
NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT

The Parties. this Nondisclosure and Confidentiality Agreement (the “Agreement”) is entered into on this 27th day of April 2020 by and between TENEX SOFTWARE SOLUTIONS, Inc. (“Releasor”), and Williamson County, TX (“Recipient”).

Releasor described as a business entity known as Tenex Software Solutions (“Releasor”)

AND

Recipient described as a government entity known as Williamson County, TX or Williamson County Elections Department.

WITNESSETH

WHEREAS, each party is willing to make available or disclose its Confidential Information (as defined below) (the “Releasor”) to the other party (the “Recipient”), but only if the Recipient which the Confidential Information is disclosed agrees to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises set forth herein and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Confidential Information.

1. Confidential Information. The term “Confidential Information” shall include all information prepared by and/or delivered or disclosed by a Releasor to the Recipient and all notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by the Recipient which contain or are derived from, in whole or in part, the Confidential Information of the Releasor.

“Confidential Information” shall not include information which (i) is in or comes into the public domain other than as a result of a disclosure by the Recipient, (ii) was within the Recipient possession prior to it being furnished to the Recipient by or on behalf of the Releasor pursuant hereto, (iii) becomes available to the Receiving from a source other than the Disclosing Party, provided that such source is not bound by a confidentiality agreement with, or by a fiduciary or legal obligation to, the Recipient, the Disclosing Party, or any other party with respect to such information, or (iv) the Recipient can prove was independently developed by the Recipient without use of or reference to the Confidential Information.

Limitation on Use of Confidential Information.

2. Limitation on use of Confidential Information. Each Recipient agrees (i) that it shall use the Confidential Information solely for purposes of understanding and selecting an electronic poll book, (ii) that it will not, except as contemplated by this Agreement and required by law, disclose any of the

Confidential Information of the Releasor in any manner whatsoever; provided, however, that the Recipient may make any disclosure of such Confidential Information with respect to which the Releasor gives its prior written consent. Confidential information includes ANY information on the Tenex proprietary electronic poll book system, backend management, integrations, hardware, software and screen layout/workflows. **The term of use will be of two-week time period starting on the date the equipment is received by the Recipient. Any extension requesting more time, must be requested in writing per section 6. Notice.**

Other Nondisclosures.

3. Other nondisclosures. Each party hereto agrees that, without the prior written consent of the other party, it will disclose to any other person the fact that the Confidential Information has been made available to it, or any of the terms, conditions or other facts with respect thereto (including the status thereof), unless in the written opinion of counsel, such disclosure is required by law and then only with as much prior written notice to such other party as is practical under the circumstances.

Return of Confidential Information.

4. Return of Confidential Information. At any time upon the request of the Releasor for any reason, the Recipient will promptly deliver and return all data (and all copies thereof) furnished or disclosed to the Recipient pursuant hereto and destroy all written Confidential Information disclosed to or received by it or its Representatives. Notwithstanding the return or destruction of written Confidential Information, the Recipient will continue to be bound by its obligations of confidentiality and use hereunder with respect to all Confidential Information.

Venue and Governing Law.

5. Return of Confidential Information. This Agreement shall be governed by and construed in accordance with the laws in the State of Texas. Venue of this Agreement shall be Williamson County, Texas, and the law of the State of Texas shall govern.

Notice.

6. Notice. Any notice provided in this Agreement must be in writing and must be either in electronic mail (email) or U.S. postal mail for any extension of use on the equipment being provided.

No Waivers.

7. No Waivers. It is understood and agreed that no failure or delay by either party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

No Waiver of Sovereign Immunity or Powers: Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of Recipient, the Williamson County Commissioners Court, or the Williamson County Judge.

Effect of Breach and Remedies.

8. Effect of Breach and Remedies. To the extent authorized under Texas law each party hereto shall assume liability for and indemnify the other party with respect to any and all damages, losses, costs and expenses including, without limitation, reasonable attorney fees arising from any breach of this Agreement by such party that would be a breach of this Agreement if committed directly by such party, including, without limitation, unauthorized use of the Confidential Information. Each party hereto further recognizes and acknowledges that any such breach or threatened breach may result in irreparable injury to the other party for which monetary damages may be an inadequate remedy, and agrees that such other party shall be entitled without proving monetary damages to temporary and permanent injunctions restraining such breach or threatened breach.

Effect of Invalidity or Unenforceability.

9. Effect of Invalidity or Unenforceability. In the event that any provision of this letter agreement shall for any reason be adjudged by a court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect the remaining provisions of this letter agreement, and such court shall have the authority to modify a provision found to be invalid or unenforceable to the extent necessary to permit enforcement to the fullest extent possible.

Mediation.

10. Mediation. The parties agree to use mediation for dispute resolution prior to and formal legal action being taken on this Agreement.

Proprietary Information and Texas Public Information Act.

10. Proprietary Information and Texas Public Information Act: All material submitted to Recipient shall become public property and subject to the Texas Public Information Act upon receipt. If a Releasor does not desire proprietary information to be disclosed, each page must be clearly identified and marked proprietary at time of submittal or, more preferably, all proprietary information may be placed in a folder or appendix and be clearly identified and marked as being proprietary. Recipient will, to the extent allowed by law, endeavor to protect from public disclosure the information that has been identified and marked as proprietary. The final decision as to what information must be disclosed, however, lies with the Texas Attorney General. Failure to clearly identify and mark information as being proprietary as set forth under this provision will result in all unmarked information being deemed non-proprietary and available to the public. For all information that has not been clearly identified and marked as proprietary by the Releasor, Recipient may choose to place such information on Recipient's website and/or a similar public database without obtaining any type of prior consent from the Releasor.

Headings.

11. Headings. The headings preceding the paragraphs hereof are set forth herein for convenience and ease of reference purposes only and shall not affect the meaning or interpretation of the terms hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

TENEX SOFTWARE SOLUTIONS, INC.

Ravi Kallem
By: Ravi Kallem
Title: President
Date: 4/30/2020

WILLIAMSON COUNTY, TX

Bill Gravell Jr.
By: Bill Gravell Jr.
Title: County Judge
Date: May 5, 2020