SOFTWARE LICENSE AGREEMENT

BETWEEN

PANORAMIC SOFTWARE CORPORATION

AND

COUNTY OF EL DORADO, HEALTH AND HUMAN SERVICES AGENCY

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Panoramic Software, Inc.

SOFTWARE LICENSE AGREEMENT

This SOFTWARE LICENSE AGREEMENT ("Agreement") is made and entered into as of 7/1/2023 by and **between PANORAMIC SOFTWARE CORPORATION**, a California corporation ("**PANOSOFT**"), and **COUNTY OF EL DORADO, HEALTH AND HUMAN SERVICES AGENCY** ("**Customer**").

RECITALS

A. **PANOSOFT** has developed and owns all rights in and to the computer software and documentation referred to herein as the "**Software**".

B. **Customer** wishes to acquire from **PANOSOFT**, and **PANOSOFT** is willing to grant to Customer, certain rights with respect to the Software, on the terms and conditions set forth herein.

AGREEMENT

In consideration of the mutual agreements contained herein, the parties agree as follows:

1 CERTAIN DEFINITIONS

1.1 Software. As used herein, the term "Software" shall mean the computer application software known to PANOSOFT as the base system "PG-Pro Web", and all coding, (object code and source code), tapes, discs, modules, and similar materials comprising such software. The Software is described more specifically in the Documentation (defined below).

1.2 System. As used herein, the term "System" shall mean the Software. Reference to the System shall include any component thereof. All modifications and enhancements to the System shall be deemed to be part of the System as defined herein and shall be subject to all of the terms and conditions set forth herein

1.3 License. As used herein, the term "License" shall have the meaning assigned to such term in Section 2.1.

1.4 Access. Access to the System will be provided to Customer via the Internet by **PANOSOFT** with the sole purpose and intention of Customer performing services as required for Customer's stated business. Customer is solely responsible for any and all data entered and in turn provided to local, state and federal agencies as well as any other individual or entity.

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2   GRANT OF LICENSE

2.1   Grant. PANOSOFT hereby grants to Customer a license with respect to the Software, subject to the terms and conditions set forth herein (the "License").

2.2   Scope. The License granted herein shall consist solely of: (i) the non-exclusive, non-transferable right of Customer to access the PANOSOFT System via the internet to provide services solely in connection with Customer's existing business; (ii) the non-exclusive, non-transferable right of Customer to copy the customer data solely for backup purposes; and (iii) the right to receive and use the online Documentation. The License granted herein shall not entitle Customer to access the PANOSOFT System other than in connection with Customer's existing business; or (c) to permit any person or entity other than Customer and its employees to access the system; or (d) to copy or access the Customer data in any manner or in any form other than solely for backup purposes; or (e) to modify or enhance the System in any respect; or (f) to transfer any right in the Software to any other person or entity.

2.3   Ownership. Customer acknowledges and agrees that, as between PANOSOFT and Customer, title and full ownership of all rights in and to the System and all other materials provided to Customer hereunder shall remain with PANOSOFT. Customer further acknowledges and agrees that the System, and all ideas and expressions contained therein, are proprietary information and trade secrets of PANOSOFT.

2.4   In the event Contractor either: (i) ceases to transact business as a State of California licensed vendor; or (ii) discontinues supporting any software product licensed to Customer (the "Licensed Software") during the term of any such license, Customer shall have the option to purchase a perpetual, non-exclusive, nontransferable license to access, utilize, and modify the source code associated with the Licensed Software solely in connection with its operation and maintenance of the COUNTY OF EL DORADO system (the "Expanded License"). In addition, Panoramic will deploy a private cloud environment hosting an operational version of ElDoradoPGGA and all its data. The ownership of this environment will be handed to Customer along with source code and documentation. The Expanded License shall include the most recent supported version of each component or upgrade, together with any associated documentation. The purchase price for the Expanded License shall be 5 x annual license and support noted in Schedule A "Fee and Payment Schedule."

Customer may exercise its option to purchase the Expanded License by submitting a dated written request on its letterhead, which shall be signed by an authorized Customer representative. Contractor shall provide Customer with the source code and associated documentation within 90 days following its receipt of the written notice.

Notwithstanding the foregoing, it is understood and agreed that the Licensed Software includes components subject to third party licenses that may not be subject to transfer. Customer shall be solely responsible for obtaining any such licenses.

3   TERM

3.1   Duration. The License granted herein shall be effective for the period of 7/1/2023

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to 6/30/2026 (defined in Section 4.1) unless terminated as provided in Section 3.2.

3.2   Termination.   **Customer** may at any time terminate the License granted herein if **PANOSOFT** has breached a material provision of this Agreement and has failed to cure such breach within sixty (60) days after receiving written notice thereof. **Customer** upon ninety (90) days notice may terminate the license granted herein in the event of a change in the nature, scope, or requirements of **Customer**'s program or operations. **PANOSOFT** may at any time terminate the License granted herein if **Customer** has breached a material provision of this Agreement (which shall include without limitation Sections 5, 7, and 8) and has failed to cure such breach within sixty (60) days after receiving written notice thereof.

3.3   Events upon Termination.   Upon any termination of the License granted herein, the parties shall comply with the provisions of Section 9.

4   SUPPORT

4.1   Support Services.   **PANOSOFT** shall provide to **Customer** support services relating to the System described in the Maintenance Agreement attached hereto.

5   COMPENSATION

5.1   License Fee. As compensation for the License granted herein, **Customer** shall pay to **PANOSOFT** a fee in accordance with the schedule set forth in Schedule A attached hereto.

5.2   Other Compensation

5.2.1   Fee for Additional Services. If **PANOSOFT** provides services requested in writing by **Customer** which are in addition to the services specified in Section 4, **Customer** shall as compensation for such additional services, pay to **PANOSOFT** a fee based on **PANOSOFT**'s current prevailing rate for such services or per the terms of a separate contract agreement for specific services rendered.

5.3   General

5.3.1   Invoices. **PANOSOFT** shall invoice **Customer** monthly for all sums which **Customer** owes **PANOSOFT** hereunder, and **Customer** shall pay each invoice within forty-five (45) days after receipt thereof.

5.3.2   Taxes. **Customer** shall be responsible for payment of any and all taxes or other governmental charges or fees attributable to the License granted herein.

6   WARRANTY

6.1   General Warranty. **PANOSOFT** warrants to **Customer** that **PANOSOFT** has full right and authority to grant to **Customer** the License herein and that **Customer's** use of the System in accordance with the License herein shall not infringe any United States copyright or

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patent.

6.2   Performance. **PANOSOFT** warrants to **Customer** that the **PG-Pro Web** application software contracted for by **Customer** will perform in substantial compliance with the base **PG-Pro Web** system. There are no express or implied warranties, including the implied warranty of merchantability and fitness for a particular purpose not specifically set forth in this agreement, with respect to this agreement, or the software or other products, documentation or other products.

6.3   Sole and Exclusive Remedy. If Customer believes a product does not conform to the above warranties, Customer shall notify **PANOSOFT** in writing during the first three months after the Activation Date. **PANOSOFT** will use commercially reasonable efforts to repair or replace the software medium or bring the Licensed Programs into substantial conformance with the applicable specification, either remedy within 30 days of the customers' written notice, at no additional cost to the Customer.

7   CONFIDENTIALITY

7.1   **Customer** Obligations. **Customer** acknowledges that, by virtue of the License granted herein, it will have access to certain proprietary information and trade secrets of **PANOSOFT**, including without limitation proprietary information and trade secrets relating to the System (collectively, the "Confidential Matters"). **Customer** agrees that the Confidential Matters, and all information comprising or relating to the Confidential Matters, shall be deemed confidential and proprietary to **PANOSOFT**, shall be held in trust by **Customer**, and shall be safeguarded by **Customer** to the same extent that **Customer** safeguards confidential matters relating to its own operation which in no event shall be less than the safeguards that a reasonably prudent person or business would exercise under similar circumstances. Confidential matters will not include the terms of this Agreement or items related to the administration of this Agreement if requested under the California Public Records Act.

7.2   To these ends, **Customer** agrees to take such steps as may be necessary to ensure that neither the Confidential Matters, nor any information comprising or relating to the Confidential Matters, are used by **Customer** or any of its employees, agents, or representatives in any manner or for any purpose other than as provided herein or are made available by **Customer** or any of its employees, agents, or representatives to any other person or entity, without the prior written consent of **PANOSOFT**. Such steps shall include without limitation the execution by **Customer's** employees, agents and representatives having access to the Confidential Matters of binding agreements to maintain confidentiality in accordance with this provision.

7.3   Exceptions. **Customer's** obligations pursuant to Section 7.1 shall not apply to: (i) information which is in the public domain, other than as a result of any breach of this Agreement; or (ii) information which **Customer** is obligated to disclose pursuant to the lawful order of any court or government instrumentality in the United States, but only to the extent required by such order.

7.4   **PANOSOFT** Obligations. **PANOSOFT** acknowledges that, by virtue of the

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Customer/developer relationship established herein, it will have access to certain confidential information relating to the Customer's clients and activities. PANOSOFT agrees that all information relating to the activities and the clients of Customer shall be deemed confidential and proprietary to Customer, shall be held in trust by PANOSOFT, and shall be safeguarded by PANOSOFT to the same extent that PANOSOFT safeguards confidential matters relating to its own clients and activities which in no event shall be less than the safeguards that a reasonably prudent person or business would exercise under similar circumstances.

7.4.1   To these ends, PANOSOFT agrees to take such steps as may be necessary to ensure that no information comprising or relating to the clients or activities of Customer are used by PANOSOFT or any of its employees, agents, or representatives in any manner or for any purpose other than as provided herein or are made available by PANOSOFT or any of its employees, agents, or representatives to any other person or entity, without the prior written consent of Customer. Such steps shall include without limitation the execution by PANOSOFT's employees, agents and representatives having access to the Customer's confidential information of binding agreements which impose on such persons the same obligations which are imposed on PANOSOFT under this section.

7.4.2   Customer Data. PANOSOFT will be responsible for the storage and security of Customer data including data management and protection. Data access will be accomplished via Secure Socket Layer (SSL). Customer is solely responsible for the content of data.

7.5   Exceptions. PANOSOFT's obligations pursuant to Section 7.4 shall not apply to: (i) information which is in the public domain, other than as a result of any breach of this Agreement; or (ii) information which PANOSOFT is obligated to disclose pursuant to the lawful order of any court or government instrumentality in the United States, but only to the extent required by such order.

8   LIABILITY

8.1   Indemnification by PANOSOFT. PANOSOFT shall indemnify and hold harmless Customer, and its directors, officers, and employees from and against any and all liability, losses, damages, and expenses (including without limitation reasonable attorney's fees and costs) incurred by Customer, or its directors, officers, or employees which arise out of or relate to PANOSOFT's breach of any provision hereof.

8.2   Indemnification by Customer. Customer shall indemnify and hold harmless PANOSOFT, and its directors, officers, and employees from and against any and all liability, losses, damages, and expenses (including without limitation reasonable attorney's fees and costs) incurred by PANOSOFT, or its directors, officers, or employees which arise out of or relate to Customer's breach of any provision hereof.

8.3   Limitations on Liability. Notwithstanding the provisions of Sections 8.1 and 8.2, the liability of the parties and the remedies of the parties shall be limited as follows:

Panoramic Software, Inc.

8.3.1 <u>Uncontrollable Events.</u> Neither party shall bear any liability arising out of events beyond the control of such party, including without limitation acts of God, acts of a public enemy, fires, floods, storms, earthquakes, riots, strikes, lock outs, wars, restraints of government, court orders, power shortages or outages, equipment or communications malfunctions, nonperformance by any third parties, or other events which cannot be controlled or prevented with reasonable diligence by such party.

8.3.2 <u>Consequential Damages.</u> Neither party shall bear any liability for special, consequential, incidental, or indirect damages (including without limitation loss of anticipated income or profits, loss of goodwill, or other loss or damages), even if such party has been informed of the possibility of such damages.

8.3.3 <u>Value of Contract.</u> In no event shall the aggregate liability of **PANOSOFT** to **Customer** or **Customer** to **PANOSOFT** (regardless of the form, whether in contract or tort) exceed the amount of the fee paid by **Customer** to **PANOSOFT** pursuant to Section 5.1.

8.3.4 <u>Passage of Time.</u> In no event shall a cause of action be asserted by **Customer** against **PANOSOFT** or **PANOSOFT** against **Customer** which arises out of or relates to any event, condition, breach, or claim occurring more than one (1) year prior to the filing of such cause of action.

8.4 <u>Insurance.</u> Without limiting **PANOSOFT's** indemnification of the **Customer**, **PANOSOFT** shall provide and maintain at its own expense during the term of this Agreement the following programs of insurance covering its operations hereunder. Such insurance shall be provided through insurer(s) satisfactory to **Customer** and certificates evidencing such insurance, along with significant endorsements, shall be delivered to **Customer** on or before the effective date of this Agreement, and shall stipulate that the **Customer** is to be given at least thirty (30) days written notice in advance of any modification or cancellation of any policy of insurance.

8.4.1 <u>General and Auto Liability.</u> Insurance shall include but not be limited to, comprehensive general and automobile liability with a combined single limit of not less than $ 1,000,000 per occurrence. Such insurance shall be primary and not contributing with any other insurance maintained by **Customer.**

8.4.2 <u>Workers' Compensation.</u> A program of Workers' Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, and which specifically covers all persons providing services by or on behalf of **PANOSOFT** and all risks to such persons under this Agreement.

9 TERMINATION

9.1 Upon any termination of the License granted herein: (i) **Customer** shall immediately cease any and all use of System. Notwithstanding the preceding sentence, if **Customer** has terminated this Agreement in accordance with Section 3.2 and **Customer** has paid to **PANOSOFT** the full amount of the fee provided in Section 5.1 and all other amounts then owing to **PANOSOFT** under Section 5, then **Customer** may continue to use the System for the

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time period paid, subject to the provisions of Sections 2, 7, 8, and 10.

10 GENERAL PROVISIONS

10.1 Compliance with Laws. Each party shall, in performing its obligations hereunder, comply with all laws, rules, regulations and governmental orders applicable to such party.

10.2 Amendments. This agreement may be amended or supplemented from time to time, but only by a written instrument executed by **Customer** and **PANOSOFT**. As used herein, the term "Agreement" shall include any future amendments or supplements made hereto.

10.3 Construction. The terms "Section" or "Sections" used herein shall refer to the section or sections of this Agreement. The titles and subtitles used herein are not a part of this Agreement, are included solely for convenient reference to the Sections hereof, and have no bearing on the terms and conditions hereof. The singular used herein shall include the plural, and the plural used herein shall include the singular.

10.4 Recitals and Schedules. The Recitals to this Agreement and the Schedules attached to this Agreement shall be considered part of the Agreement and are incorporated herein by this reference.

10.5 Survival. The provisions of Sections 5, 6, 7, 8, 9, and 10 shall survive any termination or expiration of this Agreement and the License granted herein.

10.6 Relation between the Parties. This Agreement shall not be construed to constitute either party as the agent or legal representative of the other for any purpose whatsoever. Neither party is granted any express or implied right or authority by the other party to assume or create any obligation or responsibility on behalf of or in the name of the other party, or to bind the other party in any manner or thing whatsoever.

10.7 Assignment. Neither this Agreement, the License granted herein nor any other right or obligation hereunder shall be assigned, delegated or otherwise transferred by either party, without the prior written consent of the other party. Notwithstanding the preceding sentence, **PANOSOFT** may assign, delegate, or otherwise transfer this Agreement, the License granted herein, and **PANOSOFT**'s rights and obligations hereunder to any affiliate of **PANOSOFT** or to any successor of **PANOSOFT's** business or any part thereof, without the prior written consent of **Customer.**

10.8 Successors. Subject to the restrictions in Section 10.8, this Agreement shall bind and inure to benefit of the respective assigns, successors, representatives and affiliates of the parties.

10.9 Waiver. The failure of either party to insist upon strict performance of any provision of this Agreement when and as called for or due, or to exercise any right provided for in this Agreement, shall not be deemed a waiver or relinquishment for the future of any such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce or exercise any other provision or right in this Agreement.

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10.10   Certain Remedies. The parties acknowledge and agree that any breach by **Customer** of Section 7 of this Agreement would cause irreparable damage to **PANOSOFT**, the exact amount of which would be impossible to ascertain, and for that reason, **PANOSOFT** shall be entitled to injunctive relief in the event of any actual or threatened breach of Section 7. Such relief shall be in addition to any remedies to which **PANOSOFT** may be entitled under law or otherwise.

10.11   Governing Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California, U.S.A., without regard to such state's choice of laws.

10.12   Severability. If any of the provisions of this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the fullest extent permitted by law.

10.13   Notices and change of address. Any notice, payment or other communication required or permitted under this Agreement shall be in writing and shall be deemed to be properly given either: (i) upon personal delivery; or (ii) two (2) calendar days after being sent by facsimile, e-mail, telex, or telegram, or five (5) calendar days after being deposited in the mail (registered or certified first class, postage prepaid), addressed to the parties at their addresses as set forth in this contract, or to such other addresses as the parties shall furnish by written notice.

Notice to Customer shall be in duplicate and addressed as follows:

COUNTY OF EL DORADO
Health and Human Services Agency
3057 Briw Road, Suite B
Placerville, CA 95667
Attn: Contracts Unit
hhsa-contract@edcgov.us

Or to such other location as Customer directs

With a copy to

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
330 Fair Lane
Placerville, CA 95667
ATTN: Purchasing Agent

Notices to PANOSOFT shall be addressed as follows:

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Panoramic Software, Inc.

PANORAMIC SOFTWARE CORPORATION
32932 Pacific Coast Highway, #14-482
Dana Point, CA 92629
ATTN: Jeff von Waldburg, President

Or to such other location as PANOSOFT directs.

Change of Address: In the event of a change in address for PANOSOFT's principal place of business, PANOSOFT's Agent for Service of Process, or Notices to PANOSOFT, PANOSOFT shall notify Customer in writing pursuant to the provisions contained in this Agreement. Said notice shall become part of this Agreement upon acknowledgement in writing by the County 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.

10.14   Enforcement. If either party shall bring an action of any nature against the other party by reason of the breach of any provision of this Agreement, or otherwise arising out of this Agreement, whether for declaratory or other relief, the prevailing party in such action shall be entitled to such party's reasonable expenses relating to such action, including its costs of suit and attorneys' fees.

10.15   Entire Agreement. The parties acknowledge that each has read this Agreement, understands it, and agrees to be bound by its terms. The parties further agree that this Agreement is the complete and exclusive statement of the agreement between the parties relating to the subject matter contained herein, and supersedes all prior or contemporaneous proposals, understandings, representations, conditions, warranties, covenants and other communications between the parties, whether oral or written, relating to such subject matter.

10.16   Venue.   For any action against any party by reason of breach of this agreement is in **The City and County of San Francisco.**

10.17   Electronic Signatures. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

10.18   Contract Administrator. The County Officer or employee with responsibility for administering this Agreement for Public Guardian is Nathaniel Houston, Program Manager, Health and Human Services Agency, or successor.

The County Officer or employee with responsibility for administering this Agreement for General Assistance is Machelle Rae, Deputy Director, Health and Human Services Agency, or successor.

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Agreed to:
County of El Dorado, Health and Human Services Agency   Panoramic Software, Incorporated

Jeff von Waldburg (Oct 12, 2023 22:09 PDT)

_____   _____
Print Name: Wendy Thomas   Jeff von Waldburg
Chair, Board of Supervisors   Chief Executive Officer/Secretary

Date: _____   Date: __10/12/2023__

ATTEST
Kim Dawson
Clerk of the Board

_____   Date: _____
Deputy Clerk of the Board

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Panoramic Software, Inc.

SCHEDULE A

Fee and Payment Schedule

I. <u>MONTHLY MAINTENANCE</u>. Monthly maintenance charges will be charged at the rate of $3,000 per month for Year 1, 2023-2024, $3,990 per month for Year 2, 2024-2025 and $5,305 per month for Year 3, 2025-2026. These charges are payable monthly and in advance.

	Year One	Year Two	Year Three
Public Guardian	$2,000	$2,500	$3,000
General Assistance	$1,000	$1,490	$2,305
Monthly Total	$3,000	$3,990	$5,305

II. <u>ADDITIONAL TRAINING</u>. Any visits to **Customer's** site by **PANOSOFT** staff other than for Initial Training (of two half day sessions for each staff member, training will be performed with 3 to 4 staff at one time), will be made at the **Customer's** written request. Such visits will be invoiced at a rate of $2,000.00 per day, with a one (1) day minimum.

Additional **PANOSOFT** services and costs are detailed in the Software Maintenance Agreement.

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Panoramic Software, Inc.

<u>SOFTWARE MAINTENANCE AGREEMENT</u>

This SOFTWARE MAINTENANCE AGREEMENT (Agreement) is entered into, by and between **County (Customer) and Panoramic Software Incorporated (PANOSOFT)** for **PANOSOFT**'s **PG-Pro Web** application software.

Subject to the terms and conditions hereinafter set forth, the parties agree as follows:

1. **TERM**
   This agreement shall be effective for the period of July 1, 2023 to June 30, 2026.

2. **RENEWAL.**
   At the end of the term in item 1 above, this Agreement may only be renewed by written agreement of both parties and may be subject to new terms and conditions upon renewal. If **Customer** intends not to renew, notice of cancellation must be provided at least sixty (60) days prior to the end of the effective period. If **PANOSOFT** is unwilling or unable to continue to provide the services as set forth in this Agreement, **Customer** will be notified thereof at least 60 (60) days prior to the renewal date. Panoramic Software will provide an up to date database copy.

3. **GENERAL MAINTENANCE SERVICES.**
   PANOSOFT will provide to **Customer** the following types of services under this Agreement on all week-days, Monday through Friday, from 8:30 to 4:30 Pacific Standard Time, excluding holidays.

   a. <u>Telephone Support</u>. **PANOSOFT** staff will be available to answer questions by telephone concerning **PG-Pro Web** application software.

   b. <u>PG-Pro Web</u>. System Updates to **PG-Pro Web** will be provided to fix application software errors or improve security. Such updates may include changes necessary to meet federal, state, and county mandated requirements. All software enhancements will be provided at the discretion of **PANOSOFT.**

   c. <u>Error Correction</u>. An error is defined as any aspect of the software performance which does not conform substantially to the specifications developed during the implementation project. **Customer** identified errors will be corrected and brought into conformance with the user documentation.

4. **CUSTOMER SYSTEM RESPONSIBILITIES.**
   Customer is responsible for performing the following duties relating to the successful operation of **PG-Pro Web**. **PANOSOFT** will provide assistance to **Customer**s in performance of **Customer** System Responsibilities at an additional charge. **PANOSOFT** recommends that **Customer** appoint a System Administrator who will be responsible for **Customer** System Responsibilities.

   a. <u>Customer Hardware/Software</u>. Customer must ensure that the versions of all underlying computer operating systems and internet browsers are the versions recommended by **PANOSOFT** for use with the most current version of **PG-Pro Web.**

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b. <u>Software Maintenance Agreement</u>. This Agreement must be in effect for **Customer** to receive from **PANOSOFT** any of the services listed in this Agreement. Services listed in this Agreement will be unavailable to **Customer**s who are not under a current Software Maintenance Agreement. In the event **Customer** discontinues this Agreement and subsequently desires to reinstate the Agreement in order to receive any of the services listed in this Agreement, **Customer** will be required to pay the normal monthly charge for all months during which service was discontinued before service will be reinstated.

5. **ADDITIONAL SERVICES/MAINTENANCE.**
PANOSOFT will provide additional maintenance services at an additional charge. **PANOSOFT** may require **Customer** authorization in writing and/or a **Customer** Purchase Order before any service which results in billable costs is performed. Additional Maintenance Services include, but is not limited to, the following:

a. <u>Additional Training</u>. Additional software training is available at **Customer** sites.

b. <u>Data and Systems Corrections</u>. Data and Systems corrections include any corrective actions accomplished by **PANOSOFT** staff on-site or via internet access which are necessary due to **Customer** error(s) or unauthorized data access by **Customer**. Unauthorized data access by **Customer** is defined as any **Customer** editing or entering of data other than through normal system usage as described in the user documentation.

c. <u>Customer Site Visits</u>. Visits to **Customer** sites requested by **Customer** for reasons such as, but not limited to additional system training, system usage, and/or resolution of system difficulties not resulting from actions by or otherwise the responsibility of, **PANOSOFT** (as determined by mutual agreement between **PANOSOFT** and **Customer**

d. <u>Custom Software Modules</u>. Software Modules are developed to address customer-specific areas of information management not currently or significantly addressed by **PG-Pro Web**. The License for any such Custom Software Modules will be available for **Customer** to purchase under separate contractual agreement with **PANOSOFT.**

e. <u>Custom Programming</u>. Requests for supplemental programming or customization of system features will be available for **Customer**s. Such requests will be reviewed by **PANOSOFT** and if accepted for implementation by **PANOSOFT** will be subject to the current hourly programming rate. For any given request, **PANOSOFT** will provide an estimate of the total programming charges in advance of beginning work and further notify **Customer** if the ongoing estimate of total charges to completion should ever exceed the initial estimate. In no case will **Customer** be billed for charges in excess of the greatest approved estimate.

6. **CHARGES TO CUSTOMER.**

(a) <u>General Maintenance Service</u>. Monthly maintenance charges will be charged at the rate of $3,000 per month for Year 1, 2023-2024, $3,990 per month for Year 2, 2024-2025 and $5,305 per month for Year 3, 2025-2026. These charges are payable monthly and in advance. This maintenance service charge will remain at this

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rate for a period of 12 months from the initial effective date. See 6 (g) below for changes in rate.

(b) <u>Additional Maintenance Services</u>. The rate for all Additional Maintenance Services is $2,000.00 per day on-site, with a one-day, or an hourly charge of $ 175.00 per hour when services are provided on an ad-hoc basis from **PANOSOFT** headquarters.

(c) <u>Additional Training</u>. Any visits to **Customer's** site by **PANOSOFT** staff other than for Initial Training, will be made at the **Customer's** written request. Such visits will be invoiced at a rate of $2,000.00 per day, with a one (1) day minimum.

(d) <u>Travel.</u> Travel cost is included in the associated charges for on site service.

(e) <u>Custom Programming.</u> Charges for custom programming will be on an hourly basis at a rate of $ 175.00 per hour after the initial deployment project. For any given request, **PANOSOFT** will provide an estimate of the total programming charges in advance of beginning work and further notify **Customer** if the ongoing estimate of total charges to completion should ever exceed the initial estimate. In no case will **Customer** be billed for charges in excess of the greatest approved estimate

(f) <u>Taxes</u>. All maintenance charges under this Agreement are exclusive of any taxes legally imposed on the licensing, delivery, and use of **PG-Pro Web**. **Customer** shall pay, or reimburse **PANOSOFT**, for any such taxes, and **PANOSOFT** may add such taxes to the invoices submitted to **Customer** by **PANOSOFT.**

(g) <u>Changes in Charges</u>. After the initial 12 month period ending <u>6/30/2024</u> **PANOSOFT** may change the charges for Maintenance Services upon 30 days written notice effective at the beginning of any anniversary of the maintenance.

7. PAYMENT.

PANOSOFT will invoice **Customer** for General Maintenance Service and Other Charges as follows:

(a) <u>General Maintenance</u>. **PANOSOFT** will invoice **Customer** in advance for each month payment due for General Maintenance Services during the term of the Agreement. Such invoices may include pro-rated charges for any General Maintenance Services provided prior to the invoice date. **Customer** will pay such invoices within the time specified thereon. In addition, if any charges are not paid when due, **PANOSOFT** may, at its option, suspend performance hereunder until payment is made.

(b) <u>Other Charges</u>. **PANOSOFT** will invoice **Customer** for all other charges incurred, and **Customer** will pay such invoices within the time specified thereon.

(c) <u>Late Charges</u>. In addition to any other remedies allowed by law, **PANOSOFT** may charge **Customer** one-half percent (0.5%) per month on any amount which **Customer** is delinquent in paying to **PANOSOFT** hereunder, except that such charge may not exceed the maximum amount permitted under law.

8. TERMINATION.

This Agreement may be terminated by either party upon material failure of the other party to

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perform its responsibilities and obligations hereunder (except failure of **Customer** to pay monetary obligation hereunder) by submitting notice in writing to the other party of material failure, provided the material failure has not been corrected within sixty (60) days after receipt of such notice. This Agreement may be terminated by **PANOSOFT** upon ten (10) days notice of failure by **Customer** to pay any monetary obligation hereunder or failure by **Customer** to pay any monetary obligation outstanding under **Customer**'s Software License Agreement with **PANOSOFT.**

9.   **DISCLAIMER OF WARRANTY.**
      PANOSOFT DISCLAIMS ALL WARRANTIES OR CONDITIONS, EITHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARISING IN ANY WAY OUT OF, RELATED TO, OR UNDER THIS AGREEMENT.

10.   **LIMITATION OF LIABILITY.**
      CUSTOMER AGREES THAT **PANOSOFT'S** LIABILITY UNDER THIS AGREEMENT IS LIMITED TO FOUR TIMES THE QUARTERLY GENERAL MAINTENANCE SERVICES CHARGE. IN NO EVENT SHALL **PANOSOFT** BE LIABLE TO **CUSTOMER** FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR ANY LOSS OR INJURY TO EARNINGS, PROFITS, OR GOODWILL, OR FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES SUFFERED BY **CUSTOMER**, CAUSED DIRECTLY OR INDIRECTLY BY ANY BREACH OF THE AGREEMENT OR THE PROVISION OF ANY PRODUCTS, MATERIALS, OR SERVICES PURSUANT TO THIS AGREEMENT. **PANOSOFT** SHALL NOT BE LIABLE FOR ANY LOSS OR USE THEREOF, NOR ANY CLAIM MADE AGAINST **PANOSOFT** BY ANY OTHER PARTY.

11.   **GENERAL.**
      This Agreement shall be governed by the laws of the State of California and constitutes the entire agreement between the parties hereto with respect to maintenance of software licensed by **PANOSOFT** to **Customer**, and shall supersede all previous or contemporaneous negotiations, commitments and writings with respect to matters set forth herein. It may only be modified by a writing signed by authorized representatives of both parties. The terms and provisions shall prevail over any conflicting, additional, or other terms appearing on any purchase order submitted by **Customer** at any time.

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Agreed to:
County of El Dorado, Health and Human Services Agency   Panoramic Software, Incorporated

_____   _Jeff von Waldburg (Oct 12, 2023 22:09 PDT)____
Print Name: Wendy Thomas   Jeff von Waldburg
Chair, Board of Supervisors   Chief Executive Officer/Secretary

Date: _____   Date: __10/12/2023__

ATTEST
Kim Dawson
Clerk of the Board

_____   Date: _____
Deputy Clerk of the Board

Panoramic Software, Inc.