

## Software as a Service Licensing Agreement

This agreement (this "SaaS Agreement") is by and between Panola County, Texas ("County") and Serenity Software Services, LLC ("Vendor")

### ARTICLE I. SERVICES, TERM, COST

#### A SCOPE OF SERVICES

The Vendor shall provide the County with licenses to a software suite (hereafter, "Licenses" or "Software," as indicated by context) and with related support services (the "Services"), that will allow the County to automate case management, calendaring, fine and cost collection, jury management, and related financial accounting functions for Panola County Justice of the Peace Courts 1 and 2, as follows

- 1     Licenses/Software   As stated in Exhibit "A," the Service Level Agreement
- 2     Support           As stated in the Service Level Agreement
- 3     Training and Documentation   As stated in the Service Level Agreement

#### B. PRICE

The County, in full and fair consideration for the Vendor's performance of its obligations under this SaaS Agreement, shall pay to the Vendor the amounts stated in the Service Level Agreement. The Vendor shall bill the County on a quarterly basis (every three months) as provided in Article III of this SaaS Agreement.

#### C. EFFECTIVE DATE/TERM

This SaaS Agreement shall be effective as of October 1, 2016 for a one (1) year term, and shall renew annually for successive one-year terms unless terminated earlier pursuant to Article V of this SaaS Agreement.

Upon the execution of this SaaS Agreement, the current agreements by and between the County and Kellpro, Inc. for software and services for Justice of the Peace Courts 1 and 2 for the period January 1, 2016 through December 31, 2016, and which has been assigned to the Vendor ("Prior Agreements") shall terminate, and the licenses and services provided under the Prior Agreements shall be provided by Vendor pursuant to this SaaS Agreement, without any lapse in the availability of the License and Services to the County.

**D. APPLICATION OF PAYMENTS FOR PRIOR AGREEMENT**

The Parties agree that amounts paid by the County for the Prior Agreement shall be applied as a credit on a pro rata basis to the amounts owed under this SaaS Agreement based on the number of calendar days remaining in the term of the Prior Agreement as of the end of the day immediately prior to the effective date of this SaaS Agreement

**ARTICLE II**  
**WORK-SITE AND WORKFORCE**

**A. PLACE AND CONDITION OF WORK**

The County shall provide the Vendor access to the sites where the Vendor is to perform the services as required in order for the Vendor to perform the Services in a timely and efficient manner, in accordance with and subject to applicable laws, rules, and regulations

**B. WORKFORCE**

The Vendor shall employ only orderly and competent workers, skilled in the performance of the Services which they will perform under this SaaS Agreement

**C. HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS**

The Vendor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the Services

**ARTICLE III**  
**INVOICING, PAYMENT, AUDIT, INSURANCE**

**A. INVOICES**

(1) The Vendor shall submit separate invoices on a quarterly basis for the Licenses and for any Services or training provided under this agreement outside of, or in addition to, the basic level support and training that is incorporated into the pricing for the Licenses. Such invoices shall be prepared with reference to services and pricing as set out in the Service Level Agreement

(2) Federal excise taxes, State taxes, or County sales taxes must not be included in the invoiced amount. The County will furnish a tax exemption certificate upon request

**B. PAYMENT**

All proper and non-disputed invoices received by the County will be paid in accordance with the requirements of Texas Government Code Section 2251.025

**ARTICLE IV**  
**WARRANTIES AND SECURITY OF INFORMATION**

**A. WARRANTY – DELIVERABLES**

The Vendor hereby warrants and represents that the Software when properly installed, will substantially conform to the functional specifications set forth in the applicable user manual

**B. WARRANTY –INTELLECTUAL PROPERTY**

The Vendor hereby represents and warrants to the County that

(1) the Vendor shall provide the County good and indefeasible title to the Software and Services and

(2) the Software and Services supplied by the Vendor in accordance with the specifications in this SaaS Agreement will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party, that no claims have been made by any person or entity with respect to the ownership or operation of the Software and Services and the Vendor does not know of any valid basis for any such claims. The Vendor shall, at its sole expense, defend, indemnify, and hold the County harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from

(a) any claim that the County's exercise anywhere in the world of the rights associated with the County's ownership, and if applicable, license rights, and its use of the Software and Services infringes the intellectual property rights of any third party, or

(b) the Vendor's breach of any of Vendor's representations or warranties stated in this Contract

(c) In the event of any such claim arising under this Article IV, the County shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the County's behalf. Further, Vendor agrees that the County's specifications regarding the Software and Services shall in no way diminish Vendor's warranties or obligations under this paragraph and the County makes no warranty that the production, development, or delivery of such Software and Services will not impact such warranties of Vendor

### **C. PROTECTION OF SENSITIVE PERSONAL INFORMATION**

(1) For the purposes of this SaaS Agreement, the terms "Personal Identifying Information," and "Sensitive Personal Information," have the meanings given to them in the Texas Identity Theft Enforcement and Protection Act, Chapter 521 of the Texas Government Code, as may be amended (the "Act")

(2) The Vendor shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect from unlawful use or disclosure any Personal Identifying Information or Sensitive Personal Information collected or maintained by the Vendor in the course of its provision of the Licenses, Software, and Services under this SaaS Agreement

(3) The Vendor shall be responsible for the safekeeping of any and all Personal Identifying Information and Sensitive Personal Information that belongs to the County but that is stored by or on servers under the control, ownership, lease, or license of the Vendor

## **ARTICLE V**

### **RIGHT TO ASSURANCE, DEFAULT, TERMINATION, CONTINUATION OF LICENSE**

#### **A RIGHT TO ASSURANCE**

Whenever one party to this SaaS Agreement in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of this SaaS Agreement

#### **B. DEFAULT**

The Vendor shall be in default under this SaaS Agreement if the Vendor

(1) fails to fully, timely and faithfully perform any of its material obligations under this SaaS Agreement.

(2) fails to provide adequate assurance of performance under Article V, Section A, or

(3) becomes insolvent or seeks relief under the bankruptcy laws of the United States

#### **C. TERMINATION FOR CAUSE**

In the event of a default by the Vendor, the County shall have the right to terminate this SaaS Agreement for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Vendor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the County's reasonable satisfaction that such default does not, in fact, exist

**D. TERMINATION WITHOUT CAUSE**

The County shall have the right to terminate this SaaS Agreement, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Vendor shall promptly cease all further work pursuant to this SaaS Agreement, with such exceptions, if any, specified in the notice of termination.

**E. TERMINATION FOR NON-APPROPRIATION**

This SaaS Agreement is subject to appropriation of funds by the Panola County Commissioners Court ("Commissioners Court"), and shall terminate upon 30 days notice to Vendor for lack of funding if the Commissioners Court fails to appropriate sufficient funds to pay the County's obligations under this SaaS Agreement.

**F. CONTINUATION OF LICENSE AFTER TERMINATION**

(1) County's License to use the Software shall survive on a month-to-month basis any termination of this SaaS Agreement for a period of up to, but not to exceed, 12 months following termination. The County's cost for such continued license shall be calculated and paid on a pro-rata monthly basis in accordance with the terms and conditions applicable at the time of termination. The Vendor shall bill the County in accordance with Article III of this SaaS Agreement.

(2) Such License shall remain in effect until Serenity Software is notified in writing that the License is no longer needed because the Customer has secured an adequate replacement for the Software and Services. The Vendor's warranties as to its ownership of intellectual property shall survive the termination of this SaaS Agreement.

**ARTICLE VI**  
**INDEMNITY AND INSURANCE**

**A. INDEMNITY**

THE VENDOR SHALL DEFEND (AT THE OPTION OF THE COUNTY), INDEMNIFY, AND HOLD THE COUNTY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE VENDOR, OR THE VENDOR'S AGENTS, EMPLOYEES OR SUBVENDORS, IN THE PERFORMANCE OF THE VENDOR'S OBLIGATIONS UNDER THIS SAAS AGREEMENT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE COUNTY OR THE VENDOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

**B. INSURANCE**

The Vendor shall maintain at a minimum insurance of the types and in the amounts customarily maintained by SaaS vendors that provide software and services to Texas counties and municipalities. The Vendor shall present the County with evidence of such insurance upon request.

**C. CLAIMS**

If any claim, demand, suit, or other action is asserted against the Vendor which arises under or concerns this SaaS Agreement, or which could have a material adverse effect on the Vendor's ability to perform thereunder, the Vendor shall give written notice thereof to the County within ten (10) calendar days after receipt of notice by the Vendor.

**ARTICLE VIII**  
**RELATIONSHIP BETWEEN COUNTY AND VENDOR**

**A. INDEPENDENT VENDOR**

This SaaS Agreement shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Vendor's services shall be those of an independent contractor. The Vendor agrees and understands that this SaaS Agreement does not grant any rights or privileges established for employees of the County.

**B. ASSIGNMENT-DELEGATION**

This SaaS Agreement shall be binding upon and enure to the benefit of the County and the Vendor and their respective successors and assigns, provided however, that no right or interest in this SaaS Agreement shall be assigned and no obligation shall be delegated by the Vendor without the prior written consent of the County.

**ARTICLE VIII**  
**MODIFICATIONS AND INTERPRETATION**

**A. MODIFICATIONS**

This SaaS Agreement can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Vendor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of this SaaS Agreement.

**B. INTERPRETATION**

This SaaS Agreement is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in this SaaS Agreement.

**C. INVALIDITY**

The invalidity, illegality, or unenforceability of any provision of this SaaS Agreement shall in no way affect the validity or enforceability of any other portion or provision of this SaaS Agreement. Any void provision shall be deemed severed from this SaaS Agreement and the balance of this SaaS Agreement shall be construed and enforced as if this SaaS Agreement did not contain the particular portion or provision held to be void.

**ARTICLE IX**  
**MISCELLANEOUS**

**A. NOTICES**

Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under this SaaS Agreement shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices by other means shall be deemed delivered upon receipt by the addressee.

Notices to the County shall be addressed to the County Judge's office at **110 S. Sycamore Ste 216A, Carthage, TX 75633** and marked to the **Attention of the County Judge**, with a copy to the appropriate JP court(s) located at **Justice of the Peace- Precinct One, 110 S. Sycamore Ste 105, Carthage, TX 75633** or to **Justice of the Peace-Precinct Two, 110 S. Sycamore Ste 103, Carthage, TX 75633**.

Notices to the Vendor shall be addressed to **Jonathon Henry, 2006 W Cedar, Duncan, OK 73534**. Telephone number (580) 606-2476, email address [JonathonAHenry@gmail.com](mailto:JonathonAHenry@gmail.com)

**B. SURVIVABILITY OF OBLIGATIONS**

All provisions of this SaaS Agreement that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of this SaaS Agreement.

**C. COUNTERPARTS**

This agreement may be signed in any number of counterparts, each of which is an original and all of which taken together form one single document.

**D. BINDING AGREEMENT**

The Owner and the Consultant bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement with respect to all covenants of this Agreement Neither the Consultant nor the Owner may assign, sublet or transfer any interest in this Agreement without the prior written consent of the other party

**E. AUTHORITY**

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms

**PANOLA COUNTY, TEXAS**

**SERENITY SOFTWARE SERVICES, LLC**

By: Lee Ann Jones  
Panola County, Texas (Signature)

By: Jonathan Henry  
(Signature)

10-10-16  
Date

10-10-2016  
Date

Lee Ann Jones  
Printed Name of Signatory

Jonathan Henry  
Printed Name of Signatory

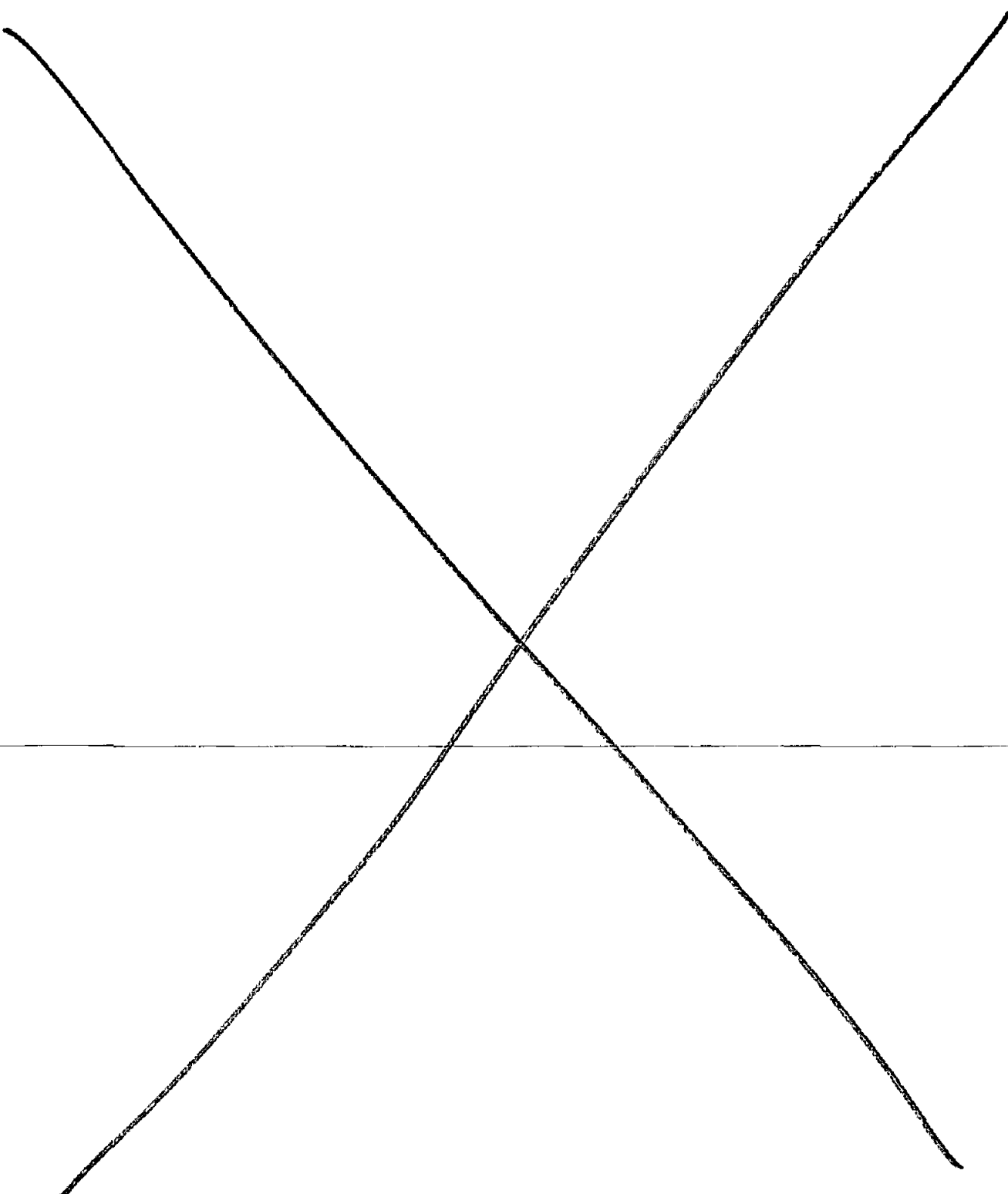
County Judge  
Title of Signatory

President Serenity Software Services  
Title of Signatory, Authorized Representative  
LLC

**ATTACHMENT**  
**Exhibit A- Service Level Agreement**



**EXHIBIT A**  
**SERVICE LEVEL AGREEMENT**



## Service Level Agreement

### SERVICE LEVEL AGREEMENT FOR COURT AUTOMATION SOFTWARE 2016-2017

#### Service Description

The Software and Services consist of the software for end-user personal computers. The basic installation includes the following software and licenses for each of Panola County, Texas Justice of the Peace Courts 1 and 2.

Three (3) "Court System Additional Stations," one (1) OCA Reporting Module, and one (1) Court system Site with First Station on Server, as well as access to training and limited support.

The software is intended to provide the licensed customer with automated case management, calendaring, fine and cost collection, jury management, and full financial accounting functions. Features of the software shall include:

- Case Management
- Accounts Receivable
- Warrant Collection
- Disbursements
- Receipts and Deposits
- Financial Reporting

#### Service Support Hours

Customers can expect support for the service to be available during all regular business hours which are Monday - Friday, 8:00 A.M. to 5:00 P.M. (CST).

#### Customer Support

The point of contact for County users will be through the Service Desk.

Phone: (589) 606-2476

E-mail: [JonathonAHenry@gmail.com](mailto:JonathonAHenry@gmail.com)

*If all Service Desk agents are unavailable, an effort to return all messages (with a telephone call) within 10 minutes will be made. More than 99 percent of all Service Desk contacts will be handled within 10 minutes of message receipt.*

Incident resolution will happen 95 percent of the time in fewer than 2 hours for nominal incidents, and 30 minutes for complete outages of the service.

#### Reliability

The service is guaranteed not to break more than three times per year. A break is defined as the loss of access to a vital business function.

#### Service Performance

Designed for high performance, the Software should not keep the user waiting for response to an input for more than two minutes out of any five-minute window. Any failures must be reported to the Service Desk for incident resolution.

**Fees**

There will be an annual flat fee in the amount of \$11,148.80 (consisting of \$5,574.40 for each of Justice of the Peace Court 1 and 2) that will be billed quarterly for the Software Licenses and Services. Each Justice of the Peace Court shall be provided the following

Three (3) Court System Additional Stations

One (1) OCA Reporting Module

One (1) Court system Site with First Station on Server, as well as access to training and limited support

Telephone Support The flat fee includes unlimited toll-free telephone support for licensed customers during regular business hours. After-hours support shall be available at a rate to be agreed upon by the Parties and subject to approval of a purchase order by the County.

On-Site Visits for Support and Training Serenity Software shall schedule quarterly on-site visits at each of Justice of the Peace Courts 1 and 2 for product support and training. At the request of the County, Serenity Software Services will schedule additional on-site visits at a rate to be agreed upon by the Parties and subject to approval of a purchase order by the County.

**Environment**

Serenity Software Services can only be responsible for Serenity Software Services software. Specific computer and network environment factors are required for Serenity Software Services software to function correctly. The correct software environment is configured when the software is installed initially. If the computer or network environment changes due to factors outside of the Serenity Software Services software, and the Serenity Software Services software is adversely affected, Serenity Software Services support staff will assist the customer in determining that such a change or failure has occurred. If such incidents are minor and infrequent, there is normally not a charge. If the support incident becomes prolonged (normally more than 20 minutes) and appears to have causes outside of the Serenity Software Services software, the customer will be apprised of the possibility that the incident may become a billable event and the customer will be given opportunity to approve/disapprove the charges for continuation of the support incident.