

LICENSE AGREEMENT
FOR THE TRANPLAN SYSTEM

APPROVED

DATE 9/25/00 JKB

LICENSE AGREEMENT

Agreement made this _____ day of _____, 2000, between The Urban Analysis Group, Inc., a California corporation, having a place of business at 1558 B Street, Suite 200, Hayward, California 94541, (hereinafter "UAG"), and Nassau County Public Works Department having a place of business at 2290 State Road 200, Fernandina Beach, Florida 32034, (hereinafter "Licensee").

1. License.

- 1.1 DELEUW CATHER & COMPANY and RAIF I. KULUNK (hereinafter collectively "Owner") have granted UAG the right to license the software and documentation package known as the TRANPLAN System (hereinafter "System").
- 1.2 UAG shall grant and Licensee shall accept upon the terms and conditions hereinafter set forth a non-transferrable and non-exclusive License to use the System until this Agreement is terminated as set forth below. The specifications of the System are attached hereto as Exhibit A and incorporated herein. The Price and Payment Schedule is attached hereto as Exhibit B and incorporated herein. Training and installation support, if required, may be agreed upon between the parties and will be billed to Licensee at UAG's then-current billing rates.

2. Use of System.

- 2.1 The License granted under this Agreement authorizes Licensee to use the System in machine readable form on all processing units of Central Processing Unit type identified in Exhibit B, owned by Licensee, and their peripheral units (hereinafter together referred to as "CPU"). For purposes of this Agreement, "use" is defined as copying any portion of the System instructions or data from storage units or media into the CPU for processing. However, if the designated CPU is inoperative because of malfunction, the License granted under this Agreement for such CPU shall be temporarily extended to authorize Licensee to use the System on any other CPU, but only until the designated CPU is returned to operation.
- 2.2 This license Agreement may not be assigned, sublicensed, or otherwise transferred by Licensee without prior written consent from UAG, which consent may be granted or denied in the sole discretion of UAG.
- 2.3 Licensee agrees not to sell, access and/or use the System as a Service Bureau or to make the System available for use by any company or person other than Licensee.

3. Copies or Modifications of the System.

- 3.1 The System may be copied, in whole or in part, in printed or machine readable form, only for use by the Licensee with the designated CPU for archive or emergency restart purposes, to replace a worn copy, or to understand the contents of such machine readable material. No right to print or copy the System, in whole or in part, is granted hereby except as expressly provided herein. The original and any copies of the System, in whole or in part, which are made by Licensee shall be the property of Owner.
- 3.2 Licensee shall keep any such copies and the original at a location designated in writing by Licensee, except that Licensee may transport or transmit a copy or the original of the System to another location for backup use when required by CPU malfunction, provided the copy or original is destroyed or returned to the designated location as soon as the malfunction is corrected. Licensee may change designated location upon ten (10) days written notice to UAG.
- 3.3 If Licensee modifies the System for its own use or merges it into other program material to form an updated work, such merged or updated work shall be used only on the designated CPU and shall remain the property of Owner and subject to the terms of this Agreement. UAG agrees, however, that while this Agreement is in effect, UAG will not market Licensee's modifications without Licensee's written consent, unless such modifications were developed by UAG or Owner independently. UAG WILL NEITHER BE RESPONSIBLE FOR NOR WARRANT, INDEMNIFY AGAINST, OR HOLD HARMLESS FOR ANY MODIFICATIONS WHICH ARE MADE TO THE SYSTEM AT THE REQUEST OF LICENSEE (WHETHER MADE BY UAG, OWNER, LICENSEE, OR A THIRD PARTY) OR THE IMPACT OF SUCH MODIFICATIONS ON THE ORIGINAL SYSTEM. During the warranty period, Licensee agrees to give UAG a list of all modifications to the original system which Licensee has made and to update said list at least semi-annually. If Licensee requests UAG to do any warranty work, Licensee shall provide UAG with a current list of all such modifications as of that time.
- 3.4 Any additions or modifications to the System which Licensee obtains from UAG now or at any time in the future shall be subject to Paragraphs 1, 2, 3, 4, 5, 6, 8, 10, 11, and 12 of this Agreement.

4. Protection and Security.

- 4.1 Title to the System, and all rights therein, including all rights in patents and copyrights which are or would be applicable thereto, shall remain vested in Owner, and System is understood to be a trade secret of Owner. Licensee acknowledges that UAG and Owner have a proprietary interest in the System and will hold it in confidence and agrees that the System is made available to Licensee on a non-exclusive and non-transferrable basis only. Except as provided herein, Licensee agrees that it will not sell, disclose, or otherwise make the System available to others, and further, that it will neither knowingly nor negligently allow its employees, agents, or independent contractors to sell, disclose, or otherwise make the System available to others. If Licensee becomes aware of any such sale, disclosure or any other unauthorized availability of the System, Licensee shall immediately notify UAG by telephone and in writing.
- 4.2 Licensee further agrees to take all responsible steps to ensure that the System is not disclosed or duplicated in whole or in part for the use of others, including, but not limited to: (1) providing physical security for copies of the System; and (2) taking all steps Licensee takes to protect information, data, or other tangible and intangible property of its own that it regards as proprietary or confidential.
- 4.3 If, for source code licenses, it becomes necessary for Licensee to employ third party programmers and/or service personnel in order to ensure the continued usefulness of the System, Licensee may disclose or otherwise make the System software and/or documentation available to said third party programmers and/or service personnel, provided, however, that before doing so Licensee must obtain from such third party a signed copy of the Confidentiality Agreement attached hereto as Exhibit C. A copy of said Agreement shall be sent to UAG within ten (10) days after it is signed by the third party.
- 4.4 The parties hereto recognize that UAG and Owner earn money by licensing the system to licensees, and that if a potential licensee obtains a copy of the System from any other source, UAG and Owner will be deprived of that sale and of the revenue therefrom. Therefore, if Licensee makes or knowingly or negligently allows any unauthorized use of the System, including, but not limited to, unauthorized disclosure to third parties, UAG and Owner shall have all rights provided by law and/or equity and under this Agreement, including, but not limited to, the

right to recover from Licensee the amount of any lost revenue and other benefits which UAG and Owner would have received if the recipient and any subsequent recipients of the benefits of such unauthorized use had licensed the System from UAG, as well as an amount sufficient to compensate UAG and Owner for any damage to their business reputations resulting from such unauthorized use.

4.5 Licensee judicially admits for all purposes that damages for any violation or threatened violation of Paragraph 4 are inadequate and UAG and/or Owner shall each have the remedy of injunction if irreparable injury is proven.

5. Payment.

The Licensee's right to its License for the System becomes effective only after full payment has been made by Licensee.

6. Limitation on Liability.

6.1 UAG AND OWNER LIABILITY HEREUNDER FOR DAMAGES SHALL NOT EXCEED THE AMOUNT PAID BY LICENSEE FOR THE SYSTEM. NEITHER UAG NOR OWNER WILL BE LIABLE FOR ANY LOST PROFITS, OR FOR ANY CLAIM OR DEMAND AGAINST LICENSEE BY ANY OTHER PARTY EXCEPT AS PROVIDED UNDER PARAGRAPH 9. IN NO EVENT WILL UAG OR OWNER BE LIABLE FOR CONSEQUENTIAL DAMAGES, EVEN IF UAG AND/OR OWNER HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING SET FORTH ABOVE, NEITHER UAG NOR OWNER WILL HAVE ANY LIABILITY FOR ANY MODIFICATIONS WHICH ARE MADE TO THE SYSTEM AT THE REQUEST OF LICENSEE, (WHETHER MADE BY UAG, OWNER, LICENSEE, OR A THIRD PARTY) OR THE IMPACT OF SUCH MODIFICATIONS ON THE ORIGINAL SYSTEM.

However, the foregoing paragraph shall not operate to deprive Licensee of its rights to contribution under Section 768.31, Florida Statutes (1983) or succession provision, if any.

6.2 No action, regardless of form, arising out of the transactions under this Agreement may be brought by either party more than one (1) year after the cause of action has accrued, except that an action for non-payment may be brought within one (1) year after the date of last payment.

7. Warranty.

7.1 Subject to the provisions of Paragraph 3.3, UAG warrants that the functions contained in the System will conform to the program descriptions in the Exhibits attached hereto and the documentation provided by UAG and that any programming error which prevents the System from so conforming, and for which correction is requested within ninety (90) days after the date on which the magnetic medium carrying the system is physically loaded onto Licensee's hardware will be corrected, provided that (1) the System is kept up to current standards by Licensee's application of all appropriate fixes in a timely fashion, (2) the hardware on which the System is being run is functioning properly, and (3) that Licensee is operating the System according to instructions given by UAG.

8. Termination of License.

8.1 UAG may terminate this License if:

- A. Licensee fails to make payments hereunder when due and continues to fail to make payments within forty-five (45) days after UAG has made a demand in writing that such payments be made; or
- B. Licensee violates Paragraphs 2 or 4 hereof; or
- C. Licensee has dissolved, liquidated, or permanently terminated its operations.

8.2 Upon such termination, Licensee shall return to UAG all copies of the System including, but not limited to, all modified copies and all documentation of any sort given to Licensee by UAG and all copies thereof.

9. Patent and Copyright.

UAG and Owner own all rights to the System and UAG will defend, at its expense, any action brought against the Licensee to the extent that it is based on a claim that the System, used within the scope of the License hereunder, infringes a copyright in the United States or a United States patent. UAG will pay any costs and damages finally awarded against the Licensee in such action which are attributable to such claim, provided that the Licensee notifies UAG promptly, in writing, of the claim and permits UAG, if UAG so elects, to conduct the defense of such claim on behalf of Licensee and to agree to any settlement of such claim.

10. Arbitration and Attorneys Fees.

UAG and Owner as a contractor with Licensee may seek relief from the State Arbitration board in the case of a dispute with Licensee involving a sum of \$100,000 or less under Section 337.185, Florida Statutes (1984).

11. Licensee's Remedies Exclusive.

11.1 All legal remedies may be employed by either party to enforce this agreement.

12. Miscellaneous.

12.1 Exclusive Agreement. This Agreement and the contract between Licensee and DKS Associates of Oakland, California, to perform Urban Transportation Model Update Phase IV, FDOT Job. No. 99080-7352, WPA No. 05910 are the exclusive agreements between the parties with respect to their subject matter and as of their dates supersede all prior agreements, negotiations, representations, and proposals, written or oral, related to its subject matter. Its terms cannot be modified, supplemented, or rescinded except by an agreement in writing signed by both parties. Neither party shall be bound by or liable to the other party for any representation, promise, or inducement made by any of such party's agents or employees which is not embodied in this Agreement. In the event of any discrepancy or inconsistency between this Agreement and any other form used by either party in connection herewith, the terms of this Agreement shall govern.

12.2 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall in no way be affected or impaired thereby.

12.3 Waiver. No waiver of any breach of this Agreement shall constitute a waiver of any breach, whether of the same or any other covenant, term, or condition. The subsequent performance of any of the terms, covenants or conditions of this Agreement shall not constitute a waiver of any preceding breach, regardless of the other party's knowledge of the preceding breach at the time of subsequent performance, nor shall any delay or omission of either party's exercise of any right arising from any such default affect or impair the parties' rights as to the same or future default.

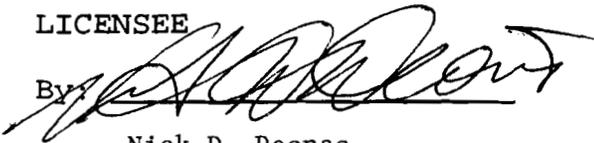
12.4 Governing Law. This Agreement shall be governed by the laws of the State of Florida.

- 12.5 Binding on Heirs and Assigns. This Agreement shall inure to the benefit of and be binding upon the heirs, successors, and assigns of each of the parties hereto.
- 12.6 Notice. All notices to be given pursuant to this Agreement must be given in writing, personally or by mail, return receipt requested, and addressed to UAG or Licensee at their respective addresses on Page 1 of this Agreement, or such other address of which the other party has been previously notified in writing. All such notices shall become effective on the date of mailing.

UAG and Licensee acknowledge that each has read and understood this Agreement and consents to be bound by its terms.

Date: September 25, 2000

LICENSEE

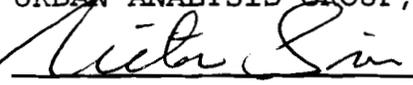
By: 

Nick D. Deonas

Title: Chairman

Date: 8/25/00

THE URBAN ANALYSIS GROUP, INC.

By: 

Victor Siu

Title: Vice President

ATTEST:


J. M. "Chip" Oxley, Jr.
Ex-Officio Clerk

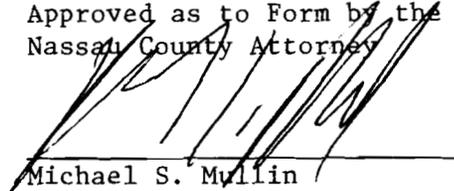
Approved as to Form by the
Nassau County Attorney

Michael S. Mullin

EXHIBIT A

SYSTEM SPECIFICATIONS

The System is a set of computer programs for Transportation Planning modeling as described on the attached brochure and Purchase Option Directory. The purchase options of this Agreement are options B, C and D without source code. The System will perform according to the User Manual delivered with the System to Licensee.

EXHIBIT B

PRICE AND PAYMENT SCHEDULE

The licensee fee for the System has been paid, for Licensee, by the Florida Department of Transportation, as part of a related-agency group purchase during the Urban Transportation Model Update Phase IV (FDOT Job No. 99080-7352, WPA No. 0590101) and an associated FDOT Purchase Order No. 275668, dated April 12, 1988.

The Central Processing Unit for this license is an IBM PC or compatible and DEC VAX and Micro-VAX computers.

EXHIBIT C
CONFIDENTIALITY AGREEMENT

The Third Party confidentiality Agreement follows.

CONFIDENTIALITY AGREEMENT

Agreement made this ____ day of _____, 199__, between The Urban Analysis Group, Inc., a California corporation having a place of business at 375 Diablo Road, Suite 110, Danville, California 94526 (hereafter "UAG") and, _____ having a mailing address of _____ (hereafter "Third Party").

WHEREAS, UAG has developed a software and documentation program known as the "TRANPLAN System" (hereafter "System"); and

WHEREAS, Third Party will be doing work for _____, (hereafter "Licensee") which will require that it have access to software documentation, and/or reports relating to or produced by the System (hereafter "Documentation"); and

WHEREAS, UAG has permitted the disclosure of the Documentation to Third Party in consideration of Third Party's execution of this Agreement;

THEREFORE, IT IS AGREED THAT:

1. Title to all Documentation disclosed or made available to Third Party, and all rights therein, including all rights in patents and copyrights applicable thereto, shall remain vested in UAG, and such Documentation is understood to be a trade secret of UAG. Third Party acknowledges that UAG has a proprietary interest in such Documentation and will hold such Documentation in confidence and agrees that such Documentation is made available to Third Party on a temporary basis only.

2. Third Party agrees that it will (a) not copy such Documentation, (b) not sell, disclose, or otherwise make the Documentation available to others, except as provided in this Agreement, (c) take all reasonable steps, including, but not limited to, those steps Third Party takes to protect information, data, or other tangible and intangible property of its own that it regards as proprietary or confidential, to insure that such Documentation is not disclosed or duplicated in whole or in part for the use of others, and (d) not utilize such Documentation except pursuant to work that Third Party will be doing for Licensee.

3. The parties hereto recognize that UAG earns money by licensing the system to licensees, and that if the potential licensee obtains a copy of the System from any other source, UAG will be deprived of that sale and of the revenue therefrom. Therefore, if Third Party makes or allows any unauthorized use of the System, including, but not limited to, unauthorized disclosure to third parties, UAG shall have all rights provided by law and/or equity and under this Agreement, including, but not limited to, the

right to recover from Third Party the amount of any lost revenue and other benefits which UAG would have received if the recipient of the benefits of such unauthorized use had licensed the System from UAG, as well as an amount sufficient to compensate UAG for any damage to its business reputation resulting from such unauthorized use.

4. Third Party judicially admits for all purposes that damages for any violation or threatened violation of Paragraph 2 are inadequate and that any violation or threatened violation of Paragraph 2 shall constitute an irreparable injury to UAG and agrees, that in addition to all other rights provided by law to which UAG shall hereby be entitled, UAG shall have the right to have an injunction issued against Third Party to prevent Third Party from any violations or further violations of Paragraph 2.

5. Third Party agrees to return to Licensee any Documentation furnished to Third Party at the conclusion of the work performed by Third Party for Licensee.

6. UAG and Owner as a contractor with Licensee may seek relief from the State Arbitration board in the case of a dispute with Licensee involving a sum of \$100,000 or less under Section 337.185, Florida Statutes (1984).

Third Party acknowledges that it has read and understood this Agreement and consents to be bound by its terms.

THE URBAN ANALYSIS GROUP

THIRD PARTY

By: _____

By: _____

Date: _____

Date: _____