

Master Software License Agreement

This Master Software License Agreement (this “Agreement”) is made effective on July 1, 2024 (“the Effective Date”) and entered into by and between PublicSoft, Inc., a Texas corporation, with offices at 104 S Main St, Aubrey, TX 76227 and the Polk County Tax Collector (the “TCPC”) with offices at 430 East Main St, Bartow, FL 33830. This Agreement governs the License and use of the PublicSoft software products and the provisions of the Software License, Software Maintenance, Professional Services, and Hosting Services related thereto. By executing this Agreement, or an order for additional services that reference this Agreement, the TCPC accepts and agrees to all of the terms and conditions hereof.

WHEREAS the TCPC wishes to acquire a license for Tax Management and Cashiering Software (“Phenix Tax” or the “System”) and PublicSoft wishes to provide such software system and related services.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth herein. PublicSoft and TCPC agree that the PublicSoft shall provide the System and the TCPC shall pay prices and fees, as set forth in this Agreement.

ARTICLE 1. DEFINITIONS

The foregoing recital is incorporated herein by reference.

- 1.1 **Standard business hours** or **business day** means 8 a.m. to 5 p.m. Eastern Time weekdays that are not PublicSoft’s holidays or on which PublicSoft has not otherwise declared its offices closed. Holidays are documented in Exhibit 5.
- 1.2 **Data breach** means any action or omission that compromises either the security, confidentiality, or integrity of TCPC information or results in the unauthorized release, disclosure, or acquisition of TCPC data.
- 1.3 **Documentation** means all manuals, user documentation, specifications, and other related materials pertaining to the Software that PublicSoft customarily furnishes to the TCPC of the Software covered by this Agreement.
- 1.4 **End of Life** means the stage in a hardware product’s life cycle when the manufacturer stops producing, selling, or supporting a product through updates, patches, or maintenance and there is no other option to extend the life or reuse the device to ensure data continuity or data security.
- 1.5 **Equipment** means the hardware and other property listed in Exhibit 1 being provided to the TCPC pursuant to this Agreement, including any embedded software and firmware incorporated therein or customarily provided to purchasers of such hardware or other property.
- 1.6 **Hosted Service** means any subscription-based, hosted (cloud or on-site), or on-demand solution provided to the TCPC by PublicSoft.

- 1.7 **Software License Fee** means the fee associated with granting the TCPC use of the Application Software as outlined in Exhibit 1.
- 1.8 **Notice to Proceed** means a written authorization to proceed with the project, phase, or task, issued by the Contract Administrator.
- 1.9 **Products** means all Software, Equipment, and Services provided or required to be provided by PublicSoft, as further specified in Exhibit 1.
- 1.10 **Reporting** means the method of measuring TCPC data through collection, processing and distribution of the various taxes and transactions. This includes reporting used for financial analysis, statement of compliance, trend analysis, and daily reporting.
- 1.11 **Services** means all required installation, integration, programming, configuration, customization, operation, and enhancements of the Product, together with necessary and appropriate consulting, training, and project management services, to meet the TCPC's ongoing needs in connection with the System, as further specified in Exhibit 1, as well as any optional services procured under this Agreement.
- 1.12 **Software** means all proprietary or Third-Party software listed in Exhibit 1 or other intellectual property rights provided or licensed to the TCPC or third-party users pursuant to this Agreement, including the computer programs (in machine readable object code form) and any subsequent updates, upgrades, releases, or enhancements thereto developed by PublicSoft during the term of this Agreement.
- 1.13 **Subcontractor** means an entity or individual providing services to the TCPC through PublicSoft for all or any portion of the work under this Agreement. The term "Sub" shall include all subconsultants.
- 1.14 **Support and Maintenance** means the support and maintenance required for the TCPC to achieve and maintain optimal performance of the System, including as further described in Exhibit 3.
- 1.15 **System** means the turnkey system provided by PublicSoft pursuant to this Agreement, as part of its Services hereunder, including all Products listed on Exhibit 1 and any other Products that PublicSoft will make available to the TCPC and Third-Party users as part of its Services under this Agreement.

Article 2 – EXHIBITS

The following exhibits are hereby incorporated by reference

- 2.1 **Exhibit 1** Pricing Summary
- 2.2 **Exhibit 2** Payment Schedule
- 2.3 **Exhibit 3** Support Call Procedures
- 2.4 **Exhibit 4** Business Travel Policy
- 2.5 **Exhibit 5** Holiday Schedule
- 2.6 **Exhibit 6** Fee Schedule
- 2.7 **Exhibit 7** Statement of Work

Article 3 – SOFTWARE LICENSE AGREEMENT

3.1 License Grant.

- 3.1.1. Upon the Effective Date, PublicSoft hereby grants to the TCPC a non- exclusive, non-transferable, revocable license to use the System as set forth in Exhibit 1 (“Pricing Summary”) attached hereto and related interfaces including Phenix User Documentation for TCPC’s internal business purposes only and otherwise subject to the terms and conditions of this Agreement. This license is revocable by PublicSoft if the TCPC fails to comply with the terms and conditions of this Agreement, including without limitation, the TCPC’s failure to timely pay the Software License as defined in the Payment Summary. Upon the TCPC’s payment in full for the System, this license shall become irrevocable, subject to the restrictions on use and other terms set forth in this Agreement.
- 3.1.2. PublicSoft shall retain ownership of, including all intellectual property rights in and to, the System and User Documentation.
- 3.1.3. The TCPC acknowledges and agrees that the System and User Documentation are proprietary to PublicSoft and have been developed as trade secrets at PublicSoft’s expense. The TCPC shall use best efforts to keep the System and User Documents confidential within the limits of the law and to prevent any misuse, unauthorized use or unauthorized disclosure of the System or user documents by any party.
- 3.1.4. The TCPC may be provided copies of the System for archive purposes only. The TCPC will repeat any and all proprietary notices on any copy of the System. The TCPC may make copies of the System’s User Documents for internal use only.
- 3.1.5. The System may not be modified by anyone other than the PublicSoft. If the TCPC modifies the System without PublicSoft prior written consent, PublicSoft’s obligations to provide maintenance services on, and the warranty for, Phenix will be void. The TCPC shall not perform reverse engineering, disassembly, translation, or other reverse engineering on the System. The TCPC also shall not append, delete, modify, or otherwise alter the data in the databases used by the System, other than by the standard use of the System in accordance with the terms of this Agreement.

- 3.2 **License Fees.** The TCPC agrees to pay PublicSoft and PublicSoft agrees to accept from the TCPC as payment in full for the license granted herein, the Software License Fee set forth in the Exhibit 1 Pricing Summary attached hereto.
- 3.3 **System Software.** PublicSoft agrees the system and any integrated software is designed to provide a Property Tax Management System for the billing, collection, administration and reporting of certain taxes and related operations as delineated in Exhibit 1. The license fees as listed in Exhibit 1 “Pricing Summary” include fees for the tax suite, online, data conversions, annual tax roll conversion, consulting, and hosting services. PublicSoft and the TCPC agree to negotiate in good faith any fees and payment terms for excluded services.
- 3.3.1. **Hardware.** The TCPC agrees to accept from PublicSoft hardware required to interface with the system and understand this may be a third-party product. PublicSoft agrees to provide specifications for any internet or communication network requirements or hardware that shall be provided by the TCPC. From time to time, PublicSoft provided hardware may require firmware updates or replacement due to end of life. The costs related to such updates will be included in the yearly maintenance fee. Fees shall reflect and account for any hardware needs.
- 3.3.2. **Additional System Features.** The TCPC and PublicSoft agree to work together on identifying, designing, and developing any software features not currently within the System. Additional services requested for go live will be captured in a Statement of Work within one hundred and twenty (120) days of execution of this contract. Both parties must approve this Statement of Work and it will be incorporated herein as Exhibit 7.
- 3.3.3. **Server Storage Capacity.** Adequate storage will be provided to host the database and all supporting documents required to support application functionality for the System.
- 3.4 **Implementation and Delivery.** PublicSoft will implement the System in accordance with the Exhibit 1 Pricing Summary and Exhibit 7 Statement of Work. Exhibit 7 is incorporated by reference. Project requirements, implementation, and delivery of the System components is anticipated to occur on or about the dates indicated in the Statement of Work.
- 3.5 **Limited Warranty.**
- 3.5.1. **Defect.** For the purposes of this Agreement, a “Defect” is defined as a failure of the System to substantially conform to the then-current Phenix User Documentation and the functional descriptions of the System in PublicSoft’s written proposal to the TCPC and as further defined in the Statement of Work. In the event of conflict between the aforementioned documents, the then-current Phenix User Documentation will control. User documentation must be updated as of the date of the Statement of Work incorporated as Exhibit 7 or later. For as long as a current Agreement is in place, PublicSoft warrants that the System will not contain Defects.
- 3.5.2. **Cure.** If the System does not perform as warranted, PublicSoft will use reasonable efforts, consistent with industry standards, to cure the defect in accordance with PublicSoft’s then current support call and issue tracking procedures or provide a replacement product.

Should PublicSoft be unable to cure the defect or provide a replacement product, the TCPC shall be entitled to a refund of the Software Product Annual Support Fee billed to TCPC and paid during the twelve (12) month period preceding the event that caused such damages or to terminate this Agreement as provided in paragraph 8.16.

3.6 Confidentiality.

3.6.1. **PublicSoft Data Confidentiality.** The TCPC acknowledges that the System licensed under this Agreement is owned by PublicSoft and constitutes a trade secret. The TCPC understands this includes System materials and other documentation relating to the System and that may be in hard copy, printed, or electronic format. Confidential information does not include information that becomes generally available to the public other than as a result of a disclosure by the TCPC or is required to be disclosed pursuant to any legal process or request from any governmental authority or body having jurisdiction over the TCPC, provided that, prior to any such disclosure, the TCPC provide adequate notice to PublicSoft to enable PublicSoft to seek an appropriate protective order or injunctive relief.

3.6.2. **TCPC Data Confidentiality.** The TCPC data not in the public domain and not previously known, including written and oral data, obtained, developed, or supplied by the TCPC to facilitate implementation, or during the course of this Agreement, shall be kept confidential by PublicSoft and shall not be used or disclosed to any other party, directly or indirectly, without the TCPC's prior written consent, unless required by an order of a court of competent jurisdiction or like authority. PublicSoft will maintain such TCPC information for not less than seven (7) years.

3.7 Intellectual Property Infringement Indemnification.

3.7.1. **PublicSoft obligation.** PublicSoft will defend and indemnify the TCPC against any claim by an unaffiliated third-party of this Agreement that the System, if used within the scope of this Agreement, infringes that party's registered patent, copyright or other intellectual property right issued and existing as of the Effective Date or as of the distribution date of a release to the System, and will pay the amount of any resulting adverse final judgment issued by a court of competent jurisdiction or of any settlement that the PublicSoft pre-approves in writing.

3.7.2. **TCPC obligation.** PublicSoft obligations under this Section are contingent on the TCPC performing all the following in connection with any claim as described herein:

3.7.2.1. The TCPC must promptly notify PublicSoft in writing of any such claim.

3.7.2.2. The TCPC must provide the PublicSoft reasonable cooperation, information, and assistance in connection with claim.

3.7.2.3. The TCPC must consent to PublicSoft's sole control and authority with respect to the defense, settlement, or compromise of the claim.

3.7.3. **Exception to PublicSoft obligation.** PublicSoft will have no liability hereunder if the claim of infringement or an adverse final judgement rendered by a court of competent jurisdiction results from:

3.7.3.1. The TCPC's use of a previous version of the System and the claim would have been avoided had the TCPC used the current version of the System.

3.7.3.2. The TCPC's combining the System with devices or products not provided or certified by PublicSoft.

3.7.3.3. The TCPC's use of the System in applications, business environments or processes for which the System was not designed or contemplated, and where use of the System outside such application, environment or business process would not have given rise to the claim.

3.7.3.4. The TCPC's corrections, modifications, alterations, or enhancements that the TCPC made to the System.

3.7.3.5. The TCPC's use of the System by any person or entity other than TCPC full-time, part-time, or contract employees.

3.7.3.6. The TCPC's willful infringement, including the TCPC continued use of the infringing System after the TCPC becomes aware that such infringing System is or is likely to become the subject of a claim hereunder.

3.8 **Remedy**

3.8.1. In the event the System is, by a court of competent jurisdiction, finally determined to be infringing and its use by the TCPC is enjoined, PublicSoft will at its election:

3.8.1.1.1. Procure for the TCPC the right to continue to use the infringing PublicSoft's Software Product or;

3.8.1.1.2. Modify or replace the infringing System so it becomes non-infringing or;

3.8.1.1.3. Terminate the TCPC license for the System and refund to the TCPC the Annual Support/Maintenance Fee paid for the System, paid to PublicSoft during the twelve (12) month period preceding the event that caused such damages.

3.8.2. The foregoing states PublicSoft's entire liability and the TCPC sole and exclusive remedy with respect to the subject matter hereof.

3.9 **Limitation of Liability.** In no event shall PublicSoft be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the use of the System, Professional Services, Hosting Services or Third-

Party Products. PublicSoft's liability for damages and expenses arising from the System, Professional Services or Hosting Services, whether based on a theory of contract or tort, including negligence and strict liability shall be limited to the annual support/maintenance fee set forth in Exhibit 1 (Pricing Summary) for the preceding 12-month period. Such fees reflect and are set in reliance upon this limitation of liability.

3.10 Termination of Agreement.

3.10.1. **For Cause.** Each party shall have the right to terminate this Agreement by written notice to the other if: (1) a party has materially breached any obligation herein and such breach remains uncured for a period of sixty (60) days after written notice of such breach is sent to the other party; or (2) any representation or warranty by the other party shall prove to have been inaccurate or fraudulent in any material respect as of the date the same was made; or (3) the other party is declared bankrupt or insolvent, is placed under the protection of the law for relief of debtors, or otherwise enters into any judicial or administrative procedure which is designed to have, has, or may have the effect of relieving debts of debtors.

3.10.1.1. A material breach by PublicSoft includes, but is not limited, to failure to cure defects or provide a replacement product as defined in section 3.5 where cure is requested by the Tax Collector, failure to deliver functionality as agreed upon in the Phenix User Documentation, or failure to adhere to current support call and issue tracking procedures.

3.10.1.2. A material breach by the Tax Collector includes failure to make full payment plus applicable late charges, within sixty (60) days from the payment deadline, and the Tax Collector's failure to deliver any information, materials, and other requirements in accordance with the Statement of Work's integrated project timeline.

3.10.1.3. If PublicSoft terminates this agreement due to Tax Collector default, all amounts payable or accrued to PublicSoft under this agreement shall immediately become due and payable. All revocable licenses granted to Tax Collector under this agreement shall terminate.

3.10.1.4. Upon termination of this Agreement, each party shall return to the other any and all personal property of the other held by such party, including Confidential Information.

3.10.2. **Without Cause.** The Tax Collector may terminate this Agreement, in whole, at any time without cause by giving ninety (90) days written notice of termination without cause, and in such event PublicSoft shall take such action as may be necessary for the protection and preservation of Tax Collector materials and property. The Tax Collector may not terminate part of the services under this Agreement unless PublicSoft and Tax Collector mutually agree to such partial termination and relevant adjustment of the Annual Support/Maintenance Fee.

ARTICLE 4 – PROFESSIONAL SERVICES AGREEMENT

- 4.1. **Services.** PublicSoft shall provide the service set forth in the Exhibit 1 (Pricing Summary) at the TCPC's election including Consulting, Training, Conversion, and other Miscellaneous Services.
- 4.2. **Professional Service Fees.**
 - 4.2.1. Notwithstanding specific process to the contrary set forth in the Exhibit 1 (Pricing Summary), all Consulting and Training Services will be invoiced in half-day and full-day increments.
 - 4.2.2. Expenses will be billed at the then current PublicSoft Business Travel Policy, based on PublicSoft's usual and customary practices. Copies of receipts will be provided on an exception basis at no charge. Should all receipts for non per diem expenses be requested an administrative fee will be incurred. Receipts for mileage and miscellaneous items less than ten dollars (\$10.00) are not available.
- 4.3. **Additional Services.** Services requested by the TCPC in excess of those set forth in Exhibit 1 (Pricing Summary) may be billable services, at PublicSoft's sole discretion, to be provided at the PublicSoft then-current rates. PublicSoft shall not perform additional services without the TCPC prior written approval.
- 4.4. **Limitation of Liability.** In no event shall PublicSoft be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the use of the System, Services, or Third-Party Products. PublicSoft's liability for damages and expenses arising from the System or Services, whether based on a theory of contract or tort, including negligence and strict liability shall be limited to the fees set forth in the Pricing Summary related to the defective product or service. Such Fees reflect and are set in reliance upon this limitation of liability.
- 4.5. **Cancellation of Service.** In the event the TCPC cancels scheduled services less than fifteen (15) business days in advance, the TCPC is liable to PublicSoft for:
 - 4.5.1. All non-refundable expenses incurred by PublicSoft on the TCPC behalf; and
 - 4.5.2. Daily fees associated with the canceled services if PublicSoft is unable to re-assign its personnel. Training may be rescheduled upon written request of the TCPC and prepayment of Training costs at the rates and upon the terms and conditions provided for in this Agreement.
- 4.6. **Services Warranty.** PublicSoft warrants that it shall perform services in a professional, workmanlike manner, consistent with industry standards. In the event PublicSoft performs services that do not conform to the warrant, PublicSoft will re-perform these services at no additional costs.

Article 5 – SOFTWARE MAINTENANCE AGREEMENT

- 5.1 **Scope of Agreement.** The TCPC agrees to purchase, and PublicSoft agrees to provide maintenance services in for the System in accordance with the following terms and conditions.
- 5.2 **Term of Agreement.** This Maintenance Agreement is effective on the installation date of the System. It will renew automatically at the then-current PublicSoft maintenance rates for an additional one (1) year term on July 1 of each year unless terminated in writing by either party on or before May 31 of the expiring year.
- 5.3 **Maintenance Fee Payment.**
- 5.3.1. Maintenance fees will be invoiced by PublicSoft annually in advance. PublicSoft will provide the TCPC with written notice of any Maintenance Fee increase not less than forty-five (45) days prior to the renewal date.
- 5.3.2. Any maintenance services performed by PublicSoft for the TCPC not covered by this Maintenance Agreement, as set forth in the Pricing Summary, including time, materials and expenses will be billed to the TCPC at PublicSoft’s then-current rates.
- 5.3.3. PublicSoft reserves the right to terminate the Maintenance Agreement if payment for uncontested maintenance fees is not made within sixty (60) days of the first due date. PublicSoft will reinstate the Maintenance Agreement if all past due fees are paid including all such fees for periods when this service was suspended.
- 5.4 **Maintenance Service Terms and Conditions.**
- 5.4.1. For as long as a current Maintenance Agreement is in force PublicSoft shall: In a professional, good, and workmanlike manner, perform its obligations in accordance with PublicSoft’s then current support call process set forth in the document attached hereto as Exhibit 3 (Maintenance Support Call Process) in order to ready the System to the applicable warranty under this Agreement. If the TCPC modifies the System without PublicSoft’s prior written consent, PublicSoft’s obligations to provide maintenance services on and warrant the System will be void.
- 5.4.2. Provide telephone or email support on the System. PublicSoft’s personnel shall accept telephone calls or emails as outlined in Exhibit 3.
- 5.4.3. Maintain a system to track receipt, progress, and resolution of support requests. Said system shall be capable of providing reporting of current outstanding issues and statuses.
- 5.4.4. Shall continuously maintain a master set of the System on appropriate media.
- 5.4.5. Maintain personnel that are appropriately trained to be familiar with the System in order to provide maintenance services.
- 5.4.6. Provide the TCPC with all releases PublicSoft makes to the System, including updates to resolve PublicSoft system defects or errors, without additional charge; modify the system

as required to enable TCPC to comply with required changes in Federal, State, or County regulations or legislation without additional charge. Third-Party Products and Installation, Consulting and Training services related to the new releases will be provided to the TCPC at PublicSoft's then-current rates. The TCPC acknowledges and agrees that a new release of the System is for implementation in the System as it exists without TCPC customization or modification.

5.4.7. Support prior releases of the System in accordance with PublicSoft's then-current release life cycle policy.

5.5 **Limitations and Exclusions.** Maintenance Fees do not include installation or implementation of the System, onsite support (unless PublicSoft cannot remotely correct a defect in the System), application design, other consulting services, support of an operating system or hardware, and support outside PublicSoft's normal business hours, except resolution of critical system failures and issues rendering the system unuseable.

5.6 **The TCPC Responsibilities.**

5.6.1. Shall provide, at no charge to PublicSoft, full and free access to the System; working space; adequate facilities within a reasonable distance from the equipment; and use of machines, attachments, features, or other equipment necessary to provide maintenance services set forth herein. This access may be remote.

5.6.2. PublicSoft currently utilizes "Webex" as a secure commercial PC to PC remote connectivity tool to provide remote maintenance services. The TCPC shall maintain for the duration of the Agreement a high-speed Internet connection capable of connecting to the TCPC's PC's and internal servers. PublicSoft strongly recommends that the TCPC also maintain a VPN for backup connectivity purposes. PublicSoft, at its option, will use the connection to assist with problem diagnosis and resolution.

5.7 **System Security.** At all times, the PublicSoft system shall be developed and maintained in accordance with industry-standard security practices, including but not limited to secure coding practices and vulnerability management and compliance with Federal and state data security and privacy law, statutes, and regulations. Additionally:

5.7.1. **Access.** Access to the Software shall be controlled through user authentication mechanisms, including but not limited to multi-factor authentication, role-based access controls, and password policies.

5.7.2. **Data Backup:** PublicSoft will perform nightly backups of TCPC data.

5.7.3. **Data Security.** PublicSoft, and all subcontractors, shall be required to comply at all times with the Payment Card industry Data security Standard Program ("PCI-DSS") in effect and as may be amended from time to time during the term of the Agreement, or as succeeded by other organizations or standards. The current PCI-DSS specifications are available on the PCI Security Standards Council website at <https://www.pcisecuritystandards.org>. Each of the parties shall be required to comply at all times with Section 501.171, Florida Statute, Security of Confidential Personal information in effect and as may be amended

from time to time during this Agreement. Upon request by Tax Collector, PublicSoft shall provide Tax Collector with certificate of compliance with PCI-DSS for PublicSoft or subcontractors.

- 5.7.4. **Security Breach.** In the event of a security breach that affects Confidential Information or Protected Data, the Receiving Party shall notify the Disclosing Party without undue delay, but not more than twenty-four (24) hours after PublicSoft has actual or constructive knowledge of a breach which affects the TCPC data. PublicSoft shall have active or constructive notice if PublicSoft actually knows there has been an incident, or if PublicSoft has reasonable basis in facts or circumstances, whether acts or omissions, for its belief that an Incident has occurred. The notification shall include, at a minimum:
- a) A description of the nature of the breach, including the categories and approximate number of data subjects and data records concerned,
 - b) The likely consequences of the breach,
 - c) Measures taken or proposed to be taken to address the breach and mitigate its possible adverse effects.
- 5.7.5. **Mitigation.** In the event of a security breach, PublicSoft will promptly take appropriate action to mitigate such risk or potential problem and institute appropriate measures to prevent any recurrence of the problem as soon as is commercially practicable.
- 5.7.6. **Data Restoration.** In the event of a security breach, PublicSoft will restore the TCPC data to as close as its original state as practical.
- 5.7.7. **Compliance Oversight.** Upon written request from the TCPC, PublicSoft shall confirm compliance with industry-standard security practices; and shall provide the TCPC with a written information security questionnaire regarding PublicSoft's data security protocols and applicable policies.
- 5.7.8. **Insurance.** PublicSoft shall maintain Cyber Security coverage during the course of this Agreement. Upon request by the TCPC, PublicSoft shall provide a Certificate of Insurance. PublicSoft shall use its best efforts to provide TCPC with at least 30 days written notice prior to the expiration or cancellation of coverage afforded under applicable policies.
- 5.8 **Indemnification.** PublicSoft shall, at all times hereafter, indemnify, hold harmless and defend the Tax Collector, its officers, agents, servants, and employees from and against any Third-Party claims, demands, causes of action, losses, liabilities, and expenditures of any kind or nature, including all costs, expenses, and attorney's fees, arising out of any negligent, reckless, or intentional act, error, or omission of PublicSoft, its officers, agents, servants or employees in the performance of Services under this Agreement including, without limitation, third-party claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property.
- 5.8.1. The TCPC shall provide PublicSoft with prompt written notice of any claim for which it seeks indemnity under this Section and shall give PublicSoft the opportunity to reasonably control the defense or settlement of such claim. PublicSoft shall obtain the TCPCs written consent to any attorneys chosen by PublicSoft to defend the claim, such consent not to be unreasonably withheld by TCPC. The TCPC may participate in the defense of any claim with attorneys of its choosing, at its own cost and expense.

- 5.9 **Limitation of Liability.** In no event shall PublicSoft be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the provision or quality of maintenance services or use of the System. Except for direct damages and expenses associated with the PublicSoft's obligation to indemnify the TCPC, PublicSoft's liability for damages and expenses arising out of this Maintenance Agreement, whether based on a theory of contract or tort, including negligence and strict liability, will be limited to the amount of fees set forth in the Exhibit 1 (Pricing Summary). Such Maintenance fees reflect and are set in reliance upon this limitation of liability. In the event the TCPC experiences problems associated with or caused by instances of hacking or computer viruses caused or enabled by the System, PublicSoft shall provide technical assistance at no cost.

ARTICLE 6 – THIRD-PARTY PRODUCT AGREEMENT

- 6.1 **Agreement to License or Sell Third-Party Products.** For the price set forth in the Pricing Summary, PublicSoft agrees to license or sell and deliver to the TCPC, and the TCPC agrees to accept from PublicSoft the System Software and Hardware set forth in the Pricing Summary (collectively, the "Third-Party Products").
- 6.2 **License of Third-Party Software.**
- 6.2.1. Upon the TCPC's payment in full of the Third-Party Software fees, PublicSoft shall grant to the TCPC and the TCPC shall accept from PublicSoft a non-exclusive, nontransferable, non-assignable license to use the Third-Party Software and related documentation for the Tax TCPC's internal business purposes, subject to the terms and conditions set forth herein.
- 6.2.2. The developer of the Third-Party Software shall retain ownership of the Third-Party Software.
- 6.2.3. The right to transfer the Third-Party Software to a replacement hardware system is governed by the Third-Party. The cost for new media or any required technical assistance to accommodate the transfer would be billable charges to the TCPC, except in the event the hardware is no longer supported and continued use would violate commercially reasonable security standards or PCI-DSS protocols. Hardware that is end of life or no longer secures TCPC data shall be replaced at no cost to the TCPC. The TCPC shall provide advance written notice to PublicSoft of any such transfer.
- 6.2.4. The TCPC acknowledges and agrees that the Third-Party Software and related documentation are proprietary to the Third-Party and have been developed as trade secrets at the Third-Party's expense. The TCPC shall use best efforts to keep the Third-Party Software and related documentation confidential and to prevent any misuse, unauthorized use, or unauthorized disclosure of the Third-Party Software and related documentation by any party.
- 6.2.5. The TCPC shall not perform reverse engineering, disassembly, translation, or other reverse engineering on the Third-Party Software.

- 6.2.6. The TCPC may make copies of the Third-Party Software for archive purposes only. The TCPC shall repeat any and all proprietary notices on any copy of the Third-Party Software. The TCPC may make copies of the documentation accompanying the Third-Party Software for internal use only.
- 6.3 **Delivery.** Unless otherwise indicated in the Pricing Summary, the prices for Third-Party Products include costs for shipment while in transit from the Third-Party or supplier to the TCPC.
- 6.4 **Installation and Acceptance.** Unless otherwise noted in the Pricing Summary, the PublicSoft Software Product installation fee includes installation of the Third-Party Products. Upon completion of installation, the TCPC will obtain from PublicSoft a certification of completion, or similar document, which will constitute the TCPC's acceptance of the Third-Party Products. Such acceptance will be final and conclusive except for latent defect, fraud, and a gross mistake as amount to fraud.
- 6.5 **Site Requirements.** The TCPC shall provide a suitable environment, location and space for the installation and operation of the Third-Party Products; sufficient and adequate electrical circuits for the Third-Party Products; and installation of all required cables unless the TCPC selects Hosting Services.
- 6.6 **Warranties.**
- 6.6.1. PublicSoft is authorized by each Developer to grant licenses or sublicenses to the System Software.
- 6.6.2. PublicSoft warrants that each System Software product will be new and unused, and if the TCPC fully and faithfully performs each and every obligation required of it under this Third-party Product Agreement, the TCPC's title or license to each System Software product will be free and clear of all liens and encumbrances arising through PublicSoft.
- 6.6.3. The TCPC acknowledges and agrees that PublicSoft is not the manufacturer of the Third-Party Products. As such, PublicSoft does not warrant or guarantee the condition or operating characteristics of the Third-Party Products. PublicSoft hereby grants and passes through to the TCPC any warranty adjustments that PublicSoft may receive from the Developer or supplier of the Third-Party Products.
- 6.7 **Maintenance.**
- 6.7.1. In the event the TCPC elects not to purchase through PublicSoft maintenance services on the Third-Party Software, it will be the responsibility of the TCPC to repair and maintain the Third-Party Software and purchase enhancements as necessary after acceptance except in the event the hardware is no longer supported and continued use would violate commercially reasonable security standards or PCI-DSS protocols.
- 6.7.2. In the event the TCPC elects to purchase through PublicSoft maintenance services on the Third-Party Software, PublicSoft will facilitate resolution of a defect in a System Software product with the Developer.

6.7.3. In the event the Third-Party charges a fee for future System Software release(s), the TCPC Collector will be required to pay such fee.

6.8 **Limitation of Liability.** In no event shall PublicSoft be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the use of the Third-Party Products. Except for direct damages and expenses associated with PublicSoft's obligation to indemnify the TCPC pursuant to section 8.16 PublicSoft's liability for damages and expenses arising out of this Third-Party Product Agreement, whether based on a theory of contract or tort, including negligence and strict liability, will be limited to the amount of Third-Party Fees set forth in the Pricing Summary and paid by the TCPC. Such prices are set in reliance upon this limitation of liability.

ARTICLE 7 – HOSTING SERVICES

- 7.1 **Hosting Services.** For purposes of this Agreement, the hosting services to be provided by PublicSoft ("Hosting Services") include the required server(s) necessary to run the TCPC public facing websites as well adequate storage necessary to maintain the TCPC databases and supporting data. PublicSoft may use a Third-Party to provide Hosting Services.
- 7.2 **Term of Agreement.** This Hosting Services Agreement is effective on the installation date of the System. It will renew automatically at the then-current PublicSoft Hosting Service rates for an additional one (1) year term on July 1 of each year unless terminated in writing by either party on or before May 31 of the expiring year.
- 7.3 **Hosting Fee Payment.**
- 7.3.1. Hosting Service fees will be invoiced by PublicSoft annually in advance. PublicSoft will provide the TCPC with written notice of any Hosting Service Fee increase not less than forty-five (45) days prior to the renewal date. Any hosting fees will be included in the Pricing Summary.
- 7.3.2. PublicSoft reserves the right to terminate the Hosting Service agreement if payment for uncontested Hosting Service fees is not made within sixty (60) days of the first due date. PublicSoft will reinstate the Hosting Service Agreement if all past due fees are paid including all such fees for periods when this service was suspended.
- 7.4 **Service Availability** - PublicSoft shall provide the following commitments related to this Agreement.
- 7.4.1. **Application and Web Server Availability.** PublicSoft guarantees a 99.9% monthly average availability of its Application Servers. Application Server availability is defined as Customer's ability, via web browser, to retrieve the HTTP headers from a hosting server. The Company does not monitor availability of individual web sites but only monitors the server availability as a whole.
- 7.4.2. **Monitoring.** To verify that the server is available, PublicSoft software will ping the HTTP service on the server by retrieving HTTP headers every 5 minutes with a 10-second

threshold. If the HTTP service does not respond, PublicSoft staff will be notified via email regarding the outage. The issue will then be escalated to our support center for processing. Processing will be completed in accordance with Exhibit 3 “Maintenance Support Call Process.”

- 7.5 **Network Availability** is defined by PublicSoft’s ability to pass TCP/IP traffic to the Hosting site. Downtime caused by network (internet) failures is not included in server uptime calculations.
- 7.6 **Scheduled Maintenance** -To guarantee optimal performance of the servers, PublicSoft will perform maintenance on the servers on a routine basis. Such maintenance often requires taking Hosted Servers off-line. PublicSoft reserves two hours of server unavailability per month for maintenance purposes. This server unavailability is not included in server uptime calculations. The maintenance is performed during off-peak hours. PublicSoft will provide the TCPC with advance notice of maintenance whenever possible.
- 7.7 **Server Storage Capacity** - The Server Storage Capacity refers to the minimum monthly commitment level (MMCL) of storage space allocated to TCPC for system functionality to perform without service event. Adequate storage will be provided to host the database and all supporting documents required to support application functionality for the System. An “event” is defined as each instance in which service attempts to run a “job” and storage needed to complete a system application is unavailable. System events that can be remedied by increased storage capacity or server size will be remedied as a Priority 1 Call in accordance with the Maintenance support call Process “Exhibit 3.” The Goal Remedy is 100% resolution within one-hour of reporting for storage capacity issues related to server size. System events that will not be remedied by increased server size will be resolved by priority in accordance with the Maintenance Support Call Process “Exhibit 3.”
- 7.8 **Ownership of Data** – All data created by the TCPC using the System shall remain property of TCPC and made available upon request.
- 7.9 **Data Management** – PublicSoft will maintain all TCPC data during the term of this agreement.
- 7.9.1. PublicSoft will provide nightly database and supporting data backups off server.
- 7.9.2. PublicSoft will provide monthly backups to the TCPC on request.
- PublicSoft will perform all database management (DBA) functions to keep the Database Management System fully operational.
- 7.10 **Data Retention** – If this agreement is terminated in accordance with any of the termination provisions in this Agreement, within ten (10) days of termination, PublicSoft shall deliver to Tax Collector all tangible documents and material containing, reflecting, incorporating, or based on the Tax Collector’s confidential information or protected data. All TCPC data and Business contact information will be deleted from the PublicSoft servers unless retention is required by law.
- 7.11 **Data Protection** - PublicSoft shall maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of TCPC Data and Business Contact

Information, including, but not limited to measures for preventing access, use, modification or disclosure of TCPC Data or Business Contact Information except (a) to provide the SaaS Services and prevent or address service or technical problems; (b) as compelled by law; or (c) as expressly permitted by TCPC in writing. Such specific safeguards shall be as set forth in the Hosted Licensed Property Documentation and will incorporate the requirements of section 5.7, System Security.

- 7.12 **Data Accessibility**- Barring undue burden, PublicSoft will design, generate, and maintain each page of the TCPC public facing website will substantially comply with the latest version of the Web Content Accessibility Guidelines located at <https://www.w3.org/WAI/standards-guidelines/wcag/>.
- 7.13 **Privacy Statement** – PublicSoft values the privacy of the TCPC data and will protect it according to current industry standards and applicable laws. See the PublicSoft privacy statement for details.
- 7.14 **Limitation of Liability**. In no event shall PublicSoft be liable for special, indirect, incidental, consequential, or exemplary damages, including, without limitation, any damages resulting from loss of use, loss of data, interruption of business activities, or failure to realize savings arising out of or in connection with the provision or quality of maintenance services or use of the System. Except for direct damages and expenses associated with PublicSoft obligation to indemnify the TCPC, PublicSoft’s liability for damages and expenses arising out of this Hosting Agreement, whether based on a theory of contract or tort, including negligence and strict liability, will be limited to the amount of fees set forth in the Pricing Summary and paid by the TCPC. Such Maintenance fees reflect and are set in reliance upon this limitation of liability.

ARTICLE 8 – GENERAL TERMS AND CONDITIONS

- 8.1 **Acceptance**. The TCPC accepts and agrees to be bound by the terms of this agreement by installing and using the System.
- 8.2 **Taxes**. The fees set forth in the Pricing Summary do not include any taxes, including, without limitation, sales, use or excise tax. All applicable taxes shall be paid by PublicSoft to the proper authorities and shall be reimbursed by the TCPC to PublicSoft. If tax-exempt, the TCPC will provide PublicSoft with TCPC tax-exempt certificate.
- 8.3 **Invoice Dispute**.
- 8.3.1. In the event the TCPC believes products or services do not conform to warranties in this Agreement, the TCPC will provide written notice to PublicSoft within fifteen (15) calendar days of receipt of the applicable invoice. The TCPC is allowed an additional fifteen (15) calendar days to provide written clarification and details. PublicSoft will provide a written response to the TCPC that will include either a justification of the invoice or an adjustment to the invoice. PublicSoft and the TCPC will develop a plan to outline the reasonable steps to be taken by PublicSoft and the TCPC to resolve any issues presented in TCPC notice to PublicSoft. The TCPC may only withhold payment of the amount actually in dispute until PublicSoft completes its action items outlined in the plan. Notwithstanding the foregoing, if PublicSoft is unable to complete its actions

outlined in the plan because the TCPC has not completed its action items outlined in the plan, the TCPC will remit full payment of the invoice.

- 8.3.2. Any invoice not disputed as described above will be deemed accepted by the TCPC. PublicSoft reserves the right to suspend delivery of all services in the event the TCPC fails to pay an invoice not disputed as described above within sixty (60) calendar days of receipt of invoice.
- 8.3.3. All invoices shall be remitted to timmurphy@polktaxes.com and accountspayable@polktaxes.com.

8.4 **Force Majeure.** “Force Majeure” is defined as an event beyond the reasonable control of a party, including governmental action, war, riot or civil commotion, fire, natural disaster, pandemic, labor disputes, restraints affecting shipping or credit, delay of carriers, inadequate supply of suitable materials or any other cause which could not with reasonable diligence be foreseen, controlled, or prevented by the party. Neither party shall be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure. Force Majeure will not be allowed unless:

- 8.4.1. Within ten (10) business days of the occurrence of Force Majeure, the party whose performance is delayed thereby provides the other party or parties with written notice explaining the cause and extent thereof, as well as a request for a time extension equal to the estimated duration of the Force Majeure events.
- 8.4.2. Within ten (10) business days after the cessation of the Force Majeure event, the party whose performance was delayed provides the other party written notice of the time at which Force Majeure ceased and a complete explanation of all pertinent events pertaining to the entire Force Majeure situation. Either party will have the right to terminate this Agreement if Force Majeure suspends performance of scheduled tasks by one or more parties for a period of one hundred-twenty (120) or more days from the scheduled date of the task. This paragraph will not relieve the TCPC of its responsibility to pay for services and goods provided to the TCPC and expenses incurred on behalf of the TCPC prior to the effective date of termination. In addition, the TCPC acknowledges that the implementation of the System is a cooperative process requiring the time and resources of the TCPC personnel. The TCPC shall; and shall cause the TCPC personnel to use all reasonable efforts to cooperate with and assist, PublicSoft as reasonably required to meet the project deadlines and other milestones agreed to by the parties for implementation. PublicSoft shall not be liable for failure to meet such deadlines and milestones when such failure is due to Force Majeure (as defined above) or to the failure of the TCPC personnel to provide such cooperation and assistance (either through action or omission).

8.5 **Indemnification.**

- 8.5.1. PublicSoft shall indemnify and hold harmless the TCPC and its agents, officials, and employees from and against any and all direct claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage arising from PublicSoft's negligence or willful misconduct.

- 8.5.2. The TCPC shall indemnify and hold harmless PublicSoft and its agents, officials, and employees from and against any and all direct claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage arising from TCPC's negligence or willful misconduct up to the limit of sovereign immunity set forth in section 768.28, Florida Statutes. Nothing herein shall be construed as a waiver of sovereign immunity by the TCPC beyond the limits set forth in section 768.28, Florida Statutes.
- 8.6 **Disclaimer.** THE RIGHTS, REMEDIES, AND WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER RIGHTS, REMEDIES, AND WARRANTIES EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SYSTEM INTEGRATION, WHICH ARE HEREBY DISCLAIMED BY PublicSoft.
- 8.7 **Dispute Resolution.** The TCPC will notify PublicSoft in writing within fifteen (15) days of becoming aware of a dispute. If PublicSoft and the TCPC cannot resolve such dispute within thirty (30) calendar days of PublicSoft's receipt of written notice from the TCPC, the following procedure will apply:
- 8.7.1. Each party shall appoint one (1) person to act as an impartial representative. The appointed individual will be of sufficient knowledge and experience to understand and deal with the dispute but will not be a person assigned to the project. The set of four (4) individuals consisting of PublicSoft's Project Manager for this project, The TCPC's Project Manager for this project, and the two (2) appointees is called a Dispute Resolution Group. b) The Dispute Resolution Group shall convene no later than twenty-one (21) calendar days after the expiration of the thirty (30) calendar day period referenced above and shall meet for a maximum of four (4) four (4) hour sessions during the subsequent four (4) business days, unless otherwise mutually agreed. Any resolution will be in writing and signed by both parties. Such resolution will constitute a binding amendment to the Agreement. In the event the Dispute Resolution Group fails to resolve the dispute as set forth above, the dispute will be referred to non-binding mediation. Thereafter, either party may assert its other rights and remedies under this Agreement within a court of competent jurisdiction. All meetings and discussions of the Dispute Resolution Group will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Civil Procedure 408 or any similar applicable state rule. Nothing in this Article will prevent a party from applying to a federal or state court in the state of Florida, county of Polk, to obtain injunctive relief pending resolution of the dispute through the dispute resolution procedures set forth herein.
- 8.8 **No Intended Third-Party Beneficiaries.** This Agreement is entered into solely for the benefit of PublicSoft and the TCPC. No third-party will be deemed a beneficiary of this Agreement, and no third-party will have the right to make any claim or assert any right under this Agreement.
- 8.9 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the state of Florida, county of Polk.

- 8.10 **Entire Agreement.** This Agreement represents the entire agreement of the TCPC and PublicSoft with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. The TCPC hereby acknowledges that in entering into this Agreement it did not rely on any information not explicitly set forth in this Agreement.
- 8.11 **Severability.** If any term or provision of this Agreement or the application thereof, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable will not be affected thereby, and each term and provision of this Agreement will be valid and enforced to the fullest extent permitted by law.
- 8.12 **Jurisdiction; Service of Process** Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought against any of the parties in the courts of the State of Florida, County of Polk, or, if it has or can acquire jurisdiction, in the United States District Court for the Middle District of Florida , and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the United States by registered mail.
- 8.13 **No Waiver.** In the event that the terms and conditions of this Agreement are not strictly enforced by PublicSoft or the TCPC, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent PublicSoft or the TCPC from enforcing each and every term of this Agreement thereafter.
- 8.14 **Multiple Originals and Signatures.** This Agreement may be executed in multiple originals, any of which shall be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto shall be deemed an original signature and shall be fully enforceable as if an original signature.
- 8.15 **Amendment.** This Agreement may only be modified by written amendment signed by authorized representatives of both parties.
- 8.16 **Termination.**
- 8.16.1. The TCPC may terminate this Agreement for cause in the event (1) a party has materially breached any obligation herein and such breach remains uncured for a period of sixty (60) days after written notice of such breach is sent to the other party; or (2) any representation or warranty by the other party shall prove to have been inaccurate or fraudulent in any material respect as of the date the same was made; or (3) the other party is declared bankrupt or insolvent, is placed under the protection of the law for relief of debtors, or otherwise enters into any judicial or administrative procedure which is designed to have, has, or may have the effect of relieving debts of debtors.
- 8.16.2. Upon such termination, the TCPC shall pay PublicSoft for all services and expenses not in dispute and non-Defective System which were delivered or incurred prior to the date PublicSoft received the TCPC's notice of termination. Payment for services and

expenses in dispute will be determined in accordance with the dispute resolution process.

- 8.16.3. The Tax Collector may terminate this Agreement, in whole, at any time without cause by giving ninety (90) days written notice of termination without cause, and in such event PublicSoft shall take such action as may be necessary for the protection and preservation of Tax Collector materials and property. The Tax Collector may not terminate part of the services under this Agreement unless PublicSoft and Tax Collector mutually agree to such partial termination and relevant adjustment of the Annual Support/Maintenance Fee.
- 8.17 **Data Security.** PublicSoft shall implement generally accepted technology standards to protect the security of TCPC Data and Business Contact Information and to prohibit unauthorized access to such data. System security and responses will be in compliance with Hosted Licensed Property Documentation, section 5.7, System Security, Federal and State data security and privacy law, statutes, and regulations, and current PCI-DSS specifications as applicable to the relevant service.
- 8.18 **Non-appropriation.** If the TCPC should not appropriate or otherwise make available funds sufficient to purchase, lease, operate or maintain the products set forth in this Agreement, or other means of performing the same functions of such products, the TCPC may unilaterally terminate this Agreement only upon thirty (30) days written notice to PublicSoft. Upon termination, the TCPC shall remit payment for all products and services delivered to the TCPC and all expenses incurred by PublicSoft prior to PublicSoft's receipt of the termination notice. The TCPC will not be entitled to a refund or offset of previously paid license and other fees.
- 8.19 **Approval of Governing Body.** The TCPC represents and warrants to PublicSoft that this Agreement has been approved by its governing body and is a binding obligation upon the TCPC.
- 8.20 **No Assignment.** The TCPC may not assign its rights and responsibilities under this Agreement without PublicSoft's prior written permission, not to be unreasonably withheld.
- 8.21 **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.
- 8.22 **Notices.** All notices or communications required or permitted as a part of this Agreement will be in writing (unless another verifiable medium is expressly authorized) and will be deemed delivered when:
- 8.22.1. Actually received,
 - 8.22.2. Upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the party,
 - 8.22.3. Upon receipt by sender of proof of email delivery, or
 - 8.22.4. If not actually received, ten (10) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the respective other party at the address set forth in this Agreement or such other address as the party may have designated by notice or

Agreement amendment to the other party. Consequences to be borne due to failure to receive a notice due to improper notification by the intended receiving party of a new address will be borne by the intended receiving party. The addresses of the parties to this Agreement are as follows:

PublicSoft, Inc.

104 S Main St
Aubrey, TX 76227
Attention: Bobby Dow

Polk County Tax Collector

430 East Main Street
Bartow, FL 33830
Attention: Joe G. Tedder CFC

- 8.23 **Independent Contractor.** This is not an agreement of partnership or employment of PublicSoft, or any of PublicSoft's employees by the TCPC. PublicSoft is an independent contractor for all purposes under this Agreement.
- 8.24 **Insurance.** Prior to performing services under this Agreement, PublicSoft shall provide the TCPC with certificates of insurance naming the TCPC as an additional insured and evidencing the following insurance coverage:
- 8.24.1.1. Commercial general liability of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate.
 - 8.24.1.2. Professional liability of at least \$2,000,000.
 - 8.24.1.3. Cyber liability insurance policy of at least \$1,000,000.
 - 8.24.1.4. Workers' compensation complying with statutory requirements.
 - 8.24.1.5. PublicSoft shall notify the TCPC in writing at least thirty (30) calendar days prior to cancellation, non-renewal, or significant change in required insurance coverage.
- 8.25 **Confidentiality.** Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities. Each party agrees that it shall not disclose any confidential information of the other party and further agrees to take appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement for a period of two (2) years. This obligation of confidentiality will not apply to information that:
- 8.25.1.1. At the time of the disclosure is in the public domain.
 - 8.25.1.2. After disclosure, becomes part of the public domain by publication or otherwise, except by breach of this Agreement by a party.
 - 8.25.1.3. A party can establish by reasonable proof was in that party's possession at the time of disclosure.

- 8.25.1.4. A party receives from a third-party who has a right to disclose it to that party unless required to do so under Florida's public record laws.
- 8.25.1.5. Is subject to Freedom of Information Act requests, only to the extent disclosure is based on the good faith written opinion of the receiving party's legal counsel that disclosure is required by law: provided, however, that that receiving party shall give prompt notice of the service of process or other documentation that underlies such requirement and use its best efforts to assist the disclosing party if the disclosing party wishes to obtain a protective order or otherwise protect the confidentiality of such confidential information. The disclosing party reserves the right to obtain protective order or otherwise protect the confidentiality of its confidential information.
- 8.26 **Nondiscrimination.** PublicSoft shall not discriminate against any person employed or applying for employment concerning the performance of PublicSoft's responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation.
- 8.27 **Subcontractors.** PublicSoft shall not subcontract any services under this Agreement without the TCPC's prior written permission, not to be unreasonably withheld.
- 8.28 **Shipping.** Delivery will be F.O.B. shipping point.
- 8.29 **Business License and Conformance to Laws.** PublicSoft shall be responsible for obtaining or maintaining any permits required by any governmental or public or private administrative body, whatever it may be, in connection with the services set out in the Pricing Summary, provided TCPC provides PublicSoft with the necessary paperwork and/or contact information. PublicSoft shall be required to ensure that the company, and its operations in connection with the services set out in the Pricing Summary, conform to any applicable statutes, regulation, ordinances, treaties, rules of common law, or other law.
- 8.30 **Payment Terms.**
- 8.30.1. PublicSoft shall invoice TCPC upon software installation unless otherwise noted in the Pricing Summary (Exhibit 1). Such amount equals the sum of these one-time fees from Exhibit 1.
- 8.30.2. PublicSoft shall invoice TCPC; recurring fees beginning on the date the system is first placed into production. Such amount equals the sum of the annual maintenance fees from Exhibit 1.
- 8.30.3. PublicSoft shall provide payment processing services through internal software or partnership with a third-party provider. PublicSoft shall charge payment processing convenience fees in accordance with the agreed rates listed in Exhibit 1. Rate increases may be reviewed on an annual basis. All rate increases must be agreed to by both parties in writing prior to changing rates.

- 8.30.4. Training Fees will be invoiced as incurred.
 - 8.30.5. Prices on Exhibit 1 do not include travel expenses incurred in accordance with PublicSoft's then-current Business Travel Policy. A detailed summary of PublicSoft's current Business Travel Policy is attached hereto as Exhibit 4. Travel may not be required.
 - 8.30.6. Payment is due within forty-five (45) days of the invoice date.
 - 8.30.7. PublicSoft shall create an Application Programming Interface to exchange data with the Kids Tag Art Program to process payments. No fees will be charged for payment processing services for this program.
- 8.31 **Optional Items.** Pricing for optional products and services shall be valid for twelve (12) months from the Effective Date.
- 8.32 **Products and Services.** TCPC may purchase additional PublicSoft products and services at then-current list price, pursuant to the terms of this Agreement, by executing a mutually agreed upon addendum.
- 8.33 **Contract Documents.** This Agreement includes the following exhibits:
- 8.33.1. Exhibit 1 – Pricing Summary
 - 8.33.2. Exhibit 2 – Payment Schedule
 - 8.33.3. Exhibit 3 – Maintenance Support Call Process
 - 8.33.4. Exhibit 4 – Business Travel Policy
 - 8.33.5. Exhibit 5 – Holiday Schedule
 - 8.33.6. Exhibit 6 – Fee Schedule
 - 8.33.7. Exhibit 7-Statement of Work

SIGNATURE PAGE FOLLOWS



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

PublicSoft, Inc.

Polk County Tax Collector

By: _____

By: _____

Name: Bobby C Dow

Name: Joe G. Tedder

Titles: President

Title _____

Date: _____

Date: _____

Exhibit 1 - Pricing Summary

PublicSoft Item #	Item Description	License / Implementation Fee	Annual Maintenance Fee
Phenix.Tax Suite (Unlimited)	Phenix Property Tax Management System Suite <ul style="list-style-type: none"> • Property Tax <ul style="list-style-type: none"> ○ Current Tax ○ Delinquent Tax • Business Tax • Tourist Development Tax • Special Assessments • Miscellaneous Collections • FRVIS Interface • Orion Interface • Universal Cashiering • Distribution System • Interfaces <ul style="list-style-type: none"> ○ Lender / Mortgage Company ○ Certificate Sale ○ Property Appraiser ○ Tax Deed Sale ○ Department of Revenue ○ Payment Provider 	\$350,000	\$100,000
Phenix.Online	Phenix Online (Public Access) <ul style="list-style-type: none"> • Property Tax -Payments, Bills & Receipts, History • Tourist Tax - Applications, Filings, Payments, Receipts, Mailing Address, Filing and Payment History • Business Tax Receipts – Applications, Payments, Receipts, Mailing Address, History 	\$40,000	Included
Data	Property Tax, Tourist Development Tax & BTR Data Conversions	\$75,000	Included
Roll	Annual Tax Roll Conversion	N/A	\$10,000
Consulting	Consulting Services (Approximately 250 hours) <ul style="list-style-type: none"> • Setup and Configuration • Project Planning • Consulting • End User Training 	\$25,000	N/A
Hosting	Hosting Services (Live and Test) <ul style="list-style-type: none"> • IIS Websites • SQL Server database (Live & Test Systems) • System Backup Services • TCPC dedicated server 		\$40,000
Payment Processing Convenience Fee	In office Rate <ul style="list-style-type: none"> • Credit/Debit Card 2.5% with \$1.50 minimum • Check No charge DMV Online/Card Not present <ul style="list-style-type: none"> • Credit/Debit Card 2.5% with \$1.50 minimum • E-Check No charge 		N/A

	Kids Tag Art API <ul style="list-style-type: none"> • KTA credit No charge • KTA Debit No charge • KTA E-check No charge <p>*Subject to annual review. All rate increases must be approved by the Tax Collector.</p>		
	Totals	\$490,000	\$150,000

Exhibit 2 – Payment Schedule

Anticipated FY	Notes	Item #	Charge Description	Anticipated Date	Amount	Note
2024	1	Phenix Tax	License and Implementation Fees	7/1/2024	\$122,500	25% Project Start and initial payment.
2024	2	Phenix Tax	License and Implementation Fees	10/01/2024	\$122,500	25% (3 months)
2025	3	Phenix Tax	License and Implementation Fees	1/1/2025	\$122,500	25% (3 months)
		Phenix Tax	License and Implementation Fees	7/1/2025	\$122,500	25% (final implementation fee)
2026	5,6,7	Support and Maintenance	Phenix Tax Suite	7/1/2025	\$150,000	12 months (7/1/2025 – 6/30/2026)

1. Project start and live dates are negotiable. 25% of the license and implementation fees will be billed upon project kickoff.
2. The remaining Fees will be billed at 25% for 3 month increments with a final payment on July 1, 2025.
3. Go live is anticipated to be on or around July 1, 2025. Maintenance fees will be billed annually on July 1st.
4. Annual support fees for the System will be billed at the discounted rate of \$150,000 annually. This discount will be granted for allowing PublicSoft to negotiate with your current payment provider to share in processing fees. TCPC agrees to allow PublicSoft to consider other qualified TCPC approved providers assuming initial negotiation fails to achieve objectives.
5. PublicSoft’s current business plan includes becoming a payment processor to better serve its Florida customers. We feel like we could achieve this objective by January 1, 2026. If TCPC will support PublicSoft in this endeavor, then the annual Phenix Tax Suite fees would be further reduced to \$50,000 annually.
6. Any agreed upon support fees will not subject to increase prior to FY 2027. At that time, they will be limited to no more than 1% above the CPI as published by the United States Federal Government at the renewal time.
7. Pricing model includes customer branding provided by TCPC on all forms exchanged with the public and on the web pages of Phenix Online.
8. Travel related expenses will be always be approved by TCPC in advance. Meals and lodging will be billed at standard U.S Govt. per diem rates.

Exhibit 3

Maintenance Support Call Process

Definitions:

“Calls” include call or email contacts for issue resolution. Fees are per independent issue. Continued contact during the resolution process for an issue in progress will not be considered an additional “call.”

Contact Information:

PublicSoft, Inc.
104 S. Main St
Aubrey, TX 76227
(940) 365-9300
Email: Support@PublicSoftinc.com

Standard Support Hours:

8:00 a.m. EST to 5:00 p.m. EST (will adjust for daylight savings time)

Support Call Fees:

- 200 calls per month included with Maintenance Agreement for first year of maintenance.
- 50 calls per month for subsequent years.
- Additional calls will be billed at \$150.00 per hour
- All calls are billed in 15-minute increments

Call Steps

- Send an email to Support@PublicSoftinc.com
- Phone 940 365-9300 and enter extension of support representative
- A call number and priority will be assigned to the call and provided to the TCPC. The call number and priority will be utilized and tracked for reporting on prioritization, staff assignment, resolution, and completion time.

Priority Assignment

- **Priority 1 Call** — Issue is critical to the TCPC and the System is down. Software support and development staff will be actively working on the issue and customer will be provided daily updates on status. Critical issues will be worked to resolution notwithstanding standard support hours. Storage capacity issues related to server size will be resolved within one hour of reporting.
- **Priority 2 Call** — issue is severe, but there is a work around the TCPC can use.
- **Priority 3 Call** — issue is a non-severe support call from the TCPC.
- **Priority 4 Call** — issue is non-critical for the TCPC and they would like to work with Support as time permits

Leaving Phone Messages or Email Message for Support - When leaving a message on the Support voice mail or email message, ensure the following information is contained within the message:

- Your full name (first name, last name) and the site you are calling for/from
- A phone number where you can be reached
- The details of the issue or question you have (i.e.: program, • process, error message)

- The priority of the issue (1, 2, 3, or 4)
- When you will be available for a return call (often Support will call back within an hour of receiving your message)

Timely Progress Updates - Our technicians are committed to providing you timely updates on the progress of your open support incidents. The frequency of these updates is determined by issue priority.

- Priority 1 Incidents — Daily updates (only if phone contact is not possible)
- Priority 2 Incidents — Weekly Updates
- Priority 3 Incidents — Bi-weekly Updates Priority 4 Incidents — Bi-weekly Updates
- Updates will also be provided for any issue, regardless of priority, when action items have been completed or when there is pertinent information to share

Exhibit 4 – Business Travel Policy

1) Air Travel

- a) Reservations & Tickets - PublicSoft will provide its employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted. Employees are encouraged to make reservations far enough in advance to take full advantage of discount opportunities. A seven-day advance booking requirement is mandatory. When booking less than seven days in advance, management approval will be required. Except in the case of international travel where a segment of continuous air travel is scheduled to exceed six hours, only economy or coach class seating is reimbursable.
- b) Baggage Fees – Reimbursement of personal baggage charges are based on the trip duration as follows:
 - i) Up to five days = one checked bag
 - ii) Six or more days = two checked bags. Baggage fees for sports equipment are not reimbursable.

2) Ground Transportation

- a) Private Automobile Mileage Allowance-Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.
- b) Rental Car - Employees are authorized to rent cars only in conjunction with air travel when cost, convenience and the specific situation require their use. When renting a car for PublicSoft business, employees should select a "midsize" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together
- c) Public Transportation - Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation is unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.
- d) Parking & Tolls - When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3) Lodging

PublicSoft will select hotel chains that are well established, reasonable in price and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn,

Hampton Inn and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates. “No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy. Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

4) Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates vary over time. A complete listing is available at www.gsa.gov/perdiem.

a) Overnight Travel

- i) For each full day of travel, all three meals are reimbursable.
- ii) Per diems on the first and last day of a trip are governed as set forth below.
- iii) Departure Day
 - (1) Depart before 12:00 noon Lunch and dinner
 - (2) Depart after 12:00 noon Dinner
 - (3) Return Day Return before 12:00 noon Breakfast
 - (4) Return between 12:00 noon & 7:00 p.m. Breakfast and lunch
 - (5) Return after 7:00 p.m. Breakfast, lunch, and dinner

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

- Breakfast 15%
- Lunch 25%
- Dinner 60%

b) Same Day Travel

- i) Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report.
- ii) Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.

6) Entertainment

All entertainment expenses must have a business purpose; a business discussion must occur either before, after or during the event in order to qualify for reimbursement. The highest-ranking employee present at the meal must pay for and submit entertainment expenses. An employee who submits an entertainment expense for a meal or participates in a meal submitted by another employee cannot claim a per diem for that same meal.

7) Internet Access – Hotels and Airports Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and PublicSoft employees are encouraged to use such hotels whenever possible. If an employee’s hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

Exhibit 5 – Standard Holiday Schedule

PublicSoft Holiday	Date
New Year's Day	January 1
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving	Fourth Thursday and Friday in November
Christmas Eve	December 24
Christmas Day	December 25
If a holiday falls on a weekend, then the holiday will be taken on the business day closed to the date of the holiday	

Exhibit 6 – Standard Fee Schedule

Item Description	Standard Fee
Custom Programming Services	\$225 / hour
End User Training	\$185 / hour
Other Consulting Services	\$225 / hour
Support Outside Maintenance Agreement	\$185 / hour
Custom Projects	Negotiated
Travel and Meals	See Exhibit 4

Exhibit 7 – Statement of Work

Incorporated by Reference