

# TotalFBOweb™ Policies and Guidelines

(Current as of February 1, 2008)

**TotalFBOweb™** (The Service) is a subscription service offered by Horizon Business Concepts, Inc. (Horizon) providing accounting and record-keeping functions through the use of Horizon's **TotalFBO®** software program delivered over the Internet.

As a subscription service, Horizon makes certain commitments to the customer regarding availability of the service, protection of the user's data, and continuation of the service. These are discussed in detail below. The customer will pay a monthly subscription fee based on the package they are subscribing to, the maximum number of concurrent users, and in the case of Enterprise users, the number of operational locations. The service is available for a lower fee if the user already owns a license to the desktop version of **TotalFBO®**.

## **Service Availability**

Horizon promises to maintain an availability of at least 98.8 percent for The Service as measured on a monthly basis. This is defined as a percentage of the scheduled up-time during which you may access The Service and perform all normal operations. Current scheduling allows up to 4 hours per week for scheduled down-time to be used for program updates and other system maintenance, though occasionally more time may be required. Scheduled down-time will be advertised on the login page at least 24 hours in advance of the actual down-time. Based on a 30-day month, this results in an allowance of approximately 8 hours of un-scheduled outages per month.

The Service is considered to be 'available' if it is accessible from any Internet location outside Horizon's and its Internet Service Provider's business complexes. Specifically, a problem with Internet access related to the subscriber's site is not deemed as The Service being unavailable. Any Internet problem that isolates one region from another (as when the subscriber and Horizon can both access some portion of the Internet but not each other) is not deemed as The Service being unavailable. Any outage of the Internet in whole or in part resulting from circumstances outside of Horizon's control such as war, insurrection, sabotage, terrorism, armed conflict, embargo, fire, flood, earthquake, internet virus or denial of service attacks, shall not be construed as a service failure for which the subscriber is due compensation.

An extra-fee service (Spare In The Air) will provide an operations backup in the event the subscriber suffers long-term Internet access problems or other equipment problems that prevent them from using The Service even though it is still available to others on the Internet.

Should un-scheduled down-time exceed the guaranteed maximum in any calendar month period, the subscriber is entitled to a credit against future fees equivalent to the number of calendar days, as noted using Central Time, on which un-scheduled down-time occurred during the month multiplied by one-fifth of the user's monthly subscription fee. The maximum credit provided to any subscriber in any one month for any reason will not exceed the amount of the subscriber's monthly subscription fee.

## **Continuation of Service**

Horizon has been in business for 20 years and plans to stay in business indefinitely. We also plan on continuing The Service indefinitely. While we plan for The Service to continue forever, the reality is that it's always

possible economics, technology, or some other unforeseen factor may require Horizon to discontinue The Service.

If, for any reason, Horizon chooses to willfully discontinue operation of The Service, we will notify all subscribers at least 30 days prior to willful termination of The Service. Horizon will provide each subscriber with a backup of their database suitable for use with the *TotalFBO*<sup>®</sup> desktop program within 48 hours of termination of the service, or prior to such termination if requested by the subscriber. As the *TotalFBO*<sup>®</sup> program requires a purchased license to use the software, and The Service does not include a permanent license to the *TotalFBO*<sup>®</sup> program, the user will have to purchase such a license to continue use of *TotalFBO*<sup>®</sup> on their own servers. See the License Conversion section below for more details. If there are any pre-paid subscription fees extending beyond the termination date, these fees will be refunded upon termination of The Service.

### **Data Protection**

Horizon will take all reasonable steps to ensure both the protection of the subscriber's data from disaster, including all forms of equipment failure at the hosting site as well as natural disasters that demolish entire buildings, and the privacy of this data.

Horizon will, at a minimum, make a full backup of the subscriber's database on a daily basis, immediately moving said backup to a storage device separate and isolated from the server on which the user's database operates.

Horizon will, at a minimum, transfer the most recent backup of the subscriber's database to an 'off-site' storage facility at least once per week. Off-site facility is defined as any storage medium that is physically at least one mile from the primary operations site of The Service.

Horizon guarantees that all data files will reside in access-restricted storage areas, and that unique User IDs will be provided to each subscriber that allows them to access their own data but none other. Horizon will provide appropriate security to protect storage and distribution of these User IDs. Horizon will provide access to subscriber data to technicians employed by Horizon as necessary for Tech Support requested by the subscriber.

Subscriber must provide Horizon with the name of at least one Authorized Contact who is allowed full access to database management functions, in particular the setup of subscriber-assigned User IDs for operating The Service. Only an Authorized Contact will be given credentials to access The Service, or any security information not otherwise available using their own login credentials.

Horizon guarantees that all servers will have appropriate levels of protection against unauthorized intrusion, including appropriate forms of anti-virus software, password access restrictions, firewalls, and encryption.

### **Software Updates**

Horizon will perform all software updates during scheduled down time. Should a software emergency require an update with less than 24 hours notice, this would be considered a non-scheduled event.

All subscribers will be automatically upgraded to the current shipping version of *TotalFBO*<sup>®</sup> within thirty days of that release being made available to the public. We anticipate in most cases that the upgrade will take place within 2-15 days of the public release. No 'beta' versions of any software will be deployed for use in The Service unless the subscriber willingly agrees and Horizon has sufficient hardware capacity to facilitate

providing separate access for the subscriber. The availability of such beta software will be subject to approval by Horizon.

**TotalFBO® Software Service**

As part of the subscription price, the subscriber is automatically enrolled in the Silver level CustomerCare™ service plan. No additional fee is required to qualify for the ‘on-service’ benefits of this plan. If the user desires to enroll in either a Gold or Platinum level service plan, extra monthly fees are required as documented below.

**License Conversion**

In the event the subscriber wishes to take their database from The Service and begin operation of the TotalFBO® desktop program from their own servers, they may be qualified for a discounted license to the TotalFBO® program. In the event The Service is discontinued by Horizon, all current subscribers will automatically be qualified for a discount based on their subscription period.

If a subscriber has been using The Service for six months or more (or they qualify through some other event such as termination of The Service), they will automatically receive a minimum 5% discount on the purchase of a license to any TotalFBO® package. If they have been using The Service for longer than this period, their discount is three-quarters of a percent times the number of consecutive months they have subscribed to The Service, capping at a maximum discount of 25%. As an example, a subscriber who converts to permanent licensing after 24 months of service will be entitled to an 18% discount (24 \* 0.75).

**Subscription Fees**

The fees for use of The Service are based on the software package, the maximum number of concurrent users, and for Enterprise users, the number of operations locations. The subscription fees for The Service can be changed at any time without notice unless otherwise stated, and subscribers are only protected against potential price increases to the extent of any pre-payment of subscription fees.

The following per-month fee structure is current as of December 1, 2007.

Base Fee (choose one) - Full Package:	\$245
- Charter:	\$205
- Shop:	\$205
- Flight School:	\$205
- FBO:	\$205
- Enterprise:	\$335
Enterprise only, each additional location:	\$205
Per-Concurrent-User (minimum 1):	\$ 50

Service Plan Upgrade – Gold	\$ 77
Service Plan Upgrade – Platinum	\$234

Enterprise users who wish to upgrade to a higher service plan must pay the upgrade fee for each location.

Subscription fees are due the first of the month prior to the coverage period. In other words, you’ll pay for the month of January on the first of December. A valid credit card on-file with a standing approval for authorization of this fee is required to pay month-to-month. Payment by check is accepted on pre-paid subscriptions of at least six months.

Initial Billing – Upon signing up for The Service, you’ll be charged a \$150 one-time setup fee, your first month’s fee (or a pro-rated amount if you start in mid-month), plus the next month. Example: If you sign up for a 5-user Full package (\$495/month) on October 16<sup>th</sup>, you pay \$150 plus \$247.50 plus \$495 for a total of \$892.50 due on October 15<sup>th</sup>, with monthly \$495 billing beginning on November 1<sup>st</sup>.

### **Hosting for Existing TotalFBO® Licensees**

If a company owns a permanent license to the TotalFBO® program, Horizon will allow subscription to The Service at a reduced rate, provided the subscriber does not use the desktop version of the software in any capacity, other than historical data retrieval, during the subscription period. Silver level service is again included in the subscription.

Base Fee	- All Packages:	\$115
Enterprise	- 1 <sup>st</sup> Location:	\$115
Enterprise	- Add’l Location:	\$ 20
Per-Concurrent-User (minimum 1):		\$ 50

Example: An FBO operation wants the FBO package with a maximum of ten concurrent users. The monthly fee is \$705 (\$205 base fee, plus ten times \$50 for the user count).

On-site and offsite licenses purchased prior to 12/1/2007 may be hosted separately as distinct subscriptions at the lower hosting rates, but each database will require payment of a separate base fee and user count. Such licenses purchased on or after 12/1/2007 must be hosted as a standard subscription.

### **Spare In The Air**

There may be occasions when local disasters destroy Internet access over a large region for a considerable period of time, affecting the subscriber’s ability to access the Internet. Examples would be a hurricane that knocks out large areas or a flood that disables the local telecom office. In cases like these, the subscriber may still be able to conduct business, even though they have no Internet access. Horizon cannot be responsible for such outages, and these outages do not constitute The Service being declared unavailable.

Although details and prices have not been set at this time, Horizon plans to make available an optional disaster recovery plan called Spare In The Air to alleviate these worries. Under this plan, a laptop computer will be purchased and held on standby for the subscriber. In the event of such an emergency, the subscriber’s database would be transferred to the laptop, and the fully-configured and ready-to-run laptop would be shipped overnight to the subscriber.

Contact Horizon if you’re interested in this arrangement.

## **Legal Stuff**

### **Disclaimer of Further Warranties**

Except as noted in sections above, Horizon and its suppliers provide The Service “as is” and with all faults, and hereby disclaim all other warranties and conditions, either express, implied, or statutory, including but not limited to any implied warranties or conditions of merchantability, of fitness for a particular purpose, of lack of viruses, and of lack of negligence or lack of workmanlike effort. Also, there is no warranty or condition of title,

of quiet employment, or of non-infringement. The entire risk arising out of the use or performance of The Service is with you.

### **Exclusion of Damages**

To the maximum extent permitted by applicable law, in no event shall Horizon or its suppliers be liable for any consequential, incidental, direct, indirect, special, punitive, or other damages whatsoever (including, without limitation, damages for any injury to person or property, damages for loss of profits, business interruption, loss of business information, for loss of privacy, for failure to meet any duty including of good faith or reasonable care, for negligence, and for any pecuniary or other loss whatsoever) arising out of or in any way related to the use of or inability to use The Service, whether based on contract, tort, negligence, strict liability or otherwise, even if Horizon or any supplier has been advised of the possibility of such damages. This exclusion of damages shall be effective even if any remedy fails of its essential purpose. Horizon shall not be liable for any amount exceeding the total amount actually paid by the subscriber in the twelve months prior to any claim for damages.

### **Dispute Resolution**

Each party waives the right to trial by jury in any action or proceeding between each of the parties, on one side, and the other parties on the other, based upon, arising out of, or in any way relating to the Agreement. This Agreement will be interpreted in accordance with U.S. Oklahoma law, including all matters of constructions, validity, performance and enforcement, without giving effect to any principles of conflict of laws. Any dispute or proceeding concerning this Agreement, or any and all claims and disputes arising out of or in connection with this Agreement will be resolved by binding arbitration to be held in Broken Arrow, Oklahoma. Any party may demand arbitration through written notice sent by certified mail to the other party (an "Arbitration Demand"). Within 15 days after the date that the Arbitration Demand is received, each of the parties will confer to select a mutually acceptable arbitrator from the Judicial Arbitration and Mediation Services ("JAMS"). If JAMS is unwilling or unable to provide an arbitrator, the parties will confer to select another arbitrator. If the parties cannot mutually select an arbitrator, or if one party refuses to participate in the selection process, JAMS will appoint an arbitrator and such appointment shall be binding upon both parties.

### **Questions**

All questions and concerns about licensing, pricing, or subscriptions should be directed to:  
TotalFBO Sales, Horizon Business Concepts, Inc., 721 W Queens St, Broken Arrow, OK 74012.  
Email: [Sales@totalfbo.com](mailto:Sales@totalfbo.com). Phone (918) 355-3469. Fax: (918) 355-3487.

Requests for customer service and/or technical support should be directed to: TotalFBOweb Customer Service, Horizon Business Concepts, Inc., 721 W Queens St, Broken Arrow, OK 74012.  
Email: [Support@totalfbo.com](mailto:Support@totalfbo.com). Phone (918) 355-3469. Fax: (918) 355-3487.