

SOFTWARE LICENSE AGREEMENT

This **SOFTWARE LICENSE AGREEMENT** (this “**Agreement**”) is made and entered into this ____ day of _____, 2025, by and between _____, a _____, with an address of _____ (“**Licensor**”), and Greater New Orleans Expressway Commission (“**Licensee**”).

BACKGROUND

A. Licensor provides a suite of proprietary software and other products, which include various applications, features and functions for, among other things the use in an Upgraded Toll System including lane equipment, host computer, and customer service and violations processing center to manage accounts, process violations and reconcile transactions, as more fully described in the Contract Documents.

B. Licensee desires to license and use the foregoing software on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Definitions.

a) “*Applicable Laws*” means all current and future Federal, State and local laws and regulations applicable to Licensor and/or the Software and its operation, as such laws and regulations may be amended from time to time.

b) “*Confidential Information*” or “*Proprietary Information*” shall mean all of the information, data and software furnished by one party to the other, or such other information that would reasonably be considered to be confidential or proprietary, whether oral or in writing, graphic or machine readable form, which may include, but not be limited to, object code, source code, and software tool specifications, functions and features, integration and shared data block specifications. Proprietary Information or Confidential Information shall not include information which: (i) has been or is publicly disclosed by the party disclosing the information either prior to or subsequent to the receipt of such information by the receiving party; (ii) becomes generally known in the trade through no fault of the receiving party; (iii) has been lawfully disclosed to the receiving party by a third person to this Agreement who has lawfully acquired the Confidential or Proprietary Information; (iv) was independently developed by the receiving party.

c) “*Contract Documents*” shall have the meaning as prescribed in the Contract to which this Agreement is attached and included therewith.

d) “*Disabling Code*” means any virus, Trojan horse, worm, back door, time bomb, drop-dead device or other code, device or feature that (i) adversely affects the operation, security or integrity of a computing, telecommunications or other digital operating or processing system or environment (including without limitation, other programs, data, databases, computer libraries and computer and communications equipment) by altering, destroying, disrupting, delaying or inhibiting such operation, security or integrity or otherwise; (ii) without functional purpose, replicates itself without manual intervention; (iii) purports to perform a useful function but that

actually performs a destructive or harmful function, or (iv) performs no useful function and utilizes substantial computer, telecommunication or memory resources.

e) "*Documentation*" means all present and future user manuals, guides, training manuals, including all specifications, education materials, help files, "read me" files, and, except as Licensor and Licensee may expressly agree, shall include all web pages, promotional, marketing and similar materials produced by Licensor describing features, functions, qualities or performance of the Software, Licensor's response(s) to the RFP, and all other supporting material, and all other materials provided by Licensor in connection with the Contract Documents.

f) "*End User*" means any person authorized by Licensee to use the Software.

g) "*Escrow Agreement*" means that certain Software Escrow Agreement to be entered into by the parties as described herein, a copy of which is attached hereto as Exhibit "A."

h) "*Losses*" means, collectively, all claims, demands, suits, actions, proceedings, judgments, damages, settlements, costs, expenses, losses and loss contingencies, including all attorneys' fees and costs of suit.

i) "*RFP*" means Licensee's Request for Proposal for Toll System Upgrades, R.F.P. No. 2025-001, dated_____, and any amendments, supplements or addenda thereto.

j) "*Software*" shall mean: (i) the software including all features and functions described in Licensor's sales literature and marketing presentations, all future features and functions added thereto, and all updates, enhancements, modifications or upgrades thereto, and all error corrections, patches and bug fixes provided by Licensor as described more fully in the Contract Documents and which is made part of the System (as that term is defined in the Contract Documents); (ii) all related or ancillary data files, modules, libraries, tutorial and demonstration programs, and other components of the Software; (iii) all Documentation; and (iv) all copies of the foregoing.

k) "*Third-Party Products*" means applications, applets, macros, routines, programs, code and other items of Software to which the rights are owned by parties other than Licensor or Licensee, regardless whether they are (i) embedded in the Software, (ii) provided as separate programs or applications on a stand-alone basis by Licensor along with Licensor's own products under sublicenses through Licensor, or (iii) provided under direct end user license agreements issued by Licensor as a reseller on the owner's behalf to Licensee. Third-Party Products also includes and databases, libraries and other information owned by parties other than Licensor or Licensee the rights to which are needed in order for the Software to perform the functions intended by Licensee.

2. License and Term. Licensor hereby grants to Licensee, and Licensee accepts, a perpetual, non-exclusive, transferable, assignable license to install, store, operate, and use the Software (the "License"). This Agreement shall continue in perpetuity unless otherwise terminated in accordance with the terms and conditions hereof.

3. Scope of Use.

a) The License allows an unlimited number of End Users to use the Software, who must be employees, agents, or contractors of Licensee, or otherwise authorized by Licensee to use the Software, at any location.

b) Licensee may have the Software hosted and operated on Licensee's behalf by third parties contracted by Licensee, at Licensee's expense, or may elect to receive assistance from a third party related to the use, implementation or customization of the Software.

c) Nothing in the Agreement shall imply any limitation on Licensee's right to relocate, close or alter existing facilities, or to establish or acquire new facilities.

4. Relationship to Contract Documents. To the extent that any terms, conditions, obligations or requirements of this Agreement contradict any terms, conditions, obligations or requirements of the Contract Documents, the terms, conditions, obligations and requirements of the Contract Documents shall prevail.

5. License and Other Fees; Payment Terms. As full and complete consideration for the License, Licensee shall pay the fees set forth in the Contract Documents.

6. Professional Services, Support, Maintenance, and Training. Licensor will provide those professional services, support, maintenance and training in accordance with the Contract Documents for a period of time as described therein (the "Support Term"). Notwithstanding anything herein to the contrary, upon completion of the Support Term, Licensee shall have a right to modify and customize the Software, or to have the Software modified and customized by third-parties. Licensee shall have any such third parties agree to confidentiality restrictions at least as restrictive as those contained herein prior to allowing any third party to access the Software.

7. Confidential and Proprietary Information.

a) Each party shall not, except as expressly permitted in this Agreement or with the prior written consent of the other party, at any time use, copy, modify, disclose or transfer any Confidential or Proprietary Information to any person or entity except to further the performance of this Agreement. Failure to specifically designate any Confidential or Proprietary Information as being confidential or proprietary shall not affect whether such information is considered to be Confidential or Proprietary Information. All right, title and interest in any Confidential Information shall be and shall remain the exclusive property of the disclosing party. If the receiving party or any of its representatives become legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, receiving party shall use its best efforts to provide disclosing party with prompt prior written notice of such requirement so that disclosing party may seek a protective order or other appropriate remedy.

b) Each party agrees that the disclosing party shall suffer irreparable harm in the event that of a breach of any obligations under this Section and that monetary damages shall be inadequate to compensate the disclosing party for such breach. Accordingly, each party agrees that, in the event of a breach or threatened breach of any of the provisions of this Agreement, in addition to and not in limitation of any other rights, remedies or damages available at law or in equity, the disclosing party shall be entitled to a temporary restraining order, preliminary injunction and permanent injunction in order to prevent or restrain any such breach.

8. Licensor Warranties. Licensor represents, warrants, and agrees, that during the Support Term, as follows:

a) Licensor owns all worldwide right, title and interest in and to the Software and any data structures and architectures related thereto, including without limitation all modifications, enhancements, upgrades and new versions created or to be created by or on behalf of Licensor, all patent rights, copyrights, and trade secret rights embodying any of the foregoing, and all know-how, concepts, inventions and ideas related to the foregoing, or if Licensor does not own such rights, Licensor enjoys valid, binding and enforceable written licenses under the foregoing sufficient in scope and term for Licensor to grant the License and perform all duties under this Agreement. Licensor has the right to grant the License to access and use the same as set forth in this Agreement without violating any rights of any third parties, and there is currently no actual or threatened suit by any such third party based on an alleged violation of such right by Licensor;

b) Licensor is fully aware of Licensee's requirements and intended uses for the Software, including any set forth in the Contract Documents and the Documentation, and the Software shall satisfy such requirements in all material respects, and is fit for such intended uses;

c) Licensor will make such modifications to the Software from time to time as are necessary to keep the Software in full compliance with Applicable Laws, at Licensor's sole expense;

d) The Documentation will completely and accurately reflect the features, functions and operation of Software in all material respects, and will identify and reflect any particular features of any of same which may affect the normal use and operation of the Software. Licensor will not eliminate or impair any material feature of function of the Software described in the Documentation without Licensee's prior written consent; and

e) The Software will not when delivered contain any Disabling Code. Licensor will not at any time disable or interfere with Licensee's use of the Software for any purpose (other than the protection of Licensee's data, systems or operations) without first obtaining Licensee's express consent or an appropriate court order to do so. Licensor shall take commercially reasonable steps to protect the introduction or coding of any Disabling Code into Licensee's information systems through the Software or otherwise.

9. Licensor Enhancements. Licensor shall provide to Licensee, without additional charge, copies of the Software and Documentation revised to reflect any enhancements to the Software made by Licensor during the Support Term. Such enhancements will be deemed to include all modifications to the Software which increase the speed, efficiency or ease of operation of the Software, or add additional capabilities to or *otherwise improve the functions of the Software*.

10. Third-Party Products.

a) Licensor hereby represents, warrants and agrees as follows with respect to all Third-Party Products and other products provided by Licensor to Licensee, that during the Support Term:

(i) Licensor is an authorized reseller or sublicensor of such products, and has all rights, authorizations, consents and licenses necessary to provide the Third-Party Products to Licensee hereunder. In the case of Third-Party Products for which Licensee is to be given a direct license from the owner (to which Licensor is not a party), Licensor is an agent and authorized

reseller for such owner with the authority to bind the owner to all the terms and conditions set forth herein relative to such products; and

(ii) Licensor shall maintain and enforce all licenses and other rights needed to assure Licensee of the continued right to use all Third-Party Products sublicensed by Licensor to Licensee and all software created by third parties embedded in the Software.

b) If Licensor at any time does not have the right to sublicense or otherwise provide a Third-Party Product to Licensee (and such loss is not the result of Licensee's breach of obligations in connection therewith) Licensor will procure for Licensee the right to use the same product under a direct contractual arrangement between Licensee and the owner thereof, or, if that cannot be arranged, Licensor shall provide another comparable product with equal features, functions and performance, either via a sublicense through Licensor or by procuring a direct license between Licensee and the owner licensor of the substitute product, and with no charge to Licensee.

c) Except as Licensee may expressly agree, Licensor shall (a) support and maintain all Third-Party Products to the same extent and in the same manner as the Software, and (b) assign and pass through to Licensee all warranties and all support and maintenance provided to Licensor by the supplier of the applicable Third-Party Products, except to the extent the licensor thereof or another third party reasonably satisfactory to Licensee is actually providing warranty service or support and maintenance to Licensee with respect to such products.

d) Except as expressly disclosed by Licensor in writing, no Software or any portion thereof includes any Linux or other open source software or code provided under a general public license. The indemnities and warranties provided by Licensor in this Agreement shall expressly extend to all Linux and other open source or general public license software provided or procured by Licensor for Licensee hereunder, whether embedded, separately provided and licensed or otherwise.

11. Source Code Escrow. Upon delivery of the Software, the parties hereto shall enter into the Escrow Agreement, and shall agree to be bound to the terms and conditions thereof. This Section 11 is a specific and material aspect of this Agreement, and the parties would not enter into this Agreement if this section were not a part hereof.

12. Indemnities; Remedies; Insurance.

a) Licensor shall indemnify, defend and hold harmless Licensee from and against any and all Losses and otherwise in accordance with the terms and conditions of the Contract Documents.

b) If Licensee is enjoined from using the Software, or if Licensee reasonably believes that the Software may become the subject of a claim of intellectual property infringement, Licensee shall have those rights and remedies as described more fully in the Contract Documents, and Licensor hereby agrees to fulfill its obligations thereunder, including, but not limited to, securing the rights or replacements to such infringing Software so as to enable Licensee to continue to use the Software as described herein, but so that such use shall not infringe upon the intellectual property rights of any third party.

c) Licensor shall carry those types and levels of insurance as described more fully in the Contract. Documents, specifically the Insurance Requirements Exhibit.

13. Default and Termination. The defaults and termination rights applicable to this Agreement, and certain of the remedies associated therewith, shall be as provided in the Contract Documents.

14. Miscellaneous.

a) All notices and requests in connection with this Agreement shall be provided in accordance with, and upon those terms and conditions as described in, the applicable provisions of the Contract Documents.

b) Licensor may not refer to Licensee in any advertising or publicity without obtaining Licensee's prior written consent.

c) The relationship of Licensor and Licensee established by this Agreement is that of independent contractors. Nothing in this Agreement shall be construed to create any partnership, joint venture, agency or other similar relationship between Licensor and Licensee. Neither party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

d) No failure or delay of either party to exercise any rights or remedies under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any rights or remedies preclude any further or other exercise of the same or any other rights or remedies.

e) If any provision of this Agreement is held invalid or unenforceable in any circumstance by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provision in any other circumstances and in any other jurisdiction shall not be affected thereby.

f) Nothing in this Agreement shall prevent either party from seeking equitable relief by way of one or more preliminary or permanent injunctions (i) restraining any act which would constitute a breach hereof, or (ii) compelling the performance of any obligation which, if not performed, would constitute a breach hereof, or (iii) if a party or any of its representatives breach or threaten to breach any of the provisions of this Agreement.

g) This Agreement shall be governed by and construed and enforced in accordance with State of Louisiana, excluding its principles of conflicts of law. It is the intent of both parties hereto that any controversy, claim or dispute between the parties, directly or indirectly, concerning this Agreement or the breach hereof, or the subject matter hereof, shall be resolved amicably if possible and without resort to civil suit. In the event such a controversy, claim or dispute does arise whether during the term hereof, or any time after the expiration of its term, the parties shall first attempt to resolve such controversy, claim or dispute by good faith discussions. In the event good faith discussions fail to resolve the controversy, claim or dispute, the matter shall be submitted to non-binding mediation with a mutually agreeable mediator in the Parish of Jefferson.

In the event, and only in the event, that good faith discussions and non-binding mediation has not resulted in the resolution of the controversy, claim or dispute, it may be litigated in the Twenty Fourth Judicial District Court, Parish of Jefferson, State of Louisiana.

h) All exhibits, schedules and appendices attached to this Agreement are incorporated into and form a part of this Agreement.

i) Headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning and interpretation of this Agreement.

j) This Agreement may be executed in one or more counterparts.

k) This Agreement, along with the Contract Documents, constitutes the entire agreement of the parties, superseding any and all previous agreements and understandings whether oral or written. No modification or waiver of the provisions of this Agreement shall be valid or binding on either party unless in writing and signed by both parties.

l) The provisions of this Agreement that, by their nature, should survive termination hereof, including, but not limited to Sections 2, 4, 7, and 12, shall survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, the undersigned duly authorized representatives of the parties hereto have executed this Agreement under seal as of the date first above written.

[Licensor]

[Licensee]

Greater New Orleans
Expressway Commission

By _____

Name:
Title:
Date:
Address:

400

Phone:
Facsimile:
E-mail:

By _____

Carlton Dufrechou
General Manager

Date: _____
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