web Client, 5 Concurrent, v4.8	1	\$2,572.00	\$2,572.00
4	CF-DR	Customer First for Dream Report	1	\$463.00	\$463.00
				Total:	\$10,284.00

All purchase order terms are net 30 days F.O.B. factory. Credit cards are charged upon shipment of order. The freight and prepaid insurance will be added to the invoice with standard shipping via UPS ground. Surcharges may incur for special delivery and/or payment by credit card. Prices are firm for thirty days. After that time, costs may be subject to escalation in the event of a price increase by the manufacturer.

Please see the attached PDF for this quotation.
 If you have any questions or concerns please contact me.

Sincerely,

Kris Kozielek
 LOGIC Inc.

Please send POs to purchasing@logic-control.com or fax to (913) 764-2828.

Logic, Inc.
6085 Fee Fee Rd., Hazelwood, MO 63042
(314) 731-6610 (866) 536-6610 Toll free
FAX: (314) 731-6612

kris@logic-control.com



Ocean Data Systems Ltd.

The Art of Industrial Intelligence

End User License Agreement

IMPORTANT INFORMATION - PLEASE READ THIS AGREEMENT CAREFULLY BEFORE OPENING THE PACKAGE AND/OR USING THE CONTENTS THEREOF AND/OR BEFORE DOWNLOADING OR INSTALLING THE DREAM REPORT PROPRIETARY SOFTWARE PROGRAM OF OCEAN DATA SYSTEMS LTD. (ODS) THAT YOU ARE ABOUT TO OPEN, INSTALL OR DOWNLOAD (THE “SOFTWARE PROGRAM”). BY OPENING THE PACKAGE CONTAINING THE SOFTWARE PROGRAM, AND/OR BY DOWNLOADING THE SOFTWARE PROGRAM AND/OR INTALLING THE SOFTWARE PROGRAM, AND/OR BY USING THE SOFTWARE PROGRAM, YOU ARE ACCEPTING THIS AGREEMENT AND AGREEING TO BE BOUND BY ITS TERMS AND CONDITIONS.

IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT DO NOT OPEN THE PACKAGE OR DOWNLOAD, INSTALL OR USE THE SOFTWARE PROGRAM. INSTEAD, PROMPTLY (not later than within 7 days from the date you received this package or download) RETURN THE SOFTWARE PROGRAM TO ODS OR TO THE DISTRIBUTOR FROM WHOM YOU RECEIVED IT, DELETE THE SOFTWARE PROGRAM AND ANY PART THEREOF FROM YOUR COMPUTER AND DO NOT USE IT IN ANY MANNER WHATSOEVER.

Purchase Order. You have ordered or received the Software Program from ODS or its distributors. Your order and the order confirmation from ODS lists the number of copies or licenses of the Software Program that you purchased which is equal to the number of computers, seats or concurrent web clients that may be used with the Software Program, and the number of variables or tags that may be accommodated by the Software Program (the “Scope of License”). Your use of the Software Program must comply at all times with the limitations of the Scope of License as is set forth in the order confirmation sent from ODS. Such order confirmation is a part of this License and defines the limits of the Scope of License. Your downloading, installation or use of the Software Program must be in accordance with the terms of this License. If your order or the order confirmation from ODS conflicts with this Agreement, the terms of this Agreement shall prevail.

Title & Ownership. The Software Program, including any revisions, corrections, modifications, derivative works thereof, enhancements, updates and/or upgrades thereto and trademarks and trade names associated therewith ARE NOT FOR SALE and remain the sole property of ODS. In consideration for the payment in full of the amount listed in the order confirmation and the invoice from ODS, ODS hereby grants to you, and you hereby accept, a personal, non-transferable, non-exclusive license (“License”) to use (without the right to sublicense) the Software Program upon the terms of the Scope of License. All intellectual property rights (including, without limitation, copyrights, trade secrets, trademarks, etc.) evidenced by, embodied in, and/or attached/connected/related to the Software Program, are and shall be owned solely by ODS. This License Agreement does not convey to you any ownership interest in or to the Software Program, but only a limited right of use revocable in accordance with the terms of this Agreement and the Scope of License. Nothing in this Agreement constitutes a waiver of any intellectual property rights of ODS under any law. Use of the Software Program in violation of this License or the order confirmation will result in the termination of this License and may expose you to claims for damages. ODS may require you to certify in writing that your use of the Software Program complies with the terms of this License and the order confirmation.

License. This License permits you, subject to the applicable Scope of License and your payment of the invoice that accompanies your order confirmation, to install and use the Software Program in executable form on the single specific computer upon which the Software Program is installed, or in the case of order confirmations from ODS for server-based installations, then for the number of seats and the number of concurrent web clients that were listed in the order confirmation from ODS. No copying of the Software Program is permitted, and no subsequent installation of the Software Program on a computer other than the one upon which it is originally installed is allowed unless the Software Program is deleted from such original computer. The Software Programs may be used only for your internal purposes, and may not be transferred or used to provide services to third parties. You may make or keep one copy of the Software Program solely for backup purposes. You may not (i) modify, merge or sub-license the Software Program except as expressly authorized in this Agreement; (ii) sell, license (or sub-license), lease, assign, transfer, pledge, use or share your rights under this License with/to anyone else; (iii) modify, disassemble, unbundle, decompile, reverse engineer, revise or enhance the Software Program or attempt to discover the Software Program’s source code; or (iv) use any back-up or archival copies of the Software Program (or allow someone else to use such copies) for any purpose other than to replace an original copy if it is destroyed or becomes defective. Certain modules of the Software Program are intended to facilitate your creation of new tools, applications, drivers or communication modules in which you may have intellectual property rights. However, you may not add code or other instructions to the Software Program to expand or create new features for the Software Program. Any such additions, derivative works, new features, bug fixes, support corrections or results from your inquiries shall be the property of ODS, and you will be deemed to have consented to the assignment to ODS of any rights therein.

Evaluation and Demonstration License. If you have received the Software Program as part of an evaluation or demonstration, then your permitted use of the Software Program are limited in both functionality and by the run time that is available. Any use other than in accordance with such limitations is prohibited.

Maintenance and Support. Unless otherwise provided in a separate maintenance and support agreement, ODS has no obligation to provide you with maintenance, upgrades, modifications and new releases. ODS support for the Software Product are available in accordance with ODS’ support and maintenance program that you may purchase.

Data, Content and Output. ODS does not control the content, data or output of the Software Program. ODS is therefore not responsible for the accuracy or dependability of such content or data, or the suitability of the output for any purpose. All of such responsibility is yours. You will indemnify ODS against any demands, actions, claims, damages, losses and expenses (including reasonable attorneys fees) incurred or asserted against ODS by third parties relating to or arising out of any content, data, product or output of the Software Program or from any infringement arising therefrom.

Limited Warranty. ODS warrants for your benefit only that for a period of ninety (90) days from delivery of the Software Program to you (“**Warranty Period**”), the Software Program, if operated as directed on the computer hardware and with the operating system for which it was designed, will perform in substantial compliance with the specification set forth in the Software Program documentation. THIS IS YOUR ONLY WARRANTY. EXCEPT FOR THE WARRANTY SET FORTH IN THIS SECTION, ODS DOES NOT WARRANT THAT THE SOFTWARE PROGRAM WILL MEET YOUR REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE. TO THE EXTENT PERMITTED BY LAW, ODS EXPRESSLY DISCLAIMS ALL EXPRESS WARRANTIES NOT STATED HERE AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO DEALER, DISTRIBUTOR, RESELLER, AGENT OR EMPLOYEE OF ODS IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS, OR ADDITIONS TO THIS WARRANTY. This warranty is void if any modifications are made to the Software Program or to any component thereof during the warranty period; if the media is subjected to accident, abuse, or improper use; or if you violate the terms of this License or the order confirmation from ODS.

Limitation of Remedies. In the event of a breach of the warranty set forth in the Limited Warranty section, the sole obligation of ODS shall be, at the sole discretion of ODS: (i) to replace or repair the Software Program, free of charge; or (ii) to refund the price paid by you for the defective Software Program, or any component thereof. Any replacement or repaired component will be warranted for the remainder of the original Warranty Period. Warranty claims must be made in writing during the Warranty Period and within seven (7) days of the observation of the defect accompanied by evidence satisfactory to ODS.

Exclusion of Consequential Damages. The parties acknowledge that the Software Program is inherently complex and may not be completely free of errors. ODS, OR ITS RESELLER OR LICENSORS, SHALL NOT BE LIABLE (WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE OR OTHERWISE) TO YOU, OR ANY THIRD PARTY FOR ANY LOSS OR DAMAGE (INCLUDING INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES), INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DAMAGE TO BUSINESS EARNINGS, LOST PROFITS OR GOODWILL AND LOST OR DAMAGED DATA OR DOCUMENTATION, SUFFERED BY ANY PERSON, ARISING FROM AND/OR RELATED OR CONNECTED TO DELIVERY, INSTALLATION, USE OR PERFORMANCE OF THE SOFTWARE PROGRAM AND/OR ANY OF ITS COMPONENTS, EVEN IF ODS, OR ITS RESELLER OR LICENSORS, ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Limitation of Liability. IN THE EVENT THAT, NOTWITHSTANDING THE TERMS OF THIS AGREEMENT, ODS IS FOUND LIABLE FOR DAMAGES BASED ON ANY DEFECT OR NONCONFORMITY OF THE SOFTWARE PROGRAM, ITS TOTAL LIABILITY FOR EACH DEFECTIVE SOFTWARE PROGRAM SHALL NOT EXCEED THE PRICE PAID TO ODS UNDER THE ORDER AND ORDER CONFIRMATION. Nothing in this Agreement limits the liability of ODS in the event of death or personal injury resulting from negligence or for fraud of ODS. The foregoing limitations shall

apply notwithstanding any failure of essential purpose of any limited remedy and are fundamental elements of the bargain between ODS and you. You acknowledge that ODS and/or its reseller would not have entered into this Agreement absent such limitations. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

Term & Termination.

Term. The license granted hereunder shall commence as of the later of (i) your consent to this Agreement, and (ii) the receipt by ODS of payment for the invoice issued to you with your order confirmation, and shall continue thereafter, unless earlier terminated in accordance with the provisions of this Agreement.

Termination. Your failure to comply with the terms of this Agreement and/or of the applicable order confirmation shall terminate your license to the Software Program. Upon such termination the license granted to you in this Agreement shall expire and you must discontinue all further use of the Software Program, delete the Software Program, or any part or copies thereof from your computer and return to ODS the Software Program and documentation and all other tangible property representing the intellectual property rights of ODS and all copies thereof, and you must erase or delete any such information in electronic form.

Indemnification. ODS shall have the right, but not the obligation, to defend or settle, at its option, any action at law against you arising from a claim that your permitted use of the Software Program under this Agreement infringes any patent, copyright, or other ownership rights of a third party. You agree to provide ODS with a prompt written notice of any such claim by no later than seven (7) days of your notice thereof and provide reasonable assistance in its defense. ODS shall have the sole discretion and control over such defense and all negotiations for a settlement or compromise, unless it declines to defend or settle, in which case you are free to pursue any alternative you may have. You shall fully indemnify, defend and hold harmless ODS, its resellers and licensors and their affiliates, directors, officers, employees and agents, as third party beneficiaries, against all losses including without limitation reasonable attorneys' fees and other legal costs, arising out of or related to use of the Software Program other than as contemplated by the documentation provided to you by ODS and in strict conformity with the terms of this Agreement and any applicable order and order confirmation.

Data and Contact Information. ODS may receive and store information about your order, order confirmation, versions, upgrades, installation and use restrictions as may apply to the Software Program. ODS may periodically contact you to confirm that your use of the Software Program complies with such restrictions and for other purposes in connection with the Software Program.

Third Party Software. If the Software Program contains any software provided by third parties, such third party's software shall be subject to the terms, provisions and restrictions set forth in the agreement contained/attached to such software. The Software Program contemplates use of or interface with other software and programs that are owned and licensed by other parties. You are responsible for obtaining permission to use any and all such third party software, and ODS has made no arrangements for such use by you.

Governing Law & Jurisdiction. This Agreement shall be construed and governed in accordance with the laws of France (except for conflict of law provisions). The courts of France shall have jurisdiction in any conflict arising out of this Agreement. This Agreement is not governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The failure of either party to enforce any

rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party of subsequent enforcement of rights or subsequent actions in the event of future breaches.

Export Restrictions. You may not ship, transfer or otherwise export the Software Program into any country, or use the Software Program in any manner that is prohibited by the United States Export Administration Act or any other applicable export laws, restrictions or regulations. In addition, if the Software Program is identified as an export controlled item under any such law, you represent and warrant to ODS that you are not a citizen of, or located within an embargoed country or other restricted nation, and that you are not otherwise restricted from receiving the Software Program.

Miscellaneous. This Agreement together with the applicable order confirmation is the complete agreement concerning this license and may be amended only by a written instrument executed by both parties. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable.

I HAVE READ AND UNDERSTOOD THIS AGREEMENT AND AGREE TO BE BOUND BY ALL OF THE TERMS.

Version May 2013