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MEMO

APPROVED  
2/22/2022



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DATE: February 16, 2022  
FROM: Matney M. Ellis  
Procurement Director  
TO: Board of County Commissioners  
SUBJECT: Agreement – ImageNet Consulting, LLC

A handwritten signature in black ink, appearing to read "Matney M. Ellis", with a long horizontal flourish extending to the right.

Submitted for your approval and execution is the attached agreement between the Board of County Commissioners on behalf of the Tulsa County District Attorney's Office and ImageNet Consulting, LLC for the above mentioned for the lease of a KM Bizhub 658E copier located at 218 W 6<sup>th</sup> Street, 9<sup>th</sup> floor, Tulsa, OK 74119 at a monthly rate of \$20.33.

This agreement is respectfully submitted for your approval and execution.

MME / jdf

SUBMITTED FOR: The February 22, 2022 BOCC meeting agenda.

CMF# 20220295

913 North Broadway Oklahoma City, Ok 73102 Phone 405.232.1264 Fax 405.236.3334

The words "Lessee," "you" and "your" refer to Customer. The words "Lessor," "we," "us" and "our" refer to ImageNet Consulting, LLC.

CUSTOMER INFORMATION

FULL LEGAL NAME Board of County Commissioners of the County of Tulsa STREET ADDRESS 218 W 6TH 9TH FL
CITY TULSA STATE OK ZIP 74119 PHONE 9185964819 FAX
BILLING NAME (IF DIFFERENT FROM ABOVE) TULSA COUNTY-DISTRICT ATTORNEY Attn: Anna Maner BILLING STREET ADDRESS 500 S. Denver, 8th Floor, Tulsa, OK 74109
CITY TULSA STATE OK ZIP 74119 E-MAIL anna.maner@tulsacounty.org

EQUIPMENT LOCATION (IF DIFFERENT FROM ABOVE)

EQUIPMENT DESCRIPTION

See Attached Schedule A

TERM AND PAYMENT INFORMATION

35 Payments\* of \$ \$20.33

If you are exempt from sales tax, attach your certificate.

\*plus applicable taxes

The payment ("Payment") period is monthly unless otherwise indicated.

END OF TERM OPTIONS

You may choose one of the following options, which you may exercise at the end of the term, provided that no event of default under this Agreement has occurred and is continuing. If no box is checked and initialed, Fair Market Value will be your end of term option. Fair Market Value means the value of the Equipment in continued use.

- [X] Purchase all of the Equipment for its Fair Market Value, renew this Agreement, or return the Equipment.
[ ] Purchase all of the Equipment for \$1.00.

Customer's Initials
Customer's Initials

Upon acceptance of the Equipment, THIS AGREEMENT IS NONCANCELABLE, IRREVOCABLE AND CANNOT BE TERMINATED.

LESSOR ACCEPTANCE

ImageNet Consulting, LLC Fatima Chin Customer Ambassador 1/26/2022
LESSOR SIGNATURE TITLE DATED

CUSTOMER ACCEPTANCE

BY SIGNING BELOW OR AUTHENTICATING AN ELECTRONIC RECORD HEREOF, YOU CERTIFY THAT YOU HAVE REVIEWED AND DO AGREE TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT ON THIS PAGE AND ON PAGE 2 ATTACHED HERETO.

Approved as to form:

Board of County Commissioners of the County of Karen Keith James G. Rea Assistant District Attorney Chairman DATED 2/22/2022
CUSTOMER (as referenced above) SIGNATURE TITLE DATED
FEDERAL TAX I.D. # 73-600641 PRINT NAME Karen Keith

DELIVERY & ACCEPTANCE CERTIFICATE

You certify and acknowledge that all of the Equipment listed above: 1) has been received, installed and inspected; and 2) is fully operational and unconditionally accepted.

Attest: [Signature] Chairman 2/22/2022
Board of County Commissioners of the County of Karen Keith Chairman 2/22/2022
CUSTOMER (as referenced above) SIGNATURE TITLE ACCEPTANCE DATE

TERMS AND CONDITIONS (Continued on Page 2)

1. AGREEMENT: You agree to lease from us the goods, together with all replacements, parts, repairs, additions, and accessions incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries ("Equipment") and, if applicable, finance certain software, software license(s), software components and/or professional services in connection with software (collectively, the "Financed Items," which are included in the word "Equipment" unless separately stated) from software licensor(s) and/or supplier(s) (collectively, the "Supplier"), all as described in this Agreement and in any attached schedule, addendum or amendment hereto ("Agreement"). You represent and warrant that you will use the Equipment for business purposes only. You agree to all of the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes all prior agreements, including any purchase order, invoice, request for proposal, response or other related document. This Agreement becomes valid upon execution by us. The term shall start on the date we pay Supplier. The first Payment is due 30 days after the start of this Agreement and each Payment thereafter shall be due on the same day of each month (the "Scheduled Due Date") unless a different due date is mutually agreed to by us and you. If the parties agree to adjust the Payment due date (an "Adjusted Due Date"), in addition to all Payments and other amounts due hereunder, you will pay an interim payment in an amount equal to 1/30th of the Payment, multiplied by the number of days between the Scheduled Due Date and the Adjusted Due Date. If any provision of this Agreement is declared unenforceable, the other provisions herein shall remain in full force and effect to the fullest extent permitted by law.
2. OWNERSHIP; PAYMENTS; TAXES AND FEES: We own the Equipment, excluding any Financed Items. Ownership of any Financed Items shall remain with Supplier thereof. You will pay all Payments, as adjusted, when due, without notice or demand and without abatement, set-off, counterclaim or deduction of any amount whatsoever. If any part of a Payment is more than 5 days late, we may, at our sole discretion, charge you one of the following amounts (and you agree to pay such amount): a) a late charge equal to the higher of 10% of the Payment which is late or \$26.00; or b) interest on the past due amount at the rate of one- and one-half percent (1.5%) per month; or c) if less, the maximum late charge/interest rate, as the case may be, allowed by law. The Payment may be adjusted proportionately upward or downward: (i) if the shipping charges or taxes differ from the estimate given to you; and/or (ii) to comply with the tax laws of the state in which the Equipment is located. You shall pay all applicable sale and use taxes, personal property taxes, and all other taxes and charges including assessments and penalties related to this Agreement, whether levied or assessed on this Agreement, on us (except on our income) or you, or on the Equipment, its lease, sale, ownership, possession, use or operation. If we pay any taxes or other expenses that are owed hereunder, you agree to reimburse us when we request, which may include a fee for the administrative fee for the collecting and administering any taxes, assessments or fees and remittance of the same to the appropriate authorities. You will indemnify us on an after-tax basis against the loss of any tax benefits anticipated at the commencement of this Agreement arising out of your acts or omissions. You agree to pay us a yearly processing fee of up to \$125 per asset for personal property taxes we pay related to the Equipment. We may apply all sums received from you to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for insufficient funds, you will pay us a service charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement.

CMF# 20220295

3. **EQUIPMENT; SECURITY INTEREST:** At your expense, you shall keep the Equipment: (i) in good repair, condition and working order, in compliance with applicable laws, ordinances and manufacturers' and regulatory standards; (ii) free and clear of all liens and claims; and (iii) at your address shown on page 1, and you agree not to move it unless we agree in writing. You grant us a security interest in the Equipment to secure all amounts you owe us under this Agreement or any other equipment lease or equipment loan agreement with us. You authorize and ratify our filing of any financing statement(s) to show our interest. You will not change your name, state of organization, headquarters or residence without providing prior written notice to us. You will notify us within 30 days if your state of organization revokes or terminates your existence.

4. **INSURANCE; COLLATERAL PROTECTION; INDEMNITY; LOSS OR DAMAGE:** You agree to keep the Equipment fully insured against all risk, with us named as lender's loss payee, in an amount not less than the full replacement value of the Equipment until this Agreement is terminated. You also agree to maintain commercial general liability insurance with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as an additional insured on the policy. You will provide written notice to us within 10 days of any modification or cancellation of your insurance policy(s). You agree to provide us certificates or other evidence of insurance acceptable to us. If you do not provide us with acceptable evidence of property insurance within 30 days after the start of this Agreement, we may, at our sole discretion, do as provided in either (A) or (B) below: (A) We may secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we secure insurance on the Equipment, we will not name you as an insured party, your interests may not be fully protected, and you will reimburse us the premium which may be higher than the premium you would pay if you obtained insurance, and which may result in a profit to us through an investment in reinsurance. In addition, you agree to pay us our standard fees in connection with obtaining such insurance. If you are current in all of your obligations under the Agreement at the time of loss, any insurance proceeds received will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under this Agreement, plus our booked residual, both discounted at 6% per annum. (B) We charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. **NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT.** We are not responsible for, and you agree to hold us harmless and reimburse us for and to defend on our behalf against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, leasing, manufacture, use, condition, inspection, removal, return or storage of the Equipment. All indemnities will survive the expiration or termination of this Agreement. You are responsible for any loss, theft, destruction or damage to the Equipment ("Loss"), regardless of cause, whether or not insured. You agree to promptly notify us in writing of any Loss. If a Loss occurs and we have not otherwise agreed in writing, you will promptly pay to us the unpaid balance of this Agreement, including any future Payments to the end of the term plus the anticipated residual value of the Equipment, both discounted to present value at 6%. Any proceeds of insurance will be paid to us and credited against the Loss. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to a Loss.

5. **ASSIGNMENT: YOU SHALL NOT SELL, TRANSFER, ASSIGN, ENCUMBER, PLEDGE OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent.** You shall not consolidate or merge with or into any other entity, distribute, sell or dispose of all or any substantial portion of your assets other than in the ordinary course of business, without our prior written consent, and the surviving, or successor entity or the transferee of such assets, as the case may be, shall assume all of your obligations under this Agreement by a written instrument acceptable to us. No event shall occur which causes or results in a transfer of majority ownership of you while any obligations are outstanding hereunder. We may sell, assign, or transfer this Agreement without notice to or consent from you. You agree that if we sell, assign or transfer this Agreement, our assignee will have the same rights and benefits that we have now and will not have to perform any of our obligations. **You agree that our assignee will not be subject to any claims, defenses, or offsets that you may have against us.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

6. **DEFAULT AND REMEDIES:** You will be in default if: (i) you do not pay any Payment or other sum due to us or you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates or fail to perform or pay under any material agreement with any other entity; (ii) you make or have made any false statement or misrepresentation to us; (iii) you or any guarantor dies, dissolves, liquidates, terminates existence or is in bankruptcy; (iv) you or any guarantor suffers a material adverse change in its financial, business or operating condition; or (v) any guarantor defaults under any guaranty for this Agreement. If you are ever in default, at our option, we can cancel this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of term plus the anticipated residual value of the Equipment, both discounted to present value at 6%. We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any remedies available to us under the UCC and any other law and we may require that you immediately stop using any Financed Items. If we take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement and you will be responsible for any deficiency. In the event of any dispute or enforcement of our rights under this Agreement or any related agreement, you agree to pay our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. **WE SHALL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE.** Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-508 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will refund such excess to you, which will be your sole remedy.

7. **INSPECTIONS AND REPORTS:** We have the right, at any reasonable time, to inspect the Equipment and any documents relating to its installation, use, maintenance and repair. Within 30 days after our request (or such longer period as provided herein), you will deliver all requested information (including tax returns) which we deem reasonably necessary to determine your current financial condition and faithful performance of the terms hereof. This may include: (i) compiled, reviewed or audited annual financial statements (including, without limitation, a balance sheet, a statement of income, a statement of cash flow, a statement of changes in equity and notes to financial statements) within 120 days after your fiscal year end, and (ii) management-prepared interim financial statements within 45 days after the requested reporting period(s). Annual statements shall set forth the corresponding figures for the prior fiscal year in comparative form, all in reasonable detail without any qualification or exception deemed material by us. Unless otherwise accepted by us, each financial statement shall be prepared in accordance with generally accepted accounting principles consistently applied and shall fairly and accurately present your financial condition and results of operations for the period to which it pertains. You authorize us to obtain credit bureau reports for credit and collection purposes and to share them with our affiliates and agents.

8. **END OF TERM:** Unless the purchase option is \$1.00, at the end of the initial term, this Agreement shall renew for successive month-to-month renewal term(s) under the same terms hereof unless you send us written notice between 90 and 150 days before the end of the initial term or at least 30 days before the end of any renewal term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment. You shall continue making Payments and paying all other amounts due after the end of the initial term until the Equipment is purchased or returned in accordance with the terms of this Agreement. As long as you have given us the required written notice, if you do not purchase the Equipment, you will return all of the Equipment to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. **YOU ARE SOLELY RESPONSIBLE FOR REMOVING ANY DATA THAT MAY RESIDE IN THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO HARD DRIVES, DISK DRIVES OR ANY OTHER FORM OF MEMORY.** You cannot pay off this Agreement or return the Equipment prior to the end of the initial term without our consent. If we consent, we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the price of the Equipment.

9. **USA PATRIOT ACT NOTICE; ANTI-TERRORISM AND ANTI-CORRUPTION COMPLIANCE:** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each customer who opens an account. When you enter into a transaction with us, we ask for your business name, address and other information that will allow us to identify you. We may also ask to see other documents that substantiate your business identity. You and any other person who you control, own a controlling interest in, or who owns a controlling interest in or otherwise controls you in any manner ("Representatives") are and will remain in full compliance with all laws, regulations and government guidance concerning foreign asset control, trade sanctions, embargoes, and the prevention and detection of money laundering, bribery, corruption, and terrorism, and neither you nor any of your Representatives is or will be listed in any Sanctions-related list of designated persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control or successor or the U.S. Department of State. You shall, and shall cause any Representative to, provide such information and take such actions as are reasonably requested by us in order to assist us in maintaining compliance with anti-money laundering laws and regulations.

10. **MISCELLANEOUS:** Unless otherwise stated in an addendum hereto, the parties agree that this Agreement may be executed in counterparts and any facsimile, photographic or other electronic transmission and/or electronic signing of this Agreement by you when (i) manually or electronically countersigned by us or attached to our original signature counterpart and (ii) in our possession or control shall constitute the sole original chattel paper as defined in the UCC for all purposes and will be admissible as legal evidence thereof. At our option, we may require a manual signature. To the extent this Agreement constitutes chattel paper, a security interest may only be created in the sole original. You agree not to raise as a defense to the enforcement of this Agreement or any related documents that you or we executed or authenticated such documents by electronic or digital means or that you used facsimile or other electronic means to transmit your signature on such documents. Notwithstanding anything to the contrary herein, we reserve the right to require you to sign this Agreement or any related documents hereto manually and to send to us the manually signed, duly executed documents via overnight courier on the same day that you send us the facsimile, scanned or electronic transmission of the documents. You agree to execute any further documents that we may request to carry out the intents and purposes of this Agreement. Whenever our consent is required, we may withhold or condition such consent in our sole discretion, except as otherwise expressly stated herein. From time to time, Supplier may extend to us payment terms for Equipment financed under this Agreement that are more favorable than what has been quoted to you or the general public, and we may provide Supplier information regarding this Agreement if Supplier has assigned or referred it to us. All notices shall be mailed or delivered by facsimile transmission or overnight courier to the respective parties at the addresses shown on this Agreement or such other address as a party may provide in writing from time to time. By providing us with a telephone number for a cellular phone or other wireless device, including a number that you later convert to a cellular number, you are expressly consenting to receiving communications, including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system, from us and our affiliates and agents at that number. This express consent applies to each such telephone number that you provide to us now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your cellular provider. You authorize us to make non-material amendments (including completing and conforming the description of the Equipment) on any document in connection with this Agreement. Unless stated otherwise herein, all other modifications to this Agreement must be in writing and signed by each party or in a duly authenticated electronic record. This Agreement may not be modified by course of performance.

11. **WARRANTY DISCLAIMERS: WE ARE LEASING THE EQUIPMENT TO YOU "AS-IS." YOU HAVE SELECTED SUPPLIER AND THE EQUIPMENT BASED UPON YOUR OWN JUDGMENT. IN THE EVENT WE ASSIGN THIS AGREEMENT, OUR ASSIGNEE DOES NOT TAKE RESPONSIBILITIES FOR THE INSTALLATION OR PERFORMANCE OF THE EQUIPMENT. SUPPLIER IS NOT AN AGENT OF OURS AND WE ARE NOT AN AGENT OF SUPPLIER, AND NOTHING SUPPLIER STATES OR DOES CAN AFFECT YOUR OBLIGATIONS HEREUNDER. YOU WILL MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, INFRINGEMENT OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS. SO LONG AS YOU ARE NOT IN DEFAULT UNDER THIS AGREEMENT, WE ASSIGN TO YOU ANY WARRANTIES IN THE EQUIPMENT GIVEN TO US.**

12. **LAW; JURY WAIVER:** This Agreement will be governed by and construed in accordance with the law of the principal place of business of Lessor or, if assigned, its assignee. You consent to jurisdiction and venue of any state or federal court in the state of Lessor or, if assigned, its assignee has its principal place of business and waive the defense of inconvenient forum. For any action arising out of or relating to this Agreement or the Equipment, **BOTH PARTIES WAIVE ALL RIGHTS TO A TRIAL BY JURY.**

APPLICATION NO.

AGREEMENT NO.  
500-50356194

This Schedule "A" is to be attached to and becomes part of the above-referenced Agreement by and between the undersigned and **ImageNet Consulting, LLC**.

**CUSTOMER ACCEPTANCE**

This Schedule "A" and the below information is hereby verified as correct by the undersigned Customer.

Board of County Commissioners of the County of Tulsa

X

Approved as to form:

James G. Rea

Digitally signed by James G. Rea  
Date: 2022.01.27 18:24:15 -06'00'

CUSTOMER (as referenced above)

SIGNATURE

TITLE

Assistant District Attorney

**TERM AND PAYMENT INFORMATION**

35

Payments\* of \$

\$20.33

*If you are exempt from sales tax, attach your certificate.*

*\*plus applicable taxes*

The payment ("Payment") period is monthly unless otherwise indicated.

**EQUIPMENT DESCRIPTION**

Equipment Location

TULSA COUNTY-DISTRICT ATTORNEY - 218 W 6TH 9TH FL TULSA, OK 74119

<u>Qty</u>	<u>Make</u>	<u>Model</u>	<u>Serial</u>	<u>Location</u>	<u>Phone</u>	<u>Email</u>
0	KM	BIZHUB 658E		TULSA COUNTY-DISTRICT	9185964819	anna.maner@tulsacounty.org

## LEASE AGREEMENT ADDENDUM

This Lease Agreement Addendum ("Addendum") is made part of and amends that certain Lease Agreement dated as of February 7, 2022 ("Agreement") by and between ImageNet Consulting, LLC ("Lessor") and Board of County Commissioners of the County of Tulsa ("Customer"). Unless otherwise defined herein, capitalized terms shall have the definition set forth in the Agreement.

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound and pursuant to the terms and conditions of the Agreement, it is hereby agreed as follows:

1. Section 1. AGREEMENT: The section is amended to state in its entirety: "You agree to lease from us the goods, together with all replacements, parts, repairs, additions, and accessions incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries ("Equipment") and, if applicable, finance certain software, software license(s), software components and/or professional services in connection with software (collectively, the "Financed Items," which are included in the word "Equipment" unless separately stated) from software licensor(s) and/or supplier(s) (collectively, the "Supplier"), all as described in this Agreement and in any attached schedule, addendum or amendment hereto ("Agreement"). You represent and warrant that you will use the Equipment for business purposes only. You agree to all of the terms and conditions contained in this Agreement, which, together with any attached addendums or amendments, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes all prior agreements, including any purchase order, invoice, request for proposal, response or other related document. This Agreement becomes valid upon execution by both parties. The term shall start on the date we pay Supplier. The first Payment is due 30 days after the start of this Agreement and each Payment thereafter shall be due on the same day of each month (the "Scheduled Due Date") unless a different due date is mutually agreed to by us and you in writing. If the parties agree to adjust the Payment due date (an "Adjusted Due Date"), in addition to all Payments and other amounts due hereunder, you will pay an interim payment in an amount equal to 1/30th of the Payment, multiplied by the number of days between the Scheduled Due Date and the Adjusted Due Date. If any provision of this Agreement is declared unenforceable, the other provisions herein shall remain in full force and effect to the fullest extent permitted by law."
  
2. Section 2. OWNERSHIP, PAYMENTS, TAXES AND FEES: The section is amended to state in its entirety: "We own the Equipment, excluding any Financed Items. Ownership of any Financed Items shall remain with Supplier thereof. You will pay all Payments, as adjusted, when due, without notice or demand and without abatement, set-off, counterclaim or deduction of any amount whatsoever. As agreed in writing by the parties, the Payment may be adjusted proportionately upward or downward: (i) if the shipping charges or taxes differ from the estimate given to you; and/or (ii) to comply with the tax laws of the state in which the Equipment is located. Unless a valid tax exempt certificate is provided, you shall pay all applicable taxes, assessments and penalties related to this Agreement, whether levied or assessed on this Agreement, on us (except on our income) or you, or on the Equipment, its lease, sale, ownership, possession, use or operation. If we pay any taxes or other expenses that are owed hereunder, you agree to reimburse us when we request. We may apply all sums received from you to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for insufficient funds, you will pay us a service charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement."
  
3. Section 4. INSURANCE; COLLATERAL PROTECTION; INDEMNITY; LOSS OR DAMAGE: The section is amended to state in its entirety: "Unless self-insured, you agree to keep the Equipment fully insured against all risk, with us named as lender's loss payee, in an amount not less than the full replacement value of the Equipment until this Agreement is terminated. You also agree to maintain commercial general liability insurance with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as

an additional insured on the policy. You will provide written notice to us within 10 days of any modification or cancellation of your insurance policy(s). You agree to provide us certificates or other evidence of insurance acceptable to us. We may make a profit on this program. **NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT.** To the extent permitted by law, and without waiver of any sovereign immunity rights, Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Equipment and for injury to or death of any person or damage to any property, whether such injury or death be with respect to Lessee's agents or employees or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of the Lessee, its officers, employees and agents. All indemnities will survive the expiration or termination of this Agreement. You are responsible for any loss, theft, destruction or damage to the Equipment ("Loss"), regardless of cause, whether or not insured. You agree to promptly notify us in writing of any Loss. Any proceeds of insurance will be paid to us and credited against the Loss."

4. Section 5. ASSIGNMENT: The section is amended to state in its entirety: "**YOU SHALL NOT SELL, TRANSFER, ASSIGN, ENCUMBER, PLEDGE OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent.** You shall not consolidate or merge with or into any other entity, distribute, sell or dispose of all or any substantial portion of your assets other than in the ordinary course of business, without our prior written consent, and the surviving, or successor entity or the transferee of such assets, as the case may be, shall assume all of your obligations under this Agreement by a written instrument acceptable to us. No event shall occur which causes or results in a transfer of majority ownership of you while any obligations are outstanding hereunder. The parties acknowledge and agree that the Agreement has been assigned to De Lage Landen Financial Services, Inc. You agree that if we sell, assign or transfer this Agreement, our assignee will have the same rights and benefits that we have now and will not have to perform any of our obligations. **You agree that our assignee will not be subject to any claims, defenses, or offsets that you may have against us.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns."
5. Section 6. DEFAULT AND REMEDIES: The section is amended to state in its entirety: "You will be in default if: (i) you do not pay any Payment or other sum due to us or you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates; (ii) you make or have made any false statement or misrepresentation to us; (iii) you or any guarantor dies, dissolves, liquidates, terminates existence or is in bankruptcy; (iv) you or any guarantor suffers a material adverse change in its financial, business or operating condition; or (v) any guarantor defaults under any guaranty for this Agreement. To the extent permitted by law and as outlined in the Fiscal Funding Addendum, if you are ever in default, at our option, we can cancel this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of term plus the anticipated residual value of the Equipment, both discounted to present value at 6%. We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any remedies available to us under the UCC and any other law and we may require that you immediately stop using any Financed Items. If we take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement and you will be responsible for any deficiency. In the event of any dispute or enforcement of our rights under this Agreement or any related agreement, you agree to pay our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee, as awarded by a court of competent jurisdiction. **WE SHALL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE.** Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and

your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-508 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will refund such excess to you, which will be your sole remedy.”

6. Section 8. END OF TERM: The section is amended to state in its entirety: “Unless the purchase option is \$1.00, at the end of the initial term or any subsequent renewal term, this Agreement shall renew, subject to annual fiscal appropriations, for successive month-to-month renewal term(s) under the same terms hereof unless you send us written notice between 30 days before the end of the initial term or at least 30 days before the end of any renewal term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment. You shall continue making Payments and paying all other amounts due after the end of the initial term until the Equipment is purchased or returned in accordance with the terms of this Agreement. As long as you have given us the required written notice, if you do not purchase the Equipment, you will return all of the Equipment to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. YOU ARE SOLELY RESPONSIBLE FOR REMOVING ANY DATA THAT MAY RESIDE IN THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO HARD DRIVES, DISK DRIVES OR ANY OTHER FORM OF MEMORY. You cannot pay off this Agreement or return the Equipment prior to the end of the initial term without our consent, subject however to applicable law. If we consent, we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the price of the Equipment.”
7. Section 10. MISCELLANEOUS: The section is amended to state in its entirety: “Unless otherwise stated in an addendum hereto, the parties agree that this Agreement may be executed in counterparts and any facsimile, photographic or other electronic transmission and/or electronic signing of this Agreement by you when (i) manually or electronically countersigned by us or attached to our original signature counterpart and (ii) in our possession or control shall constitute the sole original chattel paper as defined by the UCC for all purposes and will be admissible as legal evidence thereof. At our option, we may require a manual signature. To the extent this Agreement constitutes chattel paper (as defined by the UCC), a security interest may only be created in the original. You agree that this Agreement or any related documents that you or we executed or authenticated by electronic or digital means or that you used a facsimile or other electronic means to transmit your signature on such documents are valid and enforceable. Notwithstanding anything to the contrary herein, we reserve the right to require you to sign this Agreement or any related documents hereto manually and to send to us the manually signed, duly executed documents via overnight courier on the same day that you send us the facsimile, scanned or electronic transmission of the documents. You agree to execute any further documents that we may request to carry out the intents and purposes of this Agreement, subject however to approval by proper authority. Whenever our consent is required, we may withhold or condition such consent in our sole discretion, except as otherwise expressly stated herein. From time to time, Supplier may extend to us payment terms for Equipment financed under this Agreement that are more favorable than what has been quoted to you or the general public, and we may provide Supplier information regarding this Agreement if Supplier has assigned or referred it to us. All notices shall be mailed or delivered by facsimile transmission or overnight courier to the respective parties at the addresses shown on this Agreement or such other address as a party may provide in writing from time to time. By providing us with a telephone number for a cellular phone or other wireless device, including a number that you later convert to a cellular number, you are expressly consenting to receiving communications, including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system, from us and our affiliates and agents at that number. This express consent applies to each such telephone number that you provide to us now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your cellular provider. Unless stated otherwise herein, all other modifications to this Agreement must be in writing and

signed by each party or in a duly authenticated electronic record. This Agreement may not be modified by course of performance.”

- 8. Section 12. LAW; JURY WAIVER: The section is amended to state in its entirety: “This Agreement will be governed by and construed in accordance with the law of the state of Oklahoma. You consent to jurisdiction and venue of the state or federal court located in Tulsa County, Oklahoma. For any action arising out of or relating to this Agreement or the Equipment, **BOTH PARTIES WAIVE ALL RIGHTS TO A TRIAL BY JURY.**”

It is expressly agreed by the parties that this Addendum is supplemental to the Agreement which is by reference made a part hereof and all the terms and conditions and provisions thereof, unless specifically modified herein, are to apply to this Addendum and are made a part of this Addendum as though they were expressly rewritten.

In the event of any conflict, inconsistency or incongruity between the provisions of this Addendum and any of the provisions of the Agreement, the provisions of this Addendum shall in all respects govern and control.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed on the dates set forth below.

Dated: \_\_\_\_\_

Customer:  
Board of County Commissioners of the County of Tulsa

By: \_\_\_\_\_  
Print Name: Karen Keith  
Title: Chair

Dated: 1/26/2022

Lessor:  
ImageNet Consulting, LLC

By: *Fatima Chin*  
Print Name: Fatima Chin  
Title: Customer Ambassador

Approved as to form:

**James G. Rea** Digitally signed by James G. Rea  
Date: 2022.01.27 18:24:30 -06'00'  
Assistant District Attorney

# FISCAL FUNDING ADDENDUM

<b>CUSTOMER</b>	Full Legal Name <u>Board of County Commissioners Tulsa County, OK</u> DBA Name (if Any) _____
	Billing Address <u>218 West 6th, Room #251 500 S. Denver, 8th Floor, Tulsa, OK 74109</u> Phone Number <u>9185965881</u>
	City <u>Tulsa</u> County <u>Tulsa</u> State <u>OK</u> Zip Code <u>74119</u>
	Agreement Number <u>500-50356194</u> Agreement Date _____

Customer warrants that it has funds available to pay all rents (the "Payments") payable under the above identified Agreement until the end of Customer's current appropriation period. If Customer's legislative body or other funding authority does not appropriate funds for Payments for any subsequent appropriation period and Customer does not otherwise have funds available to lawfully pay the Payments (a "Non-Appropriation Event"), Customer may, subject to the conditions herein and upon prior written notice to Company (the "Non-Appropriation Notice"), effective sixty (60) days after the later of Company's receipt of same or the end of the Customer's current appropriation period (the "Non-Appropriation Date"), terminate the Agreement and be released of its obligation to make all Payments due Company coming due after the Non-Appropriation Date. As a condition to exercising its rights under this Addendum, Customer shall (1) provide in the Non-Appropriation Notice a certification of a responsible official that a Non-Appropriation Event has occurred, (2) deliver to Company an opinion of Customer's counsel (addressed to Company) verifying that the Non-Appropriation Event as set forth in the Non-Appropriation Notice has occurred, (3) return the equipment/system subject to the Agreement (the "Equipment/System") on or before the Non-Appropriation Date to Company or a location designated by Company, in the condition required by, and in accordance with the return provisions of the Agreement and at Customer's expense, and (4) pay Company all sums payable to Company under the Agreement up to the Non-Appropriation Date.

In the event of any Non-Appropriation Event, Company shall retain all sums paid hereunder or under the Agreement by Customer, including the Security Deposit (if any) specified in the Agreement.

Customer further represents, warrants and covenants for the benefit of Company that:

- (a) Customer is a municipal corporation and political subdivision duly organized and existing under the constitution and laws of the State.
- (b) Customer is authorized under the constitution and laws of the State, and has been duly authorized to enter into the Agreement and the transaction contemplated hereby and to perform all of its obligations thereunder.
- (c) The Agreement constitutes the legal, valid and binding obligation of Customer enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
- (d) Customer has complied with such public bidding requirements as may be applicable to the Agreement.
- (e) The Equipment/System described in the Agreement is essential to the function of Customer or to the service Customer provides to its citizens. Customer has an immediate need for, and expects to make immediate use of, substantially all the Equipment/System, which need is not temporary or expected to diminish in the foreseeable future.
- (f) Customer has never failed to appropriate or otherwise make available funds sufficient to pay rental or other payments coming due under any lease, lease purchase, installment sale or other similar agreement.

CUSTOMER AGREES THAT A FACSIMILE COPY OR OTHER ELECTRONIC TRANSMISSION OF THIS DOCUMENT WITH FACSIMILE AND/OR ELECTRONIC SIGNATURES MAY BE TREATED AS AN ORIGINAL AND WILL BE ADMISSIBLE AS EVIDENCE IN A COURT OF LAW.

Approved as to form:

**James G. Rea** Digitally signed by James G. Rea  
Date: 2022.01.27 18:24:42 -06'00'  
Assistant District Attorney

<b>CUSTOMER SIGNATURE</b>	Signature X _____ <small>(MUST BE SIGNED BY AUTHORIZED REPRESENTATIVE OR OFFICER OF GOVERNMENT ENTITY)</small>
	Print Name <u>Karen Keith</u>
	Title <u>Chair, Board of County Commissioners</u> Date _____
	Name of Government Entity <u>Tulsa, County of</u>

<b>ACCEPTED BY COMPANY</b>	Signature X <u><i>Fatima Chin</i></u>
	Print Name <u>Fatima Chin</u>
	Title <u>Customer Ambassador</u> Date <u>1/26/2022</u>
	Name of Corporation or Partnership <u>ImageNet Consulting, LLC</u>

**AMENDMENT TO FISCAL FUNDING ADDENDUM**

This Amendment is made part of the Fiscal Funding Addendum ("FFA") by and between Tulsa, County of ("Customer") and ImageNet Consulting, LLC ("Company") dated February 7, 2022. The words "you" and "your" refer to the Customer and the words "we", "us" and "our" refer to the Company. Unless otherwise defined herein, capitalized terms shall have the same meaning given to them in the FFA.

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound and pursuant to the terms and conditions of the FFA, it is hereby agreed as follows:

- A. Paragraph 1, sentence 2 is amended as follows: "If Lessee's legislative body or other funding authority does not appropriate funds for Lease Payments for any subsequent appropriation period (a "Non-Appropriation Event"), effective thirty (30) days after the later of Lessor's receipt of same or the end of the Lessee's current appropriation period (the "Non-Appropriation Date"), terminate the Lease and be released of its obligation to make all Lease Payments due Lessor coming due after the Non-Appropriation Date."
- B. Paragraph 1, sentence 3 is amended as follows: "As a condition to exercising its rights under this Addendum, Customer shall (1) provide in the Non-Appropriation Notice a certification of a responsible official that a Non-Appropriation Event has occurred, (2) return the equipment/system subject to the Agreement (the "Equipment/System") on or before the Non-Appropriation Date to Company or a location designated by Company, in the condition required by, and in accordance with the return provisions of the Agreement and at Customer's expense, and (3) pay Lessor all sums payable to Lessor under the Lease up to the Non-Appropriation date and Lessee retains all rights under 62 O.S. 430.1 and applicable law."
- C. Section (a) is amended as follows: "Lessee is a political subdivision duly organized and existing under the constitution and laws of the State."
- D. Section (f) is deleted in its entirety
- E. The second to last sentence is amended as follows: "This Addendum is not intended to permit Lessee to terminate the Lease at will or for convenience; however Lessee has rights to terminate for a Non-Appropriation Event as set forth herein."

Except as expressly provided herein, no other term, condition, provision or covenant of the FFA is changed, modified, amended or altered, nor are any of Company's or its assigns' rights or remedies under the FFA, at law or equity, modified, waived, discharged or forgiven.

A facsimile copy of this Amendment containing Customer's signature may be treated as an original and be admissible in court as evidence of this Amendment.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be duly executed by their authorized representatives as of the date first above written.

Agreed and Accepted:

**Tulsa, County of**

**ImageNet Consulting, LLC**

\_\_\_\_\_  
Signature

*Fatima Chin*  
Signature

Karen Keith,

Fatima Chin

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Chair, Board of County Commissioners

Customer Ambassador

1/26/2022

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Approved as to form:

**James G. Rea** Digitally signed by James G. Rea  
Date: 2022.01.27 18:24:55 -06'00'  
Assistant District Attorney