

# Catalis Courts & Land Records, LLC

## Case Management System

### AGREEMENT FOR SERVICES #7883

**THIS AGREEMENT** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Catalis Courts & Land Records, LLC; a Limited Liability Company, duly qualified to conduct business in the State of California, whose principal place of business is 3025 Windward Plaza, Suite 200, Alpharetta GA 30005; whose Agent for Service of Process is *C T Corporation System, California Registered Corporate Agent 1505*, (hereinafter referred to as "Contractor");

### RECITALS

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide maintenance and support services and to provide product subscription service for Ce Connect Licensed Software Products and Modules as part of Catalis Courts & Land Records, LLC's (Catalis) proprietary probation, pretrial, and parole case management software;

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, expert, and competent to perform the special services described in ARTICLE I Scope of Services; that it is an independent and bona fide business operation, advertises and holds itself as such, is in possession of a valid business license, and is customarily engaged in an independently established business that provides similar services to others; and County relies upon those representations;

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable state and local laws;

**WHEREAS**, County has determined that the provision of such services provided by Contractor are in the public's best interest and that there are specialty skills, qualifications, and equipment not expressly identified in County classifications involved in the performance of the work in accordance with El Dorado County Ordinance Code, Chapter 3.13.030(b), El Dorado County Charter, Section 210(b)(6), and/or Government Code Section 31000;

**NOW, THEREFORE**, County and Contractor mutually agree as follows:

#### ARTICLE I

**Scope of Services:** Contractor agrees to provide software support and maintenance, and product subscription services for the software products listed on attached Exhibit B, Annual Pricing. These services shall conform to the terms and conditions set forth in this agreement, including the Master Subscription Agreement attached as Exhibit C and the Software Maintenance Services Customer Handbook, attached as Exhibit D. If there are conflicting terms or provisions between the Agreement and the exhibits, the terms of the Agreement will take precedence and shall prevail over any conflicting terms and provisions in the exhibits.

Contractor agrees to furnish, at Contractor's own cost and expense, all personnel, equipment, tools, materials, and services necessary to perform the services and tasks required under this Agreement,

including those services and tasks that are identified in Exhibit B, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Services.

Contractor shall perform the services and tasks required under this Agreement in a safe, professional, skillful, and workmanlike manner. Contractor is responsible for ensuring that its employees, as well as any subcontractor, if applicable, perform the services and tasks required under this Agreement accordingly.

Contractor to provide the following software maintenance and support services (collectively referred to as "Support Services"):

- A. **Telephone Support.** Contractor shall provide County with telephone support services for Licensed Software from 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, excluding County recognized holidays ("**Regular Support Hours**"). In addition, Contractor will provide after-hours support on a paid hourly basis. Response to after-hours calls from County shall be returned by the next business day.
- B. **Error Corrections.** Contractor will respond to any Errors reported by County in accordance with its response policy attached hereto included in Exhibit D, Software Maintenance Services Customer Handbook.
- C. **Releases and Versions.** Contractor will provide the County with new Versions of the Licensed Software at no additional cost so long as this Agreement remains in effect and the County is current with its financial obligations with Contractor. The delivery of each Version and Release will include Installation, any necessary data conversions, and Release documentation that will include Release/Version notes, and updated Training materials. Notwithstanding anything in the foregoing to the contrary, the County shall, at its own expense, be responsible for the User Training with respect to each Version and Release. Contractor will maintain the functionality of Customizations, Enhancements, and Interfaces performed by Contractor and provided for under this Agreement or any Change Order in all new Versions and Releases, unless otherwise agreed by the County and Contractor. County understands implementation of new Releases may require County to upgrade its Computer Systems. Moreover, new Releases may entail costs to the County associated with Contractor performing an analysis of the impact on the new Release to determine effect on County-performed modifications to the Software as well as manipulation to and migration of data that new Releases occasion. In some instances, Contractor in its sole discretion may determine that new functionality in the Licensed Software may comprise a New Product. New products are not included in new Versions or Releases and may entail additional fees and may need to be separately licensed by the County. Such separate license or subscriptions may entail additional service fees. The County will not be charged for a New Product, additional fees, or for professional services without a written Change Order authorized by the County.
- D. **Supported Licensed Software.** Contractor's obligation to provide Support Services shall extend only to the current Release and prior Version.

**E. County Obligations.**

1. **Help Desk.** County will maintain an internal Help Desk to provide first level user support to County's Users relating to basic system and application Licensed Software questions or problems. Only County's Authorized Representatives are authorized to contact Catalis's Help Desk and only after attempting to resolve user errors, or issues that are caused by the County's Computer Systems.
2. **Computer Systems Responsibility.** County shall perform all tasks necessary to prepare and maintain its Computer Systems for the use of the Licensed Software by County.
3. **Licensed Software Administration.** County, as a general matter, shall perform all tasks associated with the administration of the Licensed Software, including without limitation, (i) add, modify, remove, and otherwise maintain users, templates, lookups, and logons and passwords, (ii) transfer of offenders between officers, (iii) maintaining calendars, (iv) merging or deleting of offenders, associates and organizations and similar application administration functions.
4. **Communications Equipment.** County shall, at its sole expense, install and maintain communications equipment that will permit County to have high speed internet access to the Licensed Software. County acknowledges that maintenance of the appropriate communications equipment is a condition precedent to Contractor's responsibility to perform support and maintenance on the Licensed Software.
5. **Data Security for County Servers.** County shall, at its own expense, install and periodically update a computer virus program, firewalls, and other data security measures on the County's Computer Systems appropriate to protect the Data from unauthorized disclosure and to avoid the transmission of viruses and similar malicious code. Contractor shall not be responsible for any computer virus originating from the County and expressly disclaims any liability for loss or damage caused by any computer virus on County's Computer Systems.
6. **Security.** County shall, at its own expense, protect the security of its Computer System and adopt policies and practices needed to prohibit unauthorized access to or disclosure from the Computer System. Contractor shall not be responsible for any security breach on the County's Computer Systems and expressly disclaims any liability for loss or damage caused by the unauthorized access to County's Computer System other than that which is caused by an employee of Contractor.

F. **Services Outside Scope, Exclusions.** The exclusions set forth in ARTICLE I, H (Scope of Service, No Support for LAN, Computer Systems, and Third-Party Software) and Article XXII; C (Confidential Information, Exceptions) shall apply to Contractor's obligations to provide Support Services under this Section.

G. **Change Orders, Process.** The parties agree that County may request additional services not covered under this Agreement by delivering to Contractor a Change Order request. Contractor shall provide County with a written response to the Change Order request which describes in general the work requested, an estimate of the time required to perform such services, and a schedule of the fees related thereto. For clarity, the scope and nature of a requested Change Order may require the development of specific requirements and an analysis of the impact on the Licensed

Software and reports in order to provide detailed estimate for the requested work. The County understands and acknowledges that Contractor shall not undertake detailed specification development or estimate preparation until a signed Change Order authorizing such work is signed by County. The County shall be charged at the rates set forth in Article III (Compensation for Services) for the development of requirements by Contractor. All work detailed in a Change Order will be performed on a time and materials basis at the rates set forth in Article III (Compensation for Services), unless specified otherwise in the Change Order. Any impact on the Subscription Software Fee will also be reflected in the Change Order. Notwithstanding the preceding sentence, Contractor will not assess a maintenance surcharge or increase in the Subscription Software Fee related to a Change Order for technical services performed for the County that do not modify the Licensed Products in a way that requires Contractor to maintain a separate version or special configuration on behalf of the County over time, nor for Change Orders for training, training materials, or training preparation.

- H. **No Support for LAN, Computer Systems, and Third-Party Software.** Contractor does not offer or provide support for Computer Systems, local area networks, or Third Party Software.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall cover the one (1) year term of July 24, 2023, through July 23, 2024. This Agreement may be extended for two (2) additional one-year terms if written notice is given by the Chief Probation Officer to the Contractor at least thirty (30) days prior to the expiration date of a term.

## **ARTICLE III**

### **Compensation for Services:**

- A. All invoices are due net forty-five (45) days. Support and Maintenance, and Annual Licensed Software charges are due and owing in full on the first day of the term or any renewal term. Change orders are due and owing following the County's receipt and approval of an itemized invoice(s) identifying services rendered and completed.
- B. For the purposes of this Agreement, the billing rate shall be in accordance with the attached Exhibit B, Catalis Pricing.
- C. If the term of this Agreement is extended past year one, a five percent (5%) increase to all charges will apply.
- D. Taxes: Unless otherwise stated on an invoice, Contractor's fees and charges do not include any taxes, levies, duties, or similar governmental assessments of any nature, including but not limited to value-added, sales, use, or withholding taxes, assessable by any local, state, provincial, federal, or foreign jurisdiction (collectively, "Taxes"). The County is responsible for paying all taxes associated with the services or products purchased by the County under this Agreement. If at some future date, a change in law or a changed interpretation of existing laws results in sales tax being assessed on the products and services supplied by Contractor to the County, the County would provide a sales tax exemption certificate or pay the sales tax owed either to Contractor or directly to the State for the then-current year and future years. However, if the sales tax is assessed because of a re-interpretation of existing law, the County shall not be required to pay any resulting sales tax liability that relates to calendar years prior to the year that the new interpretation

is made. For clarity, Contractor is solely responsible for taxes assessable against it based on Contractor's income, property, and employees.

The total amount of this Agreement shall not exceed \$231,085.20 inclusive of all costs, taxes, and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces and on any enclosures or backup documentation. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Probation Department - Fiscal  
3974 Durock Rd, Ste. 205  
Shingle Springs, CA 95682

or to such other location as County directs.

In the event that Contractor fails to deliver the documents or other deliverables required by the individual Work Orders issued pursuant to this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the deliverables are received, or proceed as set forth herein below in ARTICLE XI, Default, Termination, and Cancellation.

#### **ARTICLE IV**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE VI**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Contractor, and Contractor may perform similar work or services for others. However, Contractor shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Contractor's responsibilities or hinder Contractor's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

## ARTICLE VII

**Assignment and Delegation:** Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

## ARTICLE VIII

**Independent Contractor:** The parties intend that an independent contractor relationship will be created by this contract. Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, agents, affiliates, and subcontractors, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Contractor. Those persons will be entirely and exclusively under the direction, supervision, and control of Contractor.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Contractor performs the work or services for accomplishing the results. Contractor understands and agrees that Contractor lacks the authority to bind County or incur any obligations on behalf of County.

Contractor, including any subcontractor or employees of Contractor, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Contractor shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Contractor. Contractor shall not be subject to the work schedules or vacation periods that apply to County employees.

Contractor shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Contractor provides for its employees.

Contractor acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

## ARTICLE IX

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County

will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

#### **ARTICLE X**

**Audit by California State Auditor:** Contractor acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.

#### **ARTICLE XI**

##### **Default, Termination, and Cancellation:**

- A. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default that shall state the following:
1. The alleged default and the applicable Agreement provision.
  2. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

If County terminates this Agreement, in whole or in part, for default:

1. County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and Contractor shall be liable to County for any excess costs for those goods or services. County may deduct from any payment due, or that may thereafter become due to Contractor, the excess costs to procure from an alternate source.

2. County shall pay Contractor the sum due to Contractor under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Contractor under this Agreement and the balance, if any, shall be paid to Contractor upon demand.
3. County may require Contractor to transfer title and deliver to County any completed work under the Agreement.

The following shall be events of default under this Agreement:

1. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
  2. A representation or warranty made by Contractor in this Agreement proves to have been false or misleading in any respect.
  3. Contractor fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
  4. A violation of ARTICLE XVIII, Conflict of Interest.
- B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement immediately in the event Contractor ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Contractor, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Agreement. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.
- E. Termination by the County for Cause. County may terminate this Agreement if there is a continuous, repeated, or systemic failure of the Licensed Software or Contractor's failure to substantially perform its duties set forth in this Agreement. In such event, the County shall deliver written notice of its intent to terminate this Agreement (a "Notice of Termination") that includes a description in reasonable detail of the problems for which the County is invoking its right to terminate this Agreement and the specific requirement within this Agreement or any exhibit or schedule hereto that the County is relying upon. Following delivery of a Notice of Termination, Contractor shall have up to sixty (60) days to cure the failures identified in the Notice of Termination. Throughout such sixty (60) day period, Contractor and County representatives will meet weekly to discuss resolution of the issues identified in the Notice of Termination and identify any remaining outstanding issues. If at the end of the sixty (60) day period of time the issues identified in the Notice of Termination have been cured to County's satisfaction and no other issues remain, County will rescind its Notice of Termination, by sending Contractor formal notice of the same. If Contractor fails to cure the defects identified in the Notice of Termination to County's satisfaction within the sixty (60) day period, County will notify Contractor of such failure to cure and this Agreement



will be terminated as of the date that is sixty (60) days after the date of the Notice of Termination. In the event of a Termination by County for cause under this paragraph, Contractor shall return any monies already paid by County for maintenance of the Licensed Software for the period following Termination.

- F. **Source Code Escrow.** Contractor shall maintain the County on the list of customers that are reflected on its multi-party escrow agreement. Contractor, on behalf of its customers, has entered into an escrow agreement, and deposited its source code for the Licensed Software and relevant explanatory documentation. Such deposit shall be updated at a minimum of once per year by Contractor such that what is on deposit with the Escrow Agent reflects enhancements and other modifications to the Licensed Software installed at the County. Should events described in the escrow agreement occur, the County may demand the release, and upon such demand receive the source code and accompanying documentation from the Escrow Agent. In the event the source code is released to the County, the County shall have the right to use the source code to provide technical improvements and enhancements to the Licensed Software, but shall not have the right to sell, assign or transfer the right to use the Licensed Software to another party. Contractor's obligations and the County's rights under the escrow arrangement shall cease to exist upon termination or expiration of this Agreement.

## ARTICLE XII

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

To County:

County of El Dorado  
Probation Department  
3974 Durock Rd, Suite 205  
Shingle Springs CA 95682

Attn: Chief Probation Officer

With a copy to:

County of El Dorado  
Chief Administrative Office  
330 Fair Lane  
Placerville CA 95667

Attn: Michele Weimer  
Procurement and Contracts Manager

or to such other location as County directs.

Notices to Contractor shall be addressed as follows:

Catalis Courts & Land Records, LLC  
3025 Windward Plaza, Suite 200  
Alpharetta GA 30005  
Attn: Contract Administration

or to such other location as the Contractor directs.

- A. **Delivery.** Except as otherwise provided herein, any notice or other communication between the parties hereto regarding the matters contemplated by this Agreement may be sent by United States mail (first class, airmail, or express mail), commercial courier, or electronic mail, in each case delivered to the address set forth above for the recipient. Any

written notice required to be sent under Article XI (Default, Termination, and Cancellation) must be sent by U.S. mail (first class, airmail, or express mail) or commercial courier.

- B. **Receipt.** Communications shall be deemed received, if by mail, on the earlier of receipt or the third calendar day after deposit in the mail with postage prepaid; if by courier, when delivered as evidenced by the courier's records; and if by electronic mail, when first available on recipient's mail server. If received on a day other than a business day, or on a business day but after 4:30 p.m. recipient's local time, the communication will be deemed received at 9:00 a.m. the next business day.

### **ARTICLE XIII**

**Change of Address:** In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing as provided in ARTICLE XII, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

### **ARTICLE XIV**

**Indemnity:** To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

### **ARTICLE XV**

**Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Workers' Compensation Insurance with statutory limits as required by the laws of any and all states in which Contractor's employees are located, and Employer's Liability Insurance on a per occurrence basis with a limit of not less than \$1,000,000.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional Contractor, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.

- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
  - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

## ARTICLE XVI

**Force Majeure:** Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

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1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

#### **ARTICLE XVII**

**Waiver:** No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

#### **ARTICLE XVIII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Contractor and performing work for County and who are considered to be Contractor within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are Contractors within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Contractor covenants that during the term of this Agreement neither it, or any officer or employee of Contractor, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Contractor becomes aware of a conflict of interest related to this Agreement, Contractor shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in Article XII, Default, Termination, or Cancellation.

Pursuant to Government Code section 84308 (SB 1439, the Levine Act), Contractor shall complete and sign the attached Exhibit A, marked "California Levine Act Statement," incorporated herein and made by reference a part hereof, regarding campaign contributions by Contractor, if any, to any officer of County.

## **ARTICLE XIX**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 11000 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Subchapter 5 of Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and Title 2, California Code of Regulations, Section 11102.

## **ARTICLE XX**

**Nonresident Withholding:** If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold County harmless for any action taken by the California Franchise Tax Board.

## **ARTICLE XXI**

**County Payee Data Record Form:** All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

## **ARTICLE XXII**

### **Confidential Information:**

- A. **Defined.** As used in this ARTICLE XXII, Confidential Information includes the Licensed Software and Customizations in any embodiment, and either party's technical and business information relating to inventions or software, research and development, future product specifications, engineering processes, costs, profit or margin information, marketing and future business plans, as well as any and all internal County and employee information, information concerning or relating to the property and affairs of County that is furnished or

may become available to Contractor while working on this project, any information exchanged by the parties that is clearly marked with a confidential, private, or proprietary legend, and any information that is otherwise made confidential by state law or regulation. Information that is conveyed orally shall be designated as confidential at the time of disclosure and shall be reduced to writing within ten (10) business days. Notwithstanding any provision in ARTICLE XXII, County specifically acknowledges that the Licensed Software, including without limitation the database architecture and sequence and Documentation comprise Confidential Information and know-how that are the exclusive property of Contractor.

- B. **Nondisclosure.** Contractor and County agree that any and all Confidential Information will be held in confidence; the recipient shall protect the Confidential Information from disclosure by using the same degree of care, but no less than a reasonable degree of care, that it uses to protect its own confidential information of a like nature to prevent its unauthorized use, dissemination, or publication by its employees or agents. Further, Confidential Information will not be disclosed to any third party without the consent of the other Party. These confidentiality obligations shall not apply to any information that is or subsequently becomes available to the general public other than through a breach by the receiving party. Further, these confidentiality obligations shall not apply to information or materials that are required to be disclosed by a subpoena or court order or other legal process of a court or governmental or regulatory authority; provided, however, that the party being compelled to disclose such information or materials shall promptly notify the other party of any such requirement to enable such party to seek protective relief therefrom and shall reasonably cooperate as the other party may request in connection therewith. Contractor understands and acknowledges that any use, disclosure, or misappropriation of the County's confidential information by the receiving party may cause the County irreparable harm, the amount of which may be difficult to ascertain. Contractor and County agree the County shall have the right to an order restraining any actual or threatened use, disclosure, or misappropriation of its confidential information and to apply for such other relief as the County shall deem appropriate. Such right is to be in addition to all of the remedies otherwise available to the County at law or in equity.
- C. **Exceptions.** A party's Confidential Information shall not include information that: (a) is or becomes publicly available through no act or omission of the recipient; (b) was in the recipient's lawful possession prior to the disclosure and was not obtained by the recipient either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the recipient by a third party without restriction on recipient's disclosure, and where recipient was not aware that the information was the confidential information of discloser; (d) is independently developed by the recipient without violation of this Agreement; or (e) is required to be disclosed by law.
- D. **Injunctive Relief.** Contractor and County agree that in the event of any breach of ARTICLE XXII (Confidential Information), monetary damages may not be a sufficient remedy or protection for the aggrieved party, and that the aggrieved party shall be entitled to injunctive or other relief as may be deemed proper or necessary by a court of competent jurisdiction.

### ARTICLE XXIII

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Contractor warrants and represents that it shall comply

with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXIV**

**Licenses:** Contractor hereby represents and warrants that Contractor and any of its subContractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subContractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subContractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

#### **ARTICLE XXV**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE XXVI**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Paul Lewis, Sr. Information Technologies Department Coordinator, Probation Department, or successor.

#### **ARTICLE XXVII**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

#### **ARTICLE XXVIII**

**Partial Invalidity:** If any provision, sentence, or phrase of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

#### **ARTICLE XXIX**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

#### **ARTICLE XXX**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

#### **ARTICLE XXXI**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 8-15-23

By: Wendy Thomas  
Chair  
Board of Supervisors  
"County"

ATTEST:  
Kim Dawson  
Clerk of the Board of Supervisors

By: Kyle Kufner  
Deputy Clerk

Dated: 8-15-23

-- CONTRACTOR --

Catalis Courts & Land Records, LLC

By: Darin Rasmussen  
Signature

Dated: July 28, 2023

Darin Rasmussen  
Name

Executive Vice President  
Title



**Catalis Courts & Land Records, LLC**  
**Exhibit A**  
**California Levine Act Statement**

**California Levine Act Statement**

California Government Code section 84308, commonly referred to as the "Levine Act," prohibits any officer of El Dorado County from participating in any action related to a contract if he or she receives any political contributions totaling more than two hundred and fifty dollars (\$250) within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. An officer of El Dorado County includes the Board of Supervisors, and any elected official (collectively "Officer"). It is the Contractor's/Contractor's responsibility to confirm the appropriate "officer" and name the individual(s) in their disclosure.

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to an Officer of the County of El Dorado in the twelve months preceding the date of the submission of your proposals or the anticipated date of any Officer action related to this contract?

\_\_\_\_\_ YES  NO

If yes, please identify the person(s) by name:

Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to an Officer of the County of El Dorado in the twelve months following any Officer action related to this contract?

\_\_\_\_\_ YES  NO

If yes, please identify the person(s) by name:

Answering YES to either of the two questions above does not preclude the County of El Dorado from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Officer(s) from participating in any actions related to this contract.

July 29, 2023  
Date

Darin Rasmussen  
Signature of authorized individual

Catalis Courts + Land Records  
Type or write name of company

Darin Rasmussen, EUP  
Type or write name of authorized individual