

Agreement # 9046

Legistar # _____

AGREEMENT CONTRACT ROUTING SHEET

Date Prepared: 08/28/2024

Need Date: 08/30/2024

PROCESSING DEPARTMENT:

Department: CAO - Procurement and Contracts
Dept. Contact: James Jakubowski
Phone: x 5834
Department: James
Head Signature: Jakubowski

Digitally signed by James
Jakubowski
Date: 2024.08.28 17:04:35 -07'00'

CONTRACTOR:

Name: LeadsOnline Parent LLC
Address: 6900 Dallas Parkway Suite 825
Plano, TX 75024
Phone: 972-361-0900

Org Code: 22000000

Project # _____

(if applicable): 22INVEST-C40SERSUP

Funding Source: _____

CONTRACTING DEPARTMENT: CAO - P&C on behalf of District Attorney

Service Requested: Review of T+Cs

Description: Access and Terms of Use Agreement for Law Enforcement Agency users accessing Leads' System

Contract Term: perpetual Contract Value: \$ 8,000.00

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: ☒ Disapproved: ☐ Date: 08/30/2024 By: Roger A. Runkle

Approved: ☐ Disapproved: ☐ Date: _____ By: _____

Digitally signed by Roger A. Runkle
Date: 2024.08.30 10:48:10 -07'00'

Out of state jurisdiction.. Software terms

HR APPROVAL: WILL BE REVIEWED THROUGH WORKFLOW

RISK MANAGEMENT: WILL BE REVIEWED THROUGH WORKFLOW

PLEASE EMAIL SIGNED DOCUMENT TO:

Thank you!



Real Time Crime • CellHawk • Toolbox

6900 Dallas Parkway, Suite 825
Plano, Texas 75024-4200

El Dorado County District Attorneys Office
778 Pacific Street
Placerville, CA 95667

Unit: El Dorado County (CA) District Attorneys
Office

RENEWAL INVOICE

Invoice #: 412346
Invoice Date: 06/15/2024
Agency ID: 27127-C1
Renews: 09/01/2024

Service Dates:	PO Number:
09/01/2024 - 08/31/2025	
Description	Total
CellHawk Subscription - Tier 1 Number of Users: Up to 3 Number of Records: 100,000 Support: Unlimited Support Team Access Plus Over 30 One-Hour On-Demand Training Webinars on the Technology & Relevant Topics	\$2,647.00
Please remit payment to: LeadsOnline LLC, 6900 Dallas Parkway, Suite 825, Plano, TX 75024 – 4200 We accept Checks, Credit Cards, and EFT/ACH Payments Purchase Orders should be emailed to accounting@leadsonline.com	Total: \$2,647.00

LeadsOnline CellHawk Terms, Conditions and Scope of Work:

This order is subject to and governed by the terms and conditions located [here](#) unless LeadsOnline and the Customer above have otherwise executed a written agreement for the Service, in which case that agreement governs this order. If, for any reason, you are unable to view the terms at the website given above, please contact your LeadsOnline representative. LeadsOnline may include a purchase order number on Customer's invoice solely for Customer's internal payment and record keeping processes. Any terms within any purchase order provided to LeadsOnline in response to a quote, order form, invoice or otherwise will not modify or enlarge the obligations or liabilities of either party.

Submit a Payment Online - No Login Required:
www.leadsonline.com/payments

Download our W-9:
www.leadsonline.com/w9

For questions about your LeadsOnline Service,
Subscription Package or Agency/User Accounts please
call 972-361-0900 or email support@leadsonline.com

For questions about your Invoice, Vendor Forms or
General Billing Inquiries please email
accounting@leadsonline.com

Access and Terms of Use Agreement for Law Enforcement Agency users accessing Leads' System

In order to access Leads' System, You, in your official capacity as a Law Enforcement Official, must agree to the terms and conditions set forth herein.

Warning: This Agreement is necessary for Leads to create a Law Enforcement Official user account for You.

Do not complete this Agreement if you are not employed by a Law Enforcement Agency and/or are not attempting to access LeadsOnline solely in the scope of Your official law enforcement duties for Your Law Enforcement Agency. If you have questions about this, please call LeadsOnline Support at 800 311 2656.

Unauthorized use of this system is prohibited and may be subject to criminal and / or civil penalties.

Scope of Agreement

LeadsOnline ("Leads") operates and maintains systems for purposes including but not limited to i) electronic reporting by businesses and law enforcement agencies of information regarding the receipt or other disposition of secondhand merchandise and/or materials ii) duties of Law Enforcement Officials including but not limited to investigations, managing compliance related to electronic reporting by Reporting Businesses, entering or transferring information for access by law enforcement agencies for official Law Enforcement Agency functions iii) analysis by Law Enforcement Agency users and Non-Law Enforcement users of Analysis Files iv) providing access to Toolbox Materials, subject matter assistance and other content for access by Law Enforcement Agency users and Non-Law Enforcement users.

By completing this Agreement and using Leads' System, you represent that you are a Law Enforcement Official acting in your official capacity as a Law Enforcement Official for Your Law Enforcement Agency and that you have the requisite binding authority to enter into this Agreement.

Subject to the terms of this Agreement and in consideration of the mutual covenants stated below, You and Leads agree as follows:

1. Definitions

1.1 "Data" means any information entered, submitted or contained in Leads' System including but not limited to Agency Files, Analysis Files, Repository Data, and Transaction Data. Data includes public and non-public information and personally identifiable information and non-personally identifiable information.

- i. "Agency Files" means non-public case files electronically submitted by Law Enforcement Agencies to Leads' System for automated recurring comparison to Data using Leads' Real Time Crime System.
- ii. "Analysis Files" means records electronically submitted by You to Leads' System for automated analysis. Analysis Files include but are not limited to unstructured images, video, audio or text submitted, and data related to communications or movements of devices, vehicles and other entities, reference data for identifying locations including cell site lists, landmarks, and locations related to crimes.
- iii. "Repository Data" means Data and any other information Leads has received directly from entities other than You.
- iv. "Transaction Data" means information provided by Reporting Businesses and Law Enforcement Agencies about transactions, including (but not limited to) the transaction number, make, model, property description, serial number, name, address, identification number, telephone number, date of birth and any images recorded during the course of a transaction according to official request, statutory requirement or otherwise.
- v. "Deconfliction Data" means the subset of Data necessary for a Law Enforcement Official to be made aware of activity by another Law Enforcement Official or Law Enforcement Agency and to coordinate efforts regarding a person, persons of interest, phone number, device identifier, item of property, location, vehicle or other Data element.

1.2 "GLBA" means the Gramm-Leach-Bliley Act of 1999, together with the Privacy Rule and Safeguards Rule promulgated by the U.S. Federal financial institution regulators and the Federal Trade Commission.

1.3 "Law Enforcement Agency" means any agency duly authorized by municipal, state county or federal government to enforce laws or investigate crimes.

1.4 "Law Enforcement Official" means a person employed by and authorized by a Law Enforcement Agency to, in their official duties, access and/or submit Data according to the terms of this Agreement.

1.5 "Leads' System" means the websites, software, functionality, business processes, procedures, written materials, text, graphics, logos, icons, videos, images and Toolbox Materials operated and maintained by Leads for purposes including but not limited to i) electronic reporting by businesses and law enforcement agencies of information regarding the receipt or other disposition of secondhand merchandise and/or materials ii) duties of Law Enforcement Officials including but not limited to investigations, managing compliance related to electronic reporting by Reporting Businesses, entering or transferring information for access by law enforcement agencies for official Law Enforcement Agency functions iii) analysis by Law Enforcement Agency users and Non-Law Enforcement users of Analysis Files iv) providing access to Toolbox Materials, subject matter assistance and other content for access by Law Enforcement Agency users and Non-Law Enforcement users.

1.6 "Non-Law Enforcement" means entities not duly authorized by municipal, state county or federal government to enforce laws or investigate crimes. Non-Law Enforcement users use Leads' System to access Toolbox Materials and to analyze Analysis Files, but to not have access to Agency Files, Transaction Data, Deconfliction Data and other Data restricted to Law Enforcement Agency use.

1.7 "Reporting Business" means any entity that records Transaction Data regarding the receipt or other disposition of merchandise or materials and reports such Transaction Data for access by Law Enforcement Officials according to official request, statutory requirement or otherwise.

1.8 "Toolbox Materials" means live, recorded, printed or displayed training, webinars, tutorials, subject matter assistance, communications, reports, document templates, specifications, tools, professional and corporate contacts, resources and guides. Toolbox Materials may be created by Leads or compiled, arranged and presented by Leads on Leads' websites, or related to Leads' training or tutorials, or communicated directly or indirectly by Leads' personnel or Leads' System.

1.9 "You" and "Your" means You in your official capacity as a Law Enforcement Official or Your Law Enforcement Agency as appropriate.

2. Your Responsibilities

2.1 You are responsible for the information provided in any registration or account update about Yourself, Your agency and Your Law Enforcement Agency duties. You represent and warrant that your account information is true and agree to only access Leads' System and information produced by or derived from Leads' System in the performance of Your official duties for Your Law Enforcement Agency.

2.2 You are solely responsible for the protection of usernames and passwords used to access Leads' System. You agree to maintain such information in a secure manner and to not provide your login credentials to any other person.

2.3 You are solely responsible for activity taking place under Your user account and are responsible for any use, misuse or disclosure of any information accessed through Your account.

2.4 You are responsible for securing any Data accessed, received or otherwise derived from Leads' System, and agree to comply with all applicable statutes, laws and regulations for use and disclosure of non-public personal information, including state and federal information security breach laws and the GLBA.

2.5 You are responsible for using devices and browsers via a properly encrypted internet connection to access Leads' System.

2.6 You are responsible for promptly notifying Leads when You are no longer employed by Your Law Enforcement Agency or are otherwise no longer authorized to access Leads' System.

2.7 You are responsible for the accuracy and quality of any Data You submit, and for acting according to Your legal rights to possess, submit, analyze and/or utilize such Data.

2.8 You are solely responsible for any use, misuse of or Your actions related to Leads' System that infringe, misappropriate, or otherwise violate any right of any person, or that violate any applicable law.

2.9 You must verify the accuracy, timeliness, context and relevance of information or communication from Leads' personnel or from Leads' System prior to taking action. You acknowledge that Leads does not enforce laws, does not give legal advice, and does not claim to have authority or expertise in legal or law enforcement matters.

2.10 You are responsible for ensuring that any instructions or directives You give to or regarding to anyone ("Directives"), including Directives regarding Reporting Businesses, do not conflict with applicable laws.

2.11 Communications regarding information privacy or security matters should be sent to privacy@leadsonline.com.

3 Responsibilities of Leads

3.1 Leads agrees to operate and maintain Leads' System and to maintain Data confidentiality as follows:

- i. Access to Transaction Data and Deconfliction Data is limited to Law Enforcement Officials.
- ii. Access to Your Law Enforcement Agency's Agency Files is limited to Law Enforcement Officials of Your Law Enforcement Agency unless otherwise directed by Your Law Enforcement Agency.
- iii. Access to Analysis Files is limited to users registered on the same contract, unless otherwise directed by Your Law Enforcement Agency.
- iv. Non-Law Enforcement users may supply and access their own Analysis Files.
- v. Law Enforcement Agency users and Non-Law enforcement users may access Toolbox Materials appropriate for their role.

3.2 Leads agrees to secure Agency Files, Transaction Data, Analysis Files and Repository Data using administrative, technical and physical safeguards as set forth in applicable law, including the GLBA.

3.3 Leads agrees to purge any or all of Your Analysis Files and Agency Files submitted by Your Agency's Law Enforcement Officials according to CJIS standards upon Your Agency's written request.

4 Conditions for use of Leads' System

4.1 Leads' System including but not limited to written materials, text, graphics, logos, software, functionality, icons, images and videos are the exclusive proprietary property of Leads and are protected under the United States Copyright Act (17 United States Code), as well as by all applicable state and international copyright laws, and by the Lanham Act (15 U.S.C. §§1051-1141n). You agree to abide by any additional copyright notices, trademarks, information, or restrictions contained in any content on Leads' System. Leads' System may be used solely for the purposes expressly provided for herein, and no aspect of Leads' System may be used for any other purpose whatsoever. Any other use is unauthorized and will constitute an infringement upon the proprietary rights of Leads. No authority to use any content on Leads' System, or any other intellectual or other property of Leads not expressly granted by this Agreement shall be implied.

4.2 You agree to not decompile or otherwise copy or use content on Leads' System or other proprietary information of Leads for purposes of reverse-engineering or reconstruction, competitive benchmarking, monitoring, gathering or sharing Leads' design, functionality, features, wording or formatting. You agree to not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notices from any materials you obtain from Leads' System.

4.3 You agree to not scrape, systematically collect, record, copy or transfer Data, Toolbox Materials, images and other content and work products accessible via Leads' System or presented by or on behalf of Leads without specific written authorization from Leads to do so.

4.4 You may not access Leads' System for purposes of monitoring availability, performance or functionality, copying any feature, function, user interface, report or any other benchmarking, system design, or

competitive purposes.

4.5 Unless otherwise specified in this Agreement, Leads does not grant You or Your agency access for the purpose of using Leads' System on behalf of other Law Enforcement Agencies or to share information retrieved from Leads' System with other agencies, with the exception of disclosure of information necessary for the prosecution of crimes within Your jurisdiction investigated by Your Law Enforcement Agency.

4.6 You agree to not sell, license, sublicense, distribute, give, or include access to Leads' System or information created through it or derived from it in a service bureau or shared offering, or as a substitute for a Law Enforcement Agency or other entity needing their own Leads subscription.

4.7 You understand and acknowledge that Data may contain non-public personally identifiable information that is unrelated to any criminal case and/or originates from outside Your jurisdiction and/or State. As laws and exemptions regarding public records vary, Leads does not grant You or Your Agency access to Leads' System for the purpose of searching records to respond to a public records request when You did not have the record at the time the public records request was made. If You search Leads' System in response to a request for Public Records, You are acting on Your own accord.

4.8 Leads uses a number of checks to identify inaccurate or incomplete data, and changes, anomalies and errors in Data but cannot and does not represent or endorse the accuracy or reliability of such information. You acknowledge that Reporting Businesses, Law Enforcement Agencies, phone carriers, analysis systems, and other records providers produce information according to varying and ever-changing laws, compliance protocols, operating practices, proprietary software, data labeling, spelling, coding and formatting.

4.9 You understand that if Your free trial period or subscription period ends without prompt renewal and prompt payment, any or all of your Agency Files, Analysis Files, Deconfliction Data and/or work You have done in Leads' System may be permanently lost.

4.10 Leads may modify or upgrade any aspect of Leads' System at any time without notice. Leads will make commercially reasonable efforts to perform such actions in a manner that is not disruptive to users.

4.11 You hereby authorize Leads to collect, maintain and provide You with access to Data including Transaction Data from Reporting Businesses.

4.12 You agree to not discourage Reporting Businesses, Law Enforcement Officials or Law Enforcement Agencies from utilizing Leads' System.

5 Term

5.1 This Agreement is in effect from Your initial access to LeadsOnline and remains in effect as long as Your LeadsOnline account remains in place and/or as long as You have access to any output from Leads' System.

6 Disclaimer and Indemnification

6.1 EXCEPT FOR THE REPRESENTATIONS SET FORTH IN SECTION 3 OF THIS AGREEMENT, LEADS SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, CONDITIONS, AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARISING BY STATUTE, OPERATION OF LAW, USAGE OF TRADE, CUSTOM, COURSE OF DEALING, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, MERCHANTABLE QUALITY, SATISFACTORY QUALITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY AND ALL OTHER IMPLIED WARRANTIES AND EXPRESS WARRANTIES (OTHER THAN THOSE SET FORTH HEREIN, IF ANY) WITH RESPECT TO Leads' SYSTEM. Leads' SYSTEM, INCLUDING ALL TRANSACTION DATA, CONTENT, SOFTWARE, FUNCTIONS, MATERIALS AND INFORMATION MADE AVAILABLE ON OR ACCESSED THROUGH Leads' SYSTEM IS PROVIDED, AND ACCEPTED AND/OR USED, "AS IS" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND.

6.2 LEADS IS NOT LIABLE FOR ANY DAMAGES SUFFERED BY AGENCY OR ALLEGED BY ANY THIRD PARTY ARISING FROM YOUR USE OF Leads' SYSTEM UNLESS THERE IS A SHOWING OF GROSS NEGLIGENCE OR WILFUL MISCONDUCT BY LEADS.

6.3 IN NO EVENT SHALL LEADS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, DOWNTIME COSTS, LABOR COST, OVERHEAD COSTS OR CLAIMS OF A REPORTING BUSINESS, ITS AFFILIATES OR ANY OTHER THIRD PARTY, EVEN IF LEADS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.4 AT AN ABSOLUTE MAXIMUM, LEADS LIABILITY SHALL BE LIMITED TO THE AMOUNT OF MONEY IT IS PAID BY AGENCY TO LEADS.

6.5 Leads shall indemnify, hold harmless, protect and defend Agency and its officials, officers, employees, agents and authorized volunteers (the "Indemnified Parties") from and against all losses, liabilities, judgments, costs, expenses, damages (including damages to Leads' System), attorney's fees, and other costs, including all costs of defense, arising from all suits of law or actions of every nature for or on account of the infringement of any patents, trademarks, or copyrights of any other party by reason of the use or integration of any proprietary software, equipment, devices or processes, originally incorporated, or provided and used, by Leads in the performance of the services provided under this Agreement. Notwithstanding the foregoing, this paragraph shall not apply if the foregoing described losses, liabilities, judgments, costs, expenses, damages and the like arise from the misuse of Leads' System or Data or any other breach of this Agreement by You or Your Law Enforcement Agency.

6.6 You shall ensure that any instructions or directive you give related to Reporting Businesses ("Agency Directives") do not conflict with applicable laws. **LEADS SHALL NOT, UNDER ANY CIRCUMSTANCE, BE RESPONSIBLE OR LIABLE FOR ANY THIRD-PARTY CLAIM ARISING OUT OF OR IN ANY WAY CHALLENGING THE ENFORCEABILITY OR VALIDITY OF SUCH AGENCY DIRECTIVES OR APPLICABLE LAWS.**

6.7 The parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of either party.

6.8 The parties agree that no provision of this Agreement extends either party's liability beyond the liability provided in applicable law, and no provision of this Agreement shall be considered a waiver by either party of any right, defense, or immunity available according to applicable law.

7 Miscellaneous

7.1 Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control, including any act that would be considered force majeure.

7.2 If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement, unless either party deems the unenforceable provision to be essential to this Agreement, in which case either party may terminate this Agreement, effective immediately upon notice to the other party.

7.3 The parties reserve the right to disclose any information in response to a duly authorized subpoena.

7.4 Any waiver by either party of a breach of any provision of this Agreement by the other party or delay in enforcing any rights shall not operate or be construed as a waiver of any other or subsequent breach by such party.

7.5 The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, fiduciary or employment relationship between the parties.

7.6 The parties acknowledge that all services provided under this Agreement are performed from Leads' facilities. No hardware or software is installed, and Leads does not physically come to Your location to provide any services related to this Agreement.

7.7 This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, between the parties relating to the subject matter hereof.

This Agreement may not be modified, changed or discharged, in whole or in part, except by an agreement in writing signed by both parties. The mere acceptance of any work order, purchase order or other document containing provisions purported to modify or enlarge the obligations or liabilities of either party shall not be construed as acceptance of such provisions.

7.8 Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights, or remedies under or by reason of this Agreement. There are no third-party beneficiaries to this Agreement. The only persons who may enforce or benefit from this Agreement and any rights under this Agreement are You and Leads.

7.9 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of laws provisions. Sole and exclusive jurisdiction and venue for any action or proceeding arising out of or related to this Agreement shall be an appropriate state or federal court located either in Dallas County or Collin County, Texas.

7.10 Leads may assign all or part of Leads' rights or duties under this Agreement upon 30 days' notice.