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# MEMO

APPROVED  
4/17/2023



DATE: April 12, 2023  
FROM: Matney M. Ellis  
Procurement Director  
TO: Board of County Commissioners  
SUBJECT: Agreement – Karpel Computer Systems, Inc.

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 Karpel Computer Systems, Inc. for licenses and support of the PROSECUTORbyKarpel software program through March 31, 2024 for a cost of \$145,050.00 as further described in the attached.

Respectfully submitted for your approval and execution.

MME / jdf

SUBMITTED FOR: The April 17, 2023 BOCC meeting agenda.

CMF# 20230530



9717 Landmark Parkway | St. Louis, MO 63127 | (314) 892-6300

APPROVED  
4/17/2023

**District Attorney's Office  
Tulsa County, Oklahoma**

**CONTRACT FOR**



PROSECUTORbyKarpel® & HOSTEDbyKarpel®

CMF# 20230530

## TABLE OF CONTENTS

1. DEFINITIONS .....	3
2. OTHER INFORMATION .....	4
3. GENERAL CLIENT RESPONSIBILITIES & OBLIGATIONS.....	4
4. INVESTMENT SUMMARY .....	5
5. ANNUAL SUPPORT.....	7
6. OWNERSHIP OF INTELLECTUAL PROPERTY.....	9
7. LICENSE TERMS AND USE .....	10
8. WARRANTY .....	11
9. LIMITATION OF LIABILITY.....	12
10. INDEMNIFICATION.....	12
11. TERMINATION .....	13
12. GENERAL PROVISIONS.....	14
13. MASTER TERMS AND CONDITIONS .....	17

This agreement between Karpel Computer Systems Inc., a Missouri corporation, doing business as Karpel Solutions (hereinafter referred to as “Karpel Solutions”) and Tulsa County a political subdivision of the State of Oklahoma (hereinafter referred to as “Client”) is for the purposes of reviewing this proposal and to enter into this contract including the Master Terms and Conditions set forth below wherein Karpel Solutions agrees to sell licenses for its copyrighted software program known as PROSECUTORbyKarpel® (hereinafter referred to as “PbK”).

## 1. DEFINITIONS

- a. “Confidential Information” means information of either Karpel Solutions or Client which is disclosed under this Agreement in oral, written, graphic, machine recognizable, electronic, sample or any other visually perceptible form by one of us to the other, and which is considered to be proprietary or trade secret by the disclosing party. Confidential Information of Karpel Solutions expressly includes, without limitation, the Software and Documentation. The Confidential Information of Client includes, without limitation, Personally Identifiable Information and Client Content. Confidential Information shall not include information which the party receiving the information can document: (i) was in the possession of or known by it without an obligation of confidentiality prior to receipt of the information, (ii) is or becomes general public knowledge through no act or fault of the party receiving the information, (iii) is or becomes lawfully available to the receiving party from a third party without an obligation of confidentiality, or (iv) is independently developed by the receiving party without the use of any Confidential Information. Karpel Solutions understands that Client is a political subdivision of the State of Oklahoma, and that as such, “Confidential Information” is limited by law, including 51 O.S. 24A.1, et seq.
- b. “Client Content” means all data, information, documents, and file Client uploads or inputs into PbK on the Service through the website, including, without limitation, Personally Identifiable Information.
- c. “Enhancements” means any specific configurations or customizations to the Software, which Client may request and Karpel Solutions agrees in writing to provide.
- d. “Documentation” means any operating instructions, specifications and other documentation related to the operation, description, and function of PbK, the Service or Website provided by Karpel Solutions whether supplied in paper or electronic form.
- e. “Intellectual Property” means any patents, patent applications, copyrights, mask works, trademarks, service marks, trade names, domain names, inventions, improvements (whether patentable or not), trade secrets, Confidential Information, moral rights, and any other intellectual property rights.
- f. “Hosted” or “Hosting” means the act of providing service and access to Client Content by the Internet.
- g. “Personally Identifiable Information” means any information that may be used to identify specific persons or individuals, which is collected by either Karpel Solutions or Client for use

in conjunction with the use of PbK on HOSTEDbyKarpel. Personally Identifiable Information shall be considered Confidential Information.

- h. "PbK" means the PROSECUTORbyKarpel criminal case management system and specifically the Client's licensed copy of PROSECUTORbyKarpel
- i. "Service" means the HOSTEDbyKarpel hosting platform provided by Karpel Solutions which allows internet-based hosting of the Client's licensed copy of PbK through the Website.
- j. "Service Level Requirements" means the technical service levels Karpel Solutions shall meet for Services as set forth below in the Service Level Commitments for the delivery of the Services.
- k. "Software" means the Client's licensed copy of the PbK application, and includes any and all updates, enhancements, underlying technology or content, law enforcement transfer interfaces, other Enhancements and any Documentation as may be provided the Client by Karpel Solutions.
- l. "Website" means the content and functionality currently located at the domain [www.hostedbykarpel.com](http://www.hostedbykarpel.com) on the internet, or any successor or related domain that provides access to the Software and Service

## **2. OTHER INFORMATION**

Any additional work requirements outside the scope of this proposal will be presented in the form of a change order and must be approved by client prior to start of such work. No additional charges will be incurred without prior written approval from client.

## **3. GENERAL CLIENT RESPONSIBILITIES & OBLIGATIONS**

1. **PASSWORD PROTECTION.** Access to the Software through the Service and Website is password -protected. Karpel Solutions provides multiple authentication alternatives for access to the Website and Software. KARPEL SOLUTIONS STRONGLY ENCOURAGES THE USE OF STRONG PASSWORD AUTHENTICATION. Karpel Solutions is not responsible for Client's use of the Service, Website or Software. Only the number of users set forth above may access the Service and Website. Client must inform their users that they are subject to, and must comply with, all of the terms of this Agreement. Client is fully responsible for the activities of Client's employees and authorized agents who access the Service and Website. Karpel Solutions is not liable for any unauthorized access to the Service and Website, including without limitation access caused by failure to protect the login and password information of users.
2. **RESTRICTIONS ON USE.** Client agrees to conduct all activities on the Service and Website in accordance with all applicable laws and regulations. Access to the Service, Website, Software and Documentation must be solely for Client's own internal use. Client may not (and may not allow any third party to) (i) decompile, mirror, translate, disassemble or otherwise reverse engineer any part of the Software, source code, algorithms, or underlying ideas of the Software;

(ii) provide, lease, lend, subcontract, sublicense, re-publish or use for timesharing, service bureau or hosting purposes any or all of the Software or Documentation; or (iii) reproduce, modify, copy, distribute, publish, display or create derivative works of any or all of the Software or Documentation or (iv) alter, remove, or obscure any copyright, trademark or other proprietary notices or confidentiality legends on or in the Software or Documentation.

3. **SUSPENSION.** Karpel Solutions reserves the right to immediately suspend access to Software without notice and at any time that Karpel Solutions suspects or has reason to suspect a security, data breach or if suspension is necessary to protect its rights, Client’s rights or the rights of a third party. Karpel Solutions will immediately contact Client upon suspension of the Service and Website.

#### 4. INVESTMENT SUMMARY

Annual Support Services	Qty.	Price	Total
PROSECUTORbyKARPEL Licenses	8	\$2,250	\$18,000
PROSECUTORbyKARPEL	126	\$450	\$56,700
eDiscovery Service	1	\$14,750	\$14,750
Hosting Services (includes 2TB of storage	126	\$100	\$12,600
Hosting Storage (36 TB as of March 2023)	36	\$1,000	\$36,000
OSBI Interface support	1	\$1,000	\$1,000
External Portal support	1	\$6,000	\$6,000
<b>Total Annual Support Services</b>			<b>\$145,050</b>

Optional Services/Cost	Qty.	Price	
<b>Data Exchange Interfaces:</b>			
Law Enforcement/Jail RMS	1	\$10,000	
Law Enforcement interface support	1	\$2,000	
Courts (eFiling, Court Event import)	1	\$10,000	
Court interface annual support	1	\$2,000	
Document template conversion <i>(per document)</i>	1	\$25	
Post Implementation training- on site (min 1 day)		\$1,200	per trainer, + travel expenses
Post Implementation training- on-line (min 2 hrs)		\$300	
Hourly rate for personnel		\$150	
SSRS custom reports (per report)	1	\$1,000	

**Interfaces** must conform to the appropriate PROSECUTORbyKarpel Information Exchange Package Documentation (IEPD) for that interface. Interfaces that do not conform to the appropriate PROSECUTORbyKarpel IEPD, will require Karpel development review before approval and will incur additional development and maintenance costs. The stated costs for interfaces include Karpel’s development and testing time.

**PLEASE NOTE: THERE MAY BE AN ADDITIONAL COST FROM THE OTHER VENDOR(S), WHICH IS NOT INCLUDED WITHIN THIS CONTRACT.**

This fee does not include additional hardware, Microsoft licenses, or networking services that may be necessary to properly and legally operate PbK. Said expenses are the Client's sole responsibility.

Pricing for Optional Services will remain valid up to 90 days from date of contracting signing. Upon the request to begin an Optional Service, an official notice to begin the service must be received.

The aggregate document / file storage space included with the stated hosted service fee is two terabytes (2TB) of storage. If storage exceeds 2TB, any additional storage above 2TB will be billed at a flat rate of \$1,000 per 1TB, per year, as agreed between the parties.

In the event Client or Karpel terminates this agreement, Client understands and agrees to pay \$1,000 to Karpel Solutions for work in connection with the return of Client Content and Confidential Information.

#### **4.1 Payment Terms**

TERM. The term of Annual Fees in the Agreement shall be for (1) year beginning April 1, 2023 through March 31, 2024.

## **5. ANNUAL SUPPORT**

### **5.1 TECHNICAL SUPPORT FEES**

Client understands that technical support fees will be required annually, in order to receive software updates and technical support. The support period shall run concurrently with the terms of this agreement. The Client may elect to purchase subsequent annual support, on a yearly basis at a fixed cost, and billed annually as referenced in Section 5 above. The option to purchase annual support is solely at the Client's discretion. The Client's license to use PbK is not dependent upon the Client purchasing annual support; however, if the Client discontinues annual support it will not be provided with updated versions of the software, unless it is purchased. Provided Client's computers, network and systems meet recommended specifications set for by Karpel Solutions and the Client is current with annual support payments then Karpel Solutions shall provide updated versions of their system and/or software as they become available during the terms of the contract. If the option for renewal is exercised, Karpel has the right to increase current pricing.

#### **5.1.1 SUPPORT PROVIDED**

Karpel Solutions will provide support (e.g. software updates, general program enhancements and technical support) for all software provided, including ongoing unlimited telephone technical support problem determination, and resolution.

#### **5.1.2 HOURS OF OPERATION**

Karpel Solutions will provide technical support Monday through Friday, at a minimum of eight (8) hours a day. Technical support services shall be available between the hours of 7:00 a.m. through 9:00 p.m. Central time, via a toll-free telephone number provided. After-hours support is available as well via the same toll-free number which will reach the on-call support group.

#### **5.1.3 INCLUDED SUPPORT**

Support services include the detection and correction of software errors and the implementation of all PbK program changes, updates and upgrades. Karpel Solutions shall respond to the inquiries regarding the use and functionality of the solution as issues are encountered by Authorized Users. Support to users will be provided through the remote support tool installed on the end user's computer. This tool was installed at the time of go-live allowing Karpel to provide the needed support to meet the service level agreement. If this access is not allowed support will be delayed and the service level agreement (severity levels) are no longer in place.

#### **5.1.4 RESPONSE TIMES**

Karpel Solutions shall be responsive and timely to technical support calls/inquires made by the Client. The Client will first make support inquires through their qualified system administrators to assure the policies and business practices of the Client are enforced prior to contacting Karpel Solutions. The timeliness of the response is dependent upon the severity of the issue/support problem, as defined below:



The severity\* of the issue/support problem shall determine the average problem resolution response time in any calendar month of the contract as follows:

*\*If the remote support tool is not installed or available all issues will fall into the general assistance and the severity levels are no longer applicable.*

Severity Level 1 shall be defined as urgent situations, when the Client's production system is down and the Client is unable to use PbK, Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the Client places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the customer's call within one (1) business hour. Karpel Solutions shall resolve Severity Level 1 problems as quickly as possible, which on average should not exceed two (2) business days, unless otherwise authorized in writing by the Client.

Severity Level 2 shall be defined as critical software system component(s) that has significant outages and/or failure precluding its successful operation, and possibly endangering the customer's environment. PbK may operate but is severely restricted. Karpel Solutions' technical support staff shall accept the customer's call for assistance at the time the customer places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the Client's call within four (4) business hours. Karpel Solutions shall resolve Severity Level 2 problems as quickly as possible, which on average should not exceed three (3) business days, unless otherwise authorized in writing by the customer.

Severity Level 3 shall be defined as a minor problem that exists with PbK but the majority of the functions are still usable and some circumvention may be required to provide service. Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the customer places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the Client's call on average no later than the next business day. Karpel Solutions shall resolve Severity Level 3 problems as quickly as possible, which should not exceed the next available release of software, unless otherwise authorized in writing by the Client.

General Assistance: For general software support/helpdesk calls not covered by the above severity level descriptions, Karpel Solutions' technical support staff shall accept the Client's call for assistance at the time the Client places the initial call; however, if such staff is not immediately available, Karpel Solutions shall return the Client's call on average no later than the next business day.

## **5.2 SERVICE LEVEL COMMITMENT**

UPTIME. Karpel Solutions is committed to providing the Software, Website and Service in a consistent and reliable manner. Karpel Solutions will provide the Software, Website and Service to Client with a stated minimum uptime of 99.5% to Client.

SCHEDULED MAINTENANCE: Karpel Solutions periodically performs scheduled maintenance including but not limited to outline, preventative or emergency maintenance of the Software, Website, and/or Service. Client understands that schedule maintenance may affect availability of the Service, Website, and/or Software. If schedule maintenance is to be performed Karpel Solutions will provide notice to Client three (3) days prior to the scheduled maintenance. Karpel

Solutions will make every effort to schedule maintenance outside of normal business hours of the client between the hours of ten (10) p.m. and five (5) a.m. Central Standard Time.

DATA RETENTION AND BACKUPS: As a part of the Service and Website, Karpel Solutions will maintain under this Agreement consistent, regular and validated backup both onsite and offsite of the Client Content, Confidential Information and Software. Backups occur and will be maintained pursuant to Karpel Solutions internal backup policies. Upon written request, Karpel Solutions will make available to Client a copy of Karpel Solutions' current backup policies and procedures.

AUDITS AND SECURITY: Karpel Solutions is committed to maintaining the security of Client Content, Confidential Information, and Software on Karpel Solutions' Service and Website. Karpel Solutions will maintain the Software, Website and Service in a secure manner subject to the Customer Obligations outlined below. Karpel Solutions will perform annual security audits of the Website and Service to ensure the integrity and security of the Website and Service. Results of the Audits and Security Policy for Karpel Solutions will be made available to Client upon written request.

DATA TRANSMISSION: Karpel Solutions ensures that all data transmitted to and from the Service and Website is transmitted at a minimum level of 128-bit SSL encryption using digital certificates issued by an internationally recognized domain registrar and certificate authority.

DATA LOCATION: Karpel Solutions will maintain the Service, Software, Client Content and Confidential Information of Client in a SAS 70/SSAE 16 certified data facility.

## **6. OWNERSHIP OF INTELLECTUAL PROPERTY**

**KARPEL SOLUTIONS OWNERSHIP.** Karpel Solutions retains all right, title and interest in and to the Software, Documentation, Website, Service, and related Intellectual Property. Any suggestions, solutions, improvements, corrections, or other contributions Client provides regarding the Software, Documentation, Website or Services will become the property of Karpel Solutions and Client hereby assigns all such rights to Karpel Solutions without charge.

**CLIENT OWNERSHIP.** Client retains all rights, title, and interest in and to the Client Content. Client hereby grants to Karpel Solutions and Karpel Solutions hereby accepts a non-exclusive, non-transferable, worldwide, fully paid license to use, copy, and modify the Client Content solely to the extent necessary and for the sole purposes of providing access to the Software, Documentation, Website, and Services or otherwise complying with its obligations under this Agreement.

## 7. LICENSE TERMS AND USE

This software, PbK, is a proprietary product of Karpel Solutions. It is licensed (not sold) and is licensed to Client for its use only by the terms set forth below.

1. In consideration of payment of a sublicense fee, Karpel Solutions hereby grants Client a non-exclusive and non-transferable sublicense to use any associated manuals and/or documentation furnished.
2. Client cannot distribute, rent, sublicense or lease the software. A separate license of PbK is required for each user or employee. Each license of PbK may not be shared by more than one full time employee or user (defined as working 20 hours or more per week), nor more than two (2) part-time employees or users (defined as working less than 20 hours per week each and working no more than 40 hours per week together). The Client agrees that Karpel Solutions will suffer damages from the Client's breach of this term and further agrees that as such Karpel Solutions shall be entitled to the cost of the license, installation and training costs associated for each violation, including Karpel Solutions' reasonable attorneys' fees and costs.
3. License does not transfer any rights to software source codes, unless Karpel Solutions ceases to do business without transferring its duties under this agreement to another qualified software business. Karpel Solutions will, at client's expense, enter into escrow agreement for the storage of the source codes.
4. PbK and its documentation are protected by copyright and trade secret laws. Client may not use, copy, modify, or transfer the software or its documentation, in whole or in part, except as expressly provided for herein. Karpel Solutions retains all rights in any copy, derivative or modification to the software or its documentation no matter by whom made. PbK is licensed for a single installation of one full time employee. A separate license is required for each installation of PbK. Client shall not provide or disclose or otherwise make available PbK or any portion thereof in any form to any third party. Client agrees that unauthorized copying and distribution will cause great damage to Karpel Solutions and this damage is far greater than the value of the copies involved.
5. PbK was developed exclusively at private expense and is Karpel Solutions' trade secret. For all purposes of the Freedom of Information Act or any other similar statutory right of "open" or public records the Software shall be considered exempt from disclosure. PbK is "commercial computer software" subject to limited utilization "Restricted Rights." PbK, including all copies, is and shall remain proprietary to Karpel Solutions or its licensors.
6. Public Agency Participation: Other public agencies may utilize the terms and conditions established by this Contract. "Public agency", for purposes of this paragraph, is defined to include any city, county, district, public authority, public agency, municipality, and other political subdivision. Tulsa County is not an agent, partner, or representative of such public agency, and is not obligated or liable for any action or debts that may arise out of such independently negotiated procurements. These so called "piggy-back" awards shall be made independently by each public agency, and that agency shall accept sole responsibility for placing orders with Vendor. Tulsa County does not accept any responsibility or involvement in the purchase orders or

Contracts issued by other public agencies. Any such contract by another public agency must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of such public agency.

## **8. WARRANTY**

1. **LIMITED WARRANTY.** Karpel Solutions warrants it will provide the Services and Website in a professional manner by qualified personnel. Karpel Solutions warrants it has the requisite power and authority to enter into and perform its obligations under this Agreement. Karpel Solutions warrants that the performance by Karpel Solutions of any services described in the Agreement shall be in compliance with all applicable laws, rules and regulations. Karpel Solutions warrants it will provide access to and use of the Software, Service and Website in material accordance with the Service Level Commitment outlined above. No representations or warranties as to the use, functionality or operation of the Website, Software, or Service are made by Karpel Solutions other than as expressly stated in this Agreement.
2. **INTERNET.** Karpel Solutions makes the Website, Software and Services available to Client through the internet to the extent commercially reasonable, and subject to outages, communication and data flow failures, interruptions and delays inherent in Internet communications. Client recognizes that problems with the Internet, including equipment, software and network failures, impairments or congestion, or the configuration of Client's computer systems, may prevent, interrupt or delay Client's access to the Service, Website or Software. Karpel Solutions is not liable for any delays, interruptions, suspensions or unavailability of the Website or Software attributable to problems with the Internet or the configuration of Client's computer systems or network.
3. **SYSTEM REQUIREMENTS.** Karpel Solutions provides the Services and Website based upon the system requirements as specified by Karpel Solutions for Client. Karpel Solutions has no liability for any failure of the Services, or the Software based upon Client's failure to comply with the system requirements of Karpel Solutions.
4. **WARRANT LIMITATION.** The warranties set forth in this Agreement do not apply if non-compliance is caused by, or has resulted from (i) Client's failure to use any new or corrected versions of the Software or Documentation made available by Karpel Solutions, (ii) use of the Software or Documentation by Client for any purpose other than that authorized in this Agreement, (iii) use of the Software or Documentation in combination with other software, data or products that are defective, incompatible with, or not authorized in writing by Karpel Solutions for use with the Software or Documentation, (iv) misuse of the Software or Documentation by, (v) any malfunction of Client's software, hardware, computers, computer-related equipment or network connection, (vi) any modification of the Software not performed by or otherwise authorized by Karpel Solutions in writing, or (vii) an event of Force Majeure.

DISCLAIMER. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS AND IMPLIED, WHICH ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING OUT OF A USE IN TRADE OR COURSE OF

DEALING OR PERFORMANCE. KARPEL SOLUTIONS DOES NOT WARRANT (i) THAT ACCESS TO OR USE OF ALL OR ANY PART OF THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL BE CONTINUOUS, ERROR-FREE OR UNINTERRUPTED, (ii) THAT THE RESULTS ARISING OUT OF CLIENT'S USE OF THE SOFTWARE, DOCUMENTATION OR WEBSITE WILL BE ACCURATE, COMPLETE OR ERROR-FREE, OR (iii) THAT THE SERVICE, SOFTWARE, DOCUMENTATION OR WEBSITE WILL MEET CLIENT'S NEEDS.

EXCLUSIVE REMEDIES. If the Website, or Services provided under this Agreement does not materially comply with the requirements stated in the Limited Warranty Section outlined above, Karpel Solutions sole obligation shall be to correct or modify the Website or Services, at no additional charge. If Karpel Solutions determines it is unable to correct what is non-conforming, Client's sole remedy will be to receive a refund of the fees paid for the non-conforming or Services, even if such remedy fails of its essential purpose. You may also terminate this Agreement as set forth in the termination provision of this Agreement.

## 9. LIMITATION OF LIABILITY

KARPEL SOLUTIONS IS NOT RESPONSIBLE FOR ANY LOSS OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY BREACH OF THIS AGREEMENT, EVEN IF KARPEL SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION, WHETHER ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), STATUTE OR OTHERWISE. UNLESS OTHERWISE SPECIFICALLY STATED, ALL REMEDIES AVAILABLE UNDER THIS AGREEMENT AND ALL REMEDIES PROVIDED BY LAW, WILL BE DEEMED CUMULATIVE AND NOT EXCLUSIVE. REGARDLESS OF THE FORM OF ANY CLAIM CLIENT MAY HAVE ARISING UNDER OR RELATING TO THIS AGREEMENT, KARPEL SOLUTIONS LIABILITY FOR ANY DAMAGES SHALL NOT EXCEED THE FEES CLIENT HAS PAID TO KARPEL SOLUTIONS PURSUANT TO THIS AGREEMENT IN THE PRIOR TWELVE (12) MONTHS.

## 10. INDEMNIFICATION

. Subject to the Oklahoma Governmental Tort Claims Act, 51 O.S. 151 et seq., Client is liable for claims, losses, costs and legal fees caused by or arising out of any negligent act or omission of Client in performance of this Agreement.

KARPEL SOLUTIONS' INDEMNIFICATION. Karpel Solutions will at its own expense (including payment of attorneys' fees) defend Client in the event that any suit is brought against Client based on a claim that the Software directly infringes any valid U.S. Intellectual Property right and shall indemnify Client from any amounts assessed against Client in a resulting judgment or settlement of such claims. Karpel Solutions will not be liable for any cost or expense of defense Client incurs in connection with any such suit or claim, without Karpel Solutions' prior and specific authorization and consent.

Notwithstanding the foregoing, Karpel Solutions has no obligations under this Section in the event any infringement claim is solely or in part based upon or arising out of any modification or alteration to the Software not made by Karpel Solutions, (ii) any combination or use of the Software with products, hardware or services not supplied by Karpel Solutions or approved in writing by Karpel Solutions in advance of such combination, (iii) Client's continuance of allegedly infringing activity after being notified of such activity, or after being informed of modifications that would have avoided the alleged

infringement, (iv) Client's failure to use corrections or enhancements made available by Karpel Solutions, (v) use of the Software not in accordance with the applicable Documentation or outside the scope of this Agreement, or (vi) the use of the Software in a manner for which it was neither designed nor contemplated.

Karpel Solutions' aggregate liability and obligation under this Section will be will not exceed the fees Client has paid to Karpel Solutions under this Agreement in the previous twelve (12) months. The foregoing remedies constitute Client's sole and exclusive remedies, and Karpel Solutions' entire liability and obligation, with respect to any suit or claim for infringement or misappropriation of third-party Intellectual Property or other right by the license and/or use of the Software.

NOTIFICATION. The indemnification obligations set forth above will apply only if and to the extent (i) the indemnified party gives prompt written notice to the indemnifying party of the assertion of any such claims, demands, action or proceeding, (ii) the indemnifying party has the right to select counsel and control the defense and all negotiations for settlement thereof and (iii) the indemnified party provides all reasonable information, assistance and cooperation required to defend such claim, demand, action or proceeding. The indemnifying party shall not settle or dispose of any such claim, demand, action or proceeding without written notification to the indemnified party provided the settlement or disposal materially adversely impacts the indemnified party.

## **11. TERMINATION**

TERMINATION. Client may terminate this Agreement thirty (30) business days after it is has provided Karpel Solutions with written notice that it believes that Karpel Solutions has failed to perform under, or materially breaches, this Agreement and of the Client's intent to terminate the Agreement. Thereafter, Karpel Solutions will have thirty (30) business days from the receipt of such notice to correct the stated problem. If at the end of such thirty (30) business day period, Karpel Solutions has not corrected the stated problem, then client may terminate this Agreement. Karpel Solutions may terminate this Agreement on thirty (30) days written notice. Either party may immediately terminate this Agreement in the event the other party (i) files for, or has filed against it, a bankruptcy petition, and such petition is not dismissed within sixty (60) days of the filing date; or (ii) ceases to conduct business in the normal course, (iii) makes an assignment for the benefit of its creditors, (iv) is liquidated or otherwise dissolved, (v) becomes insolvent or unable to pay its debts in the normal course, or (vi) has a receiver, trustee or custodian appointed for it.

RIGHTS AFTER EXPIRATION OR TERMINATION. Upon expiration or termination of this Agreement, Karpel Solutions will immediately terminate Client's access to and use of the Website, Documentation, and Services. Upon expiration or termination of this Agreement, each party shall immediately cease to make use of any Confidential Information received from the other party. Within thirty (30) days of written request following termination or expiration of this Agreement, Karpel Solutions shall coordinate with Client a mutual agreeable manner for the return of Client Content and Confidential Information obtained or shared during the course of the Agreement. Client understands that upon any termination or expiration of this Agreement, Client must return to Karpel Solutions (or destroy and certify such destruction in writing) any Documentation or other materials provided by Karpel Solutions, whether in written or electronic form, regarding the Website, Software or Services provided under this Agreement. Termination is not an exclusive remedy.

## 12. GENERAL PROVISIONS

NOTICES. Any notices provided under this Agreement will be in writing in the English language and will be deemed to have been properly given if delivered personally or if sent by (i) a recognized overnight courier, (ii) certified or registered mail, postage prepaid, return receipt requested, or (iii) facsimile, if confirmed by mail. Karpel Solutions' address for such notices is set forth below. Client's address for such notices will be the address on file with Karpel Solutions as provided by Client or as required by law. Such address or contact information may be revised from time to time by provision of notice as described in this Section. All notices sent by mail will be deemed received on the tenth (10th) business day after deposit in the mail. All notices sent by overnight courier will be deemed given on the next business day after deposit with the overnight courier. All notices sent by facsimile will be deemed given on the next business day after successful transmission.

Karpel Solutions  
c/o Jeff Karpel, CEO  
9717 Landmark Parkway, Suite 200  
St. Louis, MO 63127  
(314) 892-6300  
[karpel@karpel.com](mailto:karpel@karpel.com)

GOVERNING LAW AND DISPUTE RESOLUTION. This Agreement is to be construed and governed by the laws of the United States and the State of Oklahoma, without regard to conflict of law's provisions. Any dispute arising out of or in connection with this Agreement, which cannot be settled amicably between the parties must be brought exclusively in the appropriate court located in Oklahoma, and Client expressly waives any and all objections regarding jurisdiction and forum non conveniens. If either Karpel Solutions or Client employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees and costs as allowed by a court of competent jurisdiction.

IN WITNESS WHEREOF, the parties have caused this Agreement subject to the Master Terms and Conditions set forth below to be executed on the date first above written. This proposal is offered as an all-inclusive turnkey solution and, unless noted otherwise, pricing is based on acceptance of both services and licenses. Any changes to this solution may result in additional costs. This offer is entire agreement between the parties, and no oral agreements or other written documents, exclusive of the attached exhibits are part of the agreement. Any modifications of this agreement must be in writing, and prior to acceptance of this offer, Karpel Solutions reserves the right to make modifications to this offer. The signatories warrant they have the authority to bind their respective party.

**Board of County Commissioners of  
the County of Tulsa, OK, on behalf of  
the Tulsa County District Attorney**

**Karpel Solutions**

Kelly Dunkerley  
Signature

Jeffery L. Karpel  
Signature

Kelly Dunkerley  
Printed Name

Jeffery L. Karpel  
Printed Name

Chairman  
Title

CEO  
Title

4/17/2023  
Date

03/31/2023  
Date

Attest: Michelle Hill



APPROVED AS TO FORM:

Michelle Hill  
ASST. DIST. ATTORNEY

Initials \_\_\_\_\_



**Mailing Contact:**

Keli Blanchett

Mailing Address:

Tulsa County District Attorney

500 S. Denver Ave., Ste. 900

Tulsa, OK 74103

**Billing Contact:**

Robert Harmon

Phone Number: 918.596.8493

Email: rharmon@tulsacounty.org

Billing Address:

Tulsa County District Attorney

500 S. Denver Ave., Ste. 900

Tulsa, OK 74103

Tax Exempt? No  Yes X ***If yes, please attach copy of tax exempt certificate***

**Agency Project Manager Contact:**

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Project IT Contact:**

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Initials \_\_\_\_\_

## 13. MASTER TERMS AND CONDITIONS

### KARPEL COMPUTER SYSTEMS, INC. (dba "Karpel Solutions"), MASTER TERMS AND CONDITIONS

#### GENERAL TERMS

1. ACCEPTANCE TERM. The proposal attached to these Master Terms and Conditions is tendered for acceptance in its entirety within thirty (30) days from the date of the proposal, after which it is to be considered null and void.
2. MODIFICATION AND WAIVER. Any modifications of this Agreement must be in writing and signed by both parties. Neither party will be deemed to have waived any of its rights under the Agreement by any statement or representation other than (i) by an Authorized Representative and (ii) in an explicit written waiver. No waiver of a breach of this agreement will constitute a waiver of any prior or subsequent breach of this Agreement.
3. ASSIGNMENT. This Agreement will inure to the benefit of and be binding upon Karpel Solutions and Client and Karpel Solutions' respective successors and assigns. Notwithstanding the foregoing, Client may not assign or otherwise transfer this Agreement or Client's rights and obligations under this Agreement without the prior written consent of Karpel Solutions, and any purported assignment or other transfer without such consent will be void and of no force or effect. Karpel Solutions may assign and /or transfer this Agreement or Karpel Solutions' rights and obligations under this Agreement at any time.
4. FORCE MAJEURE. Neither party shall be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach thereof are delay or prevented by reason of any act of God, government, fire, natural disaster, accident, terrorism, network or telecommunication system failure, sabotage or any other cause beyond the control of such party ("Force Majeure"), provided that such party promptly gives the other party written notice of such Force Majeure.
5. INDEPENDENT CONTRACTORS. The parties will be deemed to have the status of independent contractors, and nothing in this Agreement will be deemed to place the parties in the relationship of employer-employee, principal-agent, or partners or joint ventures. Neither party has the authority to bind, commit or make any representations, claims or warranties on behalf of the other party without obtaining the other party's prior written approval.
6. SOFTWARE ANOMALIES. New commercial software releases or upgrades, or any hardware and/or software owned by or licensed to Client, used in connection with Karpel Solutions services may have anomalies, performance or integration issues unknown to Karpel Solutions which can impact the timely, successful implementation of information systems. Karpel Solutions will inform the client promptly if this occurs and will attempt to analyze, correct and/or work around the anomalies or performance issues on a "best effort" basis. Karpel Solutions is not responsible for any delay or inability to complete its services if such anomalies or performance issues occur. Client is responsible for payment for all of Karpel Solutions' services at the rate stated in the proposal whether or not a successful solution is achieved.

7. **SOFTWARE AUDIT.** Client agrees to allow Karpel Solutions the right to audit Client's use of PbK and licenses of PbK at any time. Client will cooperate with the audit, including providing access to any books, computers, records or other information that relate to the use of PbK. Such audit will not unreasonably interfere with Client's activities. In the event that an audit reveals unauthorized use, reproduction, distribution, or other exploitation of PbK, Client will reimburse Karpel Solutions for the reasonable cost of the audit, in addition to such other rights and remedies that Karpel Solutions may have. Karpel Solutions will not conduct an audit more than once per year.
8. **CLIENT ENVIRONMENT.** Client is responsible for the application, operation and management of its information technology environment, including but not limited to: (a) purchasing, licensing and maintaining hardware and software; (b) following appropriate operating procedures; (c) following appropriate protective measures to safeguard the software and data from unauthorized duplication, modification, destruction or disclosure; (d) following adequate backup contingency plans; and (e) employing qualified personnel to obtain the desired results. Karpel is not responsible for the loss of data in PbK or security breaches that result in the unauthorized dissemination of data contained in PbK that is the result of Client not following appropriate operating procedures, security and protective measures and/or following adequate backup contingency plans.
9. **MATERIALS.** Client will pay Karpel Solutions for materials purchased for the client's use. Materials may include computer hardware, software, hosting, facility leases, other services, telecommunications charges, freight, shipping, mailing, document reproduction and any other such costs incurred in performance of services for client. Upon mutual agreement, client will reimburse Karpel Solutions for all out of town travel expenses, such as automobile/airline travel, hotel, meals, and cab fare. Billing for services rendered on-site on an as needed basis will include portal-to-portal time.
10. **COPYRIGHT.** Subject to 51 O.S. 151, et seq, Karpel Solutions reserves the right to seek damages if Client is responsible for a subsequent violation of Karpel Solutions' copyright, and Client assumes responsibility for the acts and omissions of its agents acting in the course of their duties or otherwise with respect to the protection of Karpel Solutions' copyright.
10. **INTERNET AND NETWORK.** Karpel Solutions makes PbK available to Client through the Internet and/or Client's own network and systems, to the extent commercially reasonable, and subject to outages, communication and data flow failures, interruptions and delays inherent in the Internet and network communications on the Client's own network and systems. Client recognizes that problems with the Internet, including equipment, software and network failures, impairments or congestion, or the configuration of Client's own computer systems and network, may prevent, interrupt or delay Client's access to PbK. Karpel Solutions is not liable for any delays, interruptions, suspensions or unavailability of PbK attributable to problems with the Internet or the configuration of Client's computer systems or network.
11. **PASSWORD PROTECTION.** Access to PbK is password-protected. Karpel Solutions provides multiple authentication alternatives for access to PbK. **KARPEL SOLUTIONS STRONGLY ENCOURAGES THE USE OF STRONG PASSWORD AUTHENTICATION.** Karpel Solutions is not responsible for Client's use of the PbK. Only the number of users set forth above may access the Service and Website. Client must inform their users that they are subject to, and must comply with, all of the terms of this Agreement. Client is fully responsible for the activities of Client's employees and authorized agents who access to PbK. Karpel Solutions is not liable for any unauthorized access to PbK and data or

information contained therein, including without limitation access caused by failure to protect the login and password information of users.

12. SYSTEM REQUIREMENTS. Karpel Solutions provides PbK based upon the system requirements as specified by Karpel Solutions for Client. Karpel Solutions has no liability for any failure of PbK based upon Client's failure to comply with the system requirements of Karpel Solutions.
13. THIRD PARTY SOFTWARE. Karpel Solutions makes no express or implied warranties as to the quality of third party software or as to Karpel Solutions' ability to support such software on an on-going basis.
14. LIMITED ENGAGEMENT. Due to the limited nature of Karpel Solutions' engagement by client, Karpel Solutions makes no express or implied warranties as to the quality of, or the ability of software developed by Karpel Solutions to operate with, any hardware, network, software, systems and/or external data flows already in place at client's facilities or as may be added by the client.

#### **KARPEL SOLUTIONS EMPLOYEES**

Karpel Solutions has spent substantial sums of money and invested large amounts of time in recruiting, supervising and training Karpel Solutions employees. Client further agrees that it has a unique opportunity to evaluate Karpel Solutions employees' performance, and has the potential to hire Karpel Solutions employees, and further agrees that such hiring away would substantially disrupt the essence of Karpel Solutions' business and ability to provide its services for others, and as such Karpel Solutions cannot agree to such a hiring. The Client acknowledges that Karpel Solutions employees work for Karpel Solutions under a non-competition agreement; therefore, Client agrees it shall not solicit for employment or contract as an independent contractor, or otherwise hire or engage a Karpel Solutions employee during the term of this Agreement or for a period of 2 years after the completion/termination of the project, whichever is longer.

#### **CONFIDENTIALITY**

1. CONFIDENTIALITY. Neither party shall disclose or use any confidential or proprietary information of the other party. The foregoing obligations shall not apply to information which: (i) is or becomes known publicly through no fault of the receiving party; (ii) is learned by the receiving party from a third party entitled to disclose it; or (iii) is already known to the receiving party. Notwithstanding the foregoing, Karpel Solutions understands that Client is a political subdivision of the State of Oklahoma, and that as such, "Confidential Information" is limited by law, including 51 O.S. 24A.1, et seq.
2. PERSONALLY IDENTIFIABLE INFORMATION. The parties recognize that certain data Client or Karpel Solutions may use in conjunction with the PbK may be confidential personally identifiable information of third parties. Karpel Solutions shall use all best efforts to protect the confidentiality of personally identifiable information of third parties. Karpel Solutions shall have no liability for disclosure of personally identifiable information caused by Client's own negligence or misconduct.
3. DISCLOSURE REQUIRED BY LAW. In the event that any confidential or proprietary information is required to be disclosed pursuant to any law, code, regulation or court order from a court of competent jurisdiction, the receiving party shall give the disclosing party immediate written notice of such requirement and shall use its best efforts to seek or to cooperate with the disclosing party in seeking a protective order with respect to the confidential information requested.

4. SIMILAR PROGRAMS AND MATERIALS. Provided Karpel Solutions does not violate the provisions of this section regarding confidentiality, the Agreement shall not preclude Karpel Solutions from developing for itself, or for others, programs or materials which are similar to those produced as a result of services provided to Client.
5. INJUNCTIVE RELIEF. Any breach of the confidentiality provisions of this Section will cause irreparable harm to the other party. The parties agree that the non-breaching party may enforce the provisions of this Section by seeking an injunction, specific performance, criminal prosecution or other equitable relief without prejudice to any other rights and remedies the non-breaching party may have.

#### **MARKETING**

1. Client agrees that Karpel Solutions may identify Client as a customer of Karpel Solutions in Karpel Solutions' written promotional and marketing materials, as well as in any oral or visual presentations regarding the business of Karpel Solutions.
2. Provided Karpel Solutions does not violate the provisions of the foregoing section regarding confidentiality, Karpel Solutions shall have the right to demonstrate for other prospective clients any application developed by Karpel Solutions under this Agreement and shall have the right to include information about any such application in marketing materials and presentations.

#### **MISCELLANEOUS**

1. ELECTRONIC DOCUMENTS. To the extent possible, and under the terms required by Client, Client and Karpel Solutions may communicate by electronic means, including but not limited to facsimile documents. Both parties agree that: a signature or an identification code ("USERID") contained in an electronic document is legally sufficient to verify the sender's identity and the document's authenticity; an electronic document that contains a signature or USERID is a signed writing; and that an electronic document, or any computer printout of it, is an original when maintained in the normal course of business.
2. SEVERABILITY. If any portion of this Agreement is held to be void, invalid or otherwise unenforceable, in whole or in part, then the remaining portions of the Agreement shall remain in effect. This is the complete and exclusive statement of the Agreement between the parties which supersedes all proposals, oral or written, relating to the subject matter of this Agreement.