



**SOFTWARE LICENSE**

KeyTrak, Inc. ("KTI") grants to Customer a personal, non-exclusive, non-transferable license to use the software and related documentation, which are part of the KTI system(s) listed on this Agreement, so long as Customer is not in default of this Agreement. Any attempt to sublicense, assign, rent, sell or otherwise transfer the software or the rights or obligations of this Agreement to a third party without the prior written consent of KTI shall be void and of no effect. This software license will automatically terminate without notice if Customer fails to comply with its terms. Ownership of the software and all associated documentation remains vested in KTI. Customer agrees to keep the licensed software, including all documentation, confidential and shall not reproduce, copy, modify or otherwise alter or distribute it to a third party, nor permit any third party to do so or reverse assemble, reverse engineer, disassemble, decompile or otherwise attempt to create or discover any source code of the software by any means whatsoever. Customer acknowledges that the software is copyrighted.

**TITLE**

KTI retains all title to their technology or software included with or contained or embedded in the software and equipment, all copies and derivative works thereof (by whomever produced), all related documentation and materials, and all patent, copyright, trademark, trade secrets and other intellectual property rights inherent in or appurtenant to any of the foregoing.

**SOFTWARE SUPPORT**

KTI will provide telephone support for all problems or questions with the KTI software licensed to Customer for the equipment set forth in this Agreement, during KTI's regular business hours, excluding KTI's recognized holidays, during the Term of this Agreement. KTI will reasonably attempt to correct all material Program Errors at its expense during the Term of this Agreement. A "Program Error" is defined as the failure of the software to perform a specific function that it has been designed to perform. Customer agrees that KTI shall make the sole determination of what functions the software was designed to perform. KTI shall not be responsible for providing support for any software not licensed by KTI to Customer.

KTI may, from time-to-time, in its sole discretion, make modifications and enhancements to the licensed software. Customer shall receive all generally released modifications/enhancements and applicable documentation thereto during the Term of this Agreement. Customer acknowledges and agrees that these modifications/enhancements may at times, require changes or expansion to Customer's KTI system such as memory, computer power or peripherals. Customer agrees to make such expansion or changes at Customer's expense as a necessary cost of acquiring the added software functionality provided by the modifications/enhancements. Customer acknowledges and agrees that if Customer fails to implement a modification or enhancement in a timely manner that shall constitute a default of this Agreement.

**EQUIPMENT MAINTENANCE**

KTI will receive Equipment Trouble Reports and perform Remedial Maintenance Services during KTI's regular business hours, excluding KTI's recognized holidays. The date and time such Remedial Maintenance Service is to be performed will be scheduled by KTI. In any event, it shall be within a reasonable time after being notified by Customer of the need for such Remedial Maintenance Service. Customer acknowledges that any Remedial Maintenance Services performed outside of KTI's regular business hours will be billed additionally to Customer at KTI's then current rates for such services. KTI will perform Remedial Maintenance Services during the Term of this Agreement, as necessary, to return any failed piece of equipment covered under this Agreement to operational condition. At KTI's option, parts may be installed on an exchange basis, and KTI may use reconditioned parts, if KTI deems such reconditioned parts to be adequate for the purpose installed. Customer acknowledges and agrees that all replaced parts shall be KTI's property.

Remedial Maintenance Service shall not include repairs for failures which have occurred as a result of any of the following occurrences, and Customer agrees to pay KTI additionally according to KTI's then current rates for such services: (A) Customer's negligence, accident, abuse, misuse, power surges, or operator error, (B) failure by Customer to perform regular user maintenance such as cleaning the equipment, (C) acts of God (which includes, but is not limited to, lightning strikes and floods), war, fire, sabotage, terrorist act, riot, strike or other labor unrest, or any cause other than normal use, (D) moving or modification of the equipment by Customer, attachment of unauthorized equipment, improper connection of equipment, or use of third party software, and (E) Customer's use of equipment purchased by Customer from a source other than KTI on their KTI system.

Initial: \_\_\_\_\_



KTI will provide either Depot Remedial Maintenance or On-Site Maintenance, as more fully described on the Maintenance Quote. "Depot Remedial Maintenance Service" is the shipment by KTI of a replacement device for the non-operational piece of Equipment. Customer will send the non-operational Equipment to KTI's repair facility. "On-Site Maintenance Service" is the arrival of a KTI technician at the Customer's site to effect the repair of a non-operational piece of Equipment.

1. If "KeyTrak Edge Premier Service" is listed in the Items to be Supported section on the Maintenance Quote, KTI will provide On-Site Maintenance Service repair visits for the contracted period for failures that result from normal use and excludes any failures resulting from the exclusions set forth above. For Equipment covered by the KeyTrak Edge Premier Service, if, during an On-Site Maintenance Service repair visit, KTI deems Depot Remedial Maintenance necessary, then KTI will pay all freight and insurance costs for these shipments.
2. If "Gold Preferred Package" is listed in the Items to be Supported section on the Maintenance Quote, KTI will provide 3 On-Site Maintenance Service repair visits per 12-month period contracted for herein for failures that result from normal use and excludes any failures resulting from the exclusions set forth below. There will be no carryover of unused On-Site Maintenance Service repair visits. Customer must advise KTI at the time of maintenance request which type of service Customer wants to use, On-Site Maintenance Service or Depot Remedial Maintenance. Upon use of all On-Site Maintenance Service repair visits, Remedial Maintenance Service will automatically be Depot Remedial Maintenance Service. For Equipment covered by the Gold Preferred Package, Customer agrees to pay all freight and insurance costs for all shipments related to Depot Remedial Maintenance.

**DELIVERY AND SHIPMENTS**

Customer will be responsible for all freight, handling, and insurance charges for all shipments to or from Customer. Customer acknowledges that any and all delivery and installation dates are approximate. Customer further acknowledges and agrees that KTI shall not be liable for loss or damage due to delay in delivery or installation.

**INVOICING AND PAYMENT**

Customer will be invoiced by KTI for all amounts due under this Agreement. All invoices will be sent to Customer via electronic mail (e-mail) over the Internet. Customer agrees to provide KTI a valid Internet e-mail address to receive such invoices. KTI shall not be required to provide a hard copy invoice. Payment is due upon receipt of invoice. If any payment is not received within thirty (30) days of the invoice date, Customer will be in default of this Agreement. The obligations of KTI under this Agreement are conditioned upon Customer's timely payment of the amounts due hereunder. Any obligation or payment due KTI may be transferred or assigned by KTI upon notice to Customer, and such transferee or assignee shall have the rights, powers, privileges, and remedies of KTI hereunder, without right of off-set or counterclaim by Customer. No statement on any check or any letter accompanying any payment will be deemed an accord and satisfaction, and KTI may accept such payment without prejudice to KTI's right to recover the balance of amounts due under this Agreement or pursue any other remedy available in this Agreement, at law or in equity. All amounts are in U.S. dollars.

**TERM**

The term of this Agreement shall be effective on the first day of the month following the month that the Equipment set forth on Purchase Quote is installed and continue for the Included Support term set forth on Purchase Quote ("Original Term"). If an Additional Maintenance Term Option ("Additional Term") is purchased on Maintenance Quote, such term will begin upon the expiration of the Original Term. If an Additional Maintenance Term Option is not selected, then this Agreement will terminate automatically at the end of the Original Term. The Original Term, Additional Term and Extension Term are referred to collectively as the "Term." Notwithstanding anything to the contrary stated herein, KTI may terminate this Agreement, or any obligations hereof, upon 45 days' prior written notice to Customer.

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**PURCHASE ORDERS**

Customer acknowledges and agrees that any pre-printed or other terms and conditions in Customer purchase orders, or other Customer document, which conflict with the terms and conditions of this Agreement, or which increase the scope of KTI's obligations or its potential liability hereunder, shall be of no force or effect.

The persons signing below on behalf of each party represent and warrant that they are duly authorized to execute this Agreement and bind their respective parties to the terms and conditions of this Agreement, and that no other signatures are required.

Account: K63089

Equipment Address:  
City of North Port Public Works Fleet Management  
1100 N. Chamberlain Boulevard  
North Port, Florida 34286

Billing Email Address:  
Jennifer Ayres, jayres@northportpdfi.gov  
Rachel Cigich, rcigich@northportpdfi.gov

Approved by the City Commission of the City of North Port, Florida on \_\_\_\_\_, 2023.

CITY OF NORTH PORT, FLORIDA

\_\_\_\_\_  
BARBARA LANGDON  
MAYOR

ATTEST

\_\_\_\_\_  
HEATHER FAUST, MMC  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

\_\_\_\_\_  
AMBER L. SLAYTON, B.C.S.  
CITY ATTORNEY

Accepted by:

KeyTrak, Inc.  
200 Quality Circle  
College Station, TX 77845  
Ph: 800-541-5033 | Fax: 937-485-4040

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Deal Key: GREENEKR040323091700 - 01