

SOFTWARE LICENSE AGREEMENT

BETWEEN

PANORAMIC SOFTWARE CORPORATION

AND

EL DORADO COUNTY HEALTH AND HUMAN SERVICES AGENCY

SOFTWARE LICENSE AGREEMENT

This SOFTWARE LICENSE AGREEMENT ("Agreement") is made and entered into as of May 22, 2012, by and between PANORAMIC SOFTWARE CORPORATION, a California corporation ("**PANOSOFT**"), and the EL DORADO COUNTY 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 "**PG/GA/APS-Pro Web**", described in Schedule A, and all updates, 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 Documentation. As used herein, the term "Documentation" shall mean the documentation relating to the Software, which documentation is described in Schedule A, attached hereto, and all manuals, reports, brochures, sample runs, specifications and other materials comprising such documentation.

1.3 System. As used herein, the term "System" shall mean the Software and the Documentation, collectively. 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.

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

## 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 operate the Software for the purpose of providing services solely in connection with **Customer's** existing business; and (ii) the right to receive and use the Documentation. The License granted herein shall not entitle **Customer**: (a) to operate the Software other than in connection with **Customer's** existing business; or (b) to permit any person or entity other than **Customer** and its employees, agents, elected officials, or independent contractors to operate the Software; or (c) 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**. Notwithstanding the foregoing, any data entered by Customer into the System which has not otherwise been provided by PANOSOFT in the Documentation or in connection with the System shall remain the sole and exclusive property of Customer. Nothing herein shall be construed as licensing Customer's proprietary information or data used in connection with the System to PANOSOFT.

2.4 Source Code Access. Concurrently with the execution of this Agreement, **PANOSOFT** shall provide Customer with a fully executed source code escrow agreement which shall provide that PANOSOFT will make the latest version of the source code for **PG/GA/APS-Pro Web** available to **Customer** at least sixty (60) days prior to **PANOSOFT** filing bankruptcy or ceasing to do business. Furthermore, the escrow agreement shall provide that the source code be released to the Customer if PANOSOFT fails to maintain the System in accordance with this Agreement.

## 3. TERM

3.1 Duration. The License granted herein shall be effective as of the Installation Date (defined in Section 4.1) and shall remain in effect until June 30, 2014 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 ten (10) days after receiving written notice thereof. **Customer** upon thirty (30) days' notice may terminate the license granted herein for any reason. If such prior termination is effected, **Customer**

shall pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to **PANOSOFT**, and for such other services, which **Customer** may agree to in writing as necessary for contract resolution. In no event, however, shall **Customer** be obligated to pay more than the total amount of the contract except where such limitation is otherwise prescribed by law. Upon receipt of a Notice of Termination, **PANOSOFT** 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. **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 thirty (30) days after receiving written notice thereof. **PANOSOFT** acknowledges that **Customer** is a governmental agency, and as such has fiscal legal limitations, including, but not limited to, the availability of funding from fiscal year to fiscal year for ongoing contracts. **PANOSOFT** agrees that in the event **Customer** is required to terminate his contract as a result of necessary fiscal appropriation for the contract, such termination shall not be considered a default by **Customer** of any terms thereof and no liability will be placed on **Customer**.

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

#### 4. INSTALLATION, TRAINING and SUPPORT

4.1 Installation. **PANOSOFT** shall deliver and install the System for **Customer** in the manner and on the schedule set forth in Schedule B attached hereto. The date on which **PANOSOFT** has delivered and installed the System in accordance with Schedule B shall be referred to herein as the "Installation Date".

4.2 Training. **PANOSOFT** shall provide to **Customer** the training services relating to the System described in Schedule B attached hereto.

4.3 Support Services. **PANOSOFT** shall provide to **Customer** the other 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 C attached hereto unless the contract is otherwise terminated in accordance with the terms herein.

##### 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 then prevailing rate for such services which **Customer** shall agree to in writing prior to the performance by **PANOSOFT** of such services.

5.2.2 Expenses relating to Services **Customer** shall reimburse **PANOSOFT** for all necessary travel, lodging, and per diem expenses incurred by **PANOSOFT** and its employees in performing **PANOSOFT's** obligations hereunder. Travel reimbursement shall be made in accordance with Exhibit "F", marked "Board of Supervisors Travel Policy D-1", incorporated herein and made by reference a part hereof.

### 5.3 General

5.3.1 Invoices **PANOSOFT** shall invoice **Customer** for all sums which **Customer** owes **PANOSOFT** hereunder, and **Customer** shall pay each invoice within thirty (30) days after receipt thereof provided such invoice is not reasonably disputed by Customer or **PANOSOFT** is not otherwise in breach of this Agreement.

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 with the exception of any taxes in connection with income attributed to **PANOSOFT**.

## 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** possession and use of the System in accordance with the License herein shall not infringe any copyright or patent. **PANOSOFT** warrants that the System does not contain any material defects, including but not limited to, viruses. **PANOSOFT** further warrants that the no third party claims alleging infringement

6.2 Performance **PANOSOFT** warrants to **Customer** that **PG/GA/APS-Pro Web** application software contracted for by **Customer** will perform in substantial compliance with the **PG/GA/APS-Pro Web User's Manual** listed on Schedule A at all times during the term of this Agreement.

6.3 Notification of Defects. In addition to any other legal or equitable remedy available to Customer, if Customer believes a product does not conform to the above warranties, Customer shall notify **PANOSOFT** in writing.. Within twenty four (24) hours of such written request, **PANOSOFT** will repair or replace the software medium or bring the Licensed Programs into substantial conformance with the applicable specification at no additional cost to the Customer. In the event that the foregoing remedy is determined to fail of its essential purpose, **PANOSOFT** shall refund or reimburse Customer the total amount actually paid by Customer to **PANOSOFT** under the terms of this Agreement. The foregoing shall not at any time be deemed a waiver of Customer's rights to pursue any other remedy available to Customer in law or in equity.

## 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.

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**.

7.2 **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.

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

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 **Exceptions** **PANOSOFT's** obligations pursuant to Section 7.3 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, agents, elected officials, 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** acts or omissions or any 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** acts or omissions of any 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:

8.3.1 Uncontrollable Events 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; provided however, that any increased costs incurred by PANOSOFT as a result of delayed performance or in order to fulfill its obligations under the Agreement shall not be paid by Customer.

8.4 Insurance 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. In addition, Customer shall be named an additional insured on PANOSOFT's insurance policy as of the effective date of this Agreement.

8.4.1 General and Auto Liability - 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 Workers' Compensation - 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

Upon any termination of the License granted herein: (i) **Customer** shall immediately cease using the System; and (ii) **Customer** shall, within ten (10) days after the date of termination, return to **PANOSOFT** the System and all other materials provided to **Customer** hereunder, and all copies thereof in **Customer's** possession or under its control. 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, unless **PANOSOFT** is in breach of any of the terms herein, then **Customer** may retain the System and continue to use the System, subject to the provisions of Sections 2, 7, 8, and 10.

## 10. GENERAL PROVISIONS

10.1 Covenant Not to Hire. **Customer** shall not during the term of the License granted herein and for a period of one (1) year thereafter, hire as an employee of **Customer** any employee of **PANOSOFT**.

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

10.3 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.

10.4 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.

10.5 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.

10.6 Survival. The provisions of Sections 2, 5, 6, 7, 8, 9, and 10 shall survive any termination or expiration of this Agreement and the License granted herein.

10.7 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.

10.8 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**.

10.9 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.

10.10 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.

10.11 Certain Remedies. The parties acknowledge and agree that any breach of Section 7 of this Agreement would cause irreparable damage to the affected party, the exact amount of which would be impossible to ascertain, and for that reason, the affected party 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 the affected party shall be entitled under law or otherwise.

10.12 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.

10.13 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.

10.14 Notices. 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 Schedule B attached hereto, or to such other addresses as the parties shall furnish by written notice.



10.15 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.

10.16 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.

10.17 Venue. The venue for any action involving a dispute under the terms of this Agreement shall be EL DORADO COUNTY.

10.18 Authority. The signatories to this Agreement represent that they have all requisite authority to enter into the terms herein. The Customer employee with responsibility for administering this agreement is DeAnn Osborn, Staff Services Analyst, or her successor.

10.19 California Residency (Form 590). All independent consultants providing services to Customer must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. PANOSOFT will be required to submit a Form 590 prior to execution of an Agreement or Customer shall withhold seven (7) percent of each payment made to the PANOSOFT during the term of the Agreement.

This Agreement has been executed as of the date first set forth above.

Agreed to:

Accepted By;

County of El Dorado

Panoramic Software Incorporated

By: \_\_\_\_\_  
John R. Knight

\_\_\_\_\_  
Tim McCracken, Vice President

Title: Chair

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

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

## SCHEDULE A

Description of the Software and Documentation  
(pursuant to Section 1.1 and 1.2 of  
the Software License Agreement)

### I. Software

- A. **PG-Pro Web, GA-Pro Web and APS-Pro Web** Client and Data Management System for the PG/GA AND APS Office.

### II. Documentation (previously provided under separate cover)

<u>Quantity</u>	<u>Description</u>
1	<b>PG/GA/APS-Pro Web</b> User's Guide – electronic versions
1	<b>PG/GA/APS -Pro Web</b> Sample Reports Package

## SCHEDULE B

### Description of System Installation (pursuant to Section 4.1 of the Software License Agreement)

#### I. HARDWARE INSTALLATION

User Desktop Hardware purchase and installation is solely the responsibility of **Customer**.

#### II. USER DESKTOP HARDWARE LOCATION

EL DORADO COUNTY HEALTH AND HUMAN SERVICES AGENCY

#### III. SOFTWARE DELIVERY and INSTALLATION

**PANOSOFT** or its designated agent shall make available the Software to the **Customer**. **PANOSOFT** will verify the Software through demonstration of: (i) Client's, Receipts, Disbursements, Journals, Incidents, Inventory, and Case Background data entry; (ii) Printing of Client Lists; and, (iii) Printing of a suite of sample reports.

#### IV. TRAINING and IMPLEMENTATION SCHEDULE

**PANOSOFT** will provide **Customer** with a training and implementation and mutually agreed to schedule prior to the effective date of the Agreement.

#### V. TRAINING DAYS

Training services included in this contract are for four (4) man days. **Customer** may elect to purchase additional training days at the current rate in effect (pursuant to Schedule C).

#### VI. TRAINING LOCATION and CLASS SIZE

Training for **PG/GA/APS-Pro Web** is conducted by **PANOSOFT** staff at the **Customer** site. Training will be customized to fit the needs and experience of the **Customer's** staff. The maximum class size is six (6) participants per instructor, with a ratio of two (2) participants to each workstation.

#### VII. ADDRESSES of the PARTIES

Panoramic Software Incorporated  
336 Bon Air Center, # 367  
Greenbrae, CA 94904  
Phone: (877) 558-8527  
Fax: (866) 548-0636

El Dorado County Health and Human Services Agency  
Attn: DeAnn Osborn, Staff Services Analyst  
3057 Briw Road, Suite A  
Placerville, CA 95667  
Phone: (530) 642-7300  
Fax: (530) 626-7734

## SCHEDULE C

### Fee and Payment Schedule

#### I. LICENSE FEE

The full fee for the Software License, Documentation, Installation, all software updates, and Data Conversion and Initial Training as specified in Schedule B is \$ **40,000.00** (itemized below). This fee includes all revisions and upgrades to the System. See attached Statement of Work for the description of work to be provided by **PANOSOFT**.

Minor Customization of our Current PG, GA and APS Applications	Included
Data Conversion	Included
Initial User training & On-Site Support	Included
<b>Project Cost for Public Guardian:</b>	<b>\$24,000.00</b>
<b>Project Cost for Adult Protective Services</b>	<b>\$12,000.00</b>
<b>Project Cost for General Assistance</b>	<b>\$ 4,000.00</b>
<b>Total one-time implementation cost</b>	<b>\$40,000.00</b>
Monthly Maintenance for Public Guardian	\$1,200.00
Monthly Maintenance for Adult Protective Services	\$ 600.00
Monthly Maintenance for General Assistance	\$ 200.00
Year one 2012/2013 Maintenance & Support Total	\$24,000.00
Year two 2013/2014 Maintenance & Support Total	\$24,000.00
<b>Total cost for Conversion &amp; 2 years of Maintenance:</b>	<b>\$ 88,000.00</b>

#### II. ADDITIONAL TRAINING

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 \$ 1,200.00 per day, with a one (1) day minimum. All reasonable costs of travel associated with such visits shall be in accordance with Exhibit F.

#### III. PROGRAMMING

Custom programming is available at **Customer's** written request. Charges for custom programming will be on an hourly basis at a rate of \$ 150.00 per hour. 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.

#### IV. PAYMENT SCHEDULE

Go-Live for PG	\$21,600.00
Go-Live for APS	\$10,800.00
Go-Live for GA	\$3,600.00
30 Days Post Go-Live for the final application	\$4,000.00

## SOFTWARE MAINTENANCE AGREEMENT

This SOFTWARE MAINTENANCE AGREEMENT (Agreement) is entered into, by and between the EL DORADO COUNTY (**Customer**) and Panoramic Software Incorporated (PANOSOFT) for PANOSOFT's **PG/GA/APS-Pro Web** application software being used in the EL DORADO HEALTH AND HUMAN SERVICES AGENCY

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, 2012 to June 30, 2014**.
2. **RENEWAL:** At the end of the term in item 1 above, this Agreement may be renewed by agreement of both parties and may be subject to new terms and conditions upon renewal. If **Customer** intends not to renew, notice of cancellation, in writing, must be provided at least thirty (30) 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 in writing thereof at least 180 days prior to the renewal date.
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) **Telephone Support:** **PANOSOFT** staff will be available to answer questions by telephone concerning **PG/GA/APS-Pro Web** application software.
  - (b) **Training Classes:** Software user training classes for **PG/GA/APS-Pro Web** will be offered from time to time by **PANOSOFT**. Training classes will be conducted at various locations to include **PANOSOFT's** corporate headquarters, at PG Association training conferences, and at **Customer's** sites. The timing and location of such classes shall be at the discretion of **PANOSOFT**.
  - (c) **Software Enhancements:** Updates to **PG/GA/APS-Pro Web** will be provided to fix application software errors and to improve ease of use and performance. 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**.
  - (e) **Error Correction:** An error is defined as any aspect of the software performance which does not conform substantially to the operation specified in the user documentation. **Customer** identified errors will be corrected and brought into conformance with the user documentation.
  - (f) **Software Releases:** Software Enhancements and Error Corrections will be made available to **Customers** in Software Releases from time to time as considered necessary by **PANOSOFT**.
  - (g) **New Documentation Releases:** Documentation to accompany Software Enhancements will be provided when available.
  - (h) **Technical Services Bulletins:** **PANOSOFT** will provide Technical Services Bulletins to **Customers** from time to time. Such bulletins may include information concerning **PG/GA/APS-Pro Web** usage, third party software, and other matters considered relevant to **Customers** by **PANOSOFT**. Technical Services Bulletins will be issued at the discretion of **PANOSOFT**.

4. **ADDITIONAL MAINTENANCE SERVICES:** PANOSOFT will provide additional maintenance services at an additional charge if such maintenance services are not otherwise described herein. PANOSOFT shall require **Customer** authorization in writing and/or a **Customer** Purchase Order before any service which results in billable costs is performed. Additional Maintenance Services includes, but is not limited to, the following:
- (a) **Additional Training:** Additional software training is available at **Customer** sites.
  - (b) **Data and Systems Corrections:** Data and Systems corrections include any corrective actions accomplished by PANOSOFT staff on-site or via the web 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) **Customer Site Visits:** Visits to **Customer** sites requested by **Customer** for reasons such as, but not limited to: (1) additional system training on hardware or software usage; (2) resolution of system difficulties not resulting from defects or failures of the System; or, (3) on-site installation of Software Releases;
  - (d) **New Software Modules:** Software Modules are developed to address areas of information management not currently or significantly addressed by **PG/GA/APS-Pro Web**. The License for any such New Software Modules will be available for **Customer** to purchase under separate contractual agreement with PANOSOFT.
  - (e) **Custom Programming:** Requests for supplemental programming or customization of system features will be available for **Customers**. Such requests will be reviewed by PANOSOFT and, if accepted for implementation by PANOSOFT, will be subject to the then current hourly programming rate.
5. **CUSTOMER SYSTEM RESPONSIBILITIES:** **Customer** is responsible for performing the following duties relating to the successful operation of **PG/GA/APS-Pro Web**.
- (a) **System Operation:** System Operation is the general operation of **Customer's** desktop hardware and all software including, but not limited to, system restarts, configuration and operation of system peripherals (such as printers, and workstations).
  - (b) **Customer Desktop Hardware Repair:** **Customer** is responsible for resolving all desktop hardware problems, reinstalling repaired equipment, and all other actions necessary to complete the repair process unless such problems are the result of defects in the System.
  - (c) **Software Maintenance Agreement:** 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 **Customers** 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.

6. **CHARGES TO CUSTOMERS:**

(a) **General Maintenance Services:** Support costs are; PG \$1,200.00, APS \$600.00, GA \$200.00 for a total of **\$24,000.00** per year for year one and year two, payable annually in advance, beginning July 1<sup>st</sup>, 2014 maintenance increases to \$30,000 per year.

(b) **Additional Maintenance Services:** The rate for all Additional Maintenance Services is \$ 1,200.00 per day on-site, with a one-day minimum plus travel and per diem charges in accordance with Exhibit F, or an hourly charge of \$ 150.00 per hour when services are provided on an ad-hoc basis from **PANOSOFT** headquarters.

(c) **Travel:** CUSTOMER will reimburse PANOSOFT for reasonable out of pocket expenses for airline tickets, car rentals, taxis, personal auto mileage , lodging, meals, and incidental expenses. Travel reimbursement shall be made in accordance with Exhibit "F", marked "Board of Supervisors Travel Policy D-1", incorporated herein and made by reference a part hereof.

(d) **Customer Travel Costs:** All costs of **Customer** travel to **PANOSOFT** training classes, including but not limited to transportation, lodging, meals, and other travel expenses will be paid by **Customer**.

(e) **Taxes:** All maintenance charges under this Agreement are exclusive of any taxes legally imposed on the licensing, delivery, and use of **PG/GA/APS-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** provided such taxes are solely in connection with the licensing or sale of the System. Customer shall not be liable for any taxes incurred by PANOSOFT in connection with income recognized by PANOSOFT.

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

(a) **General Maintenance:** **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 undisputed 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 unless PANOSOFT is otherwise in breach of the terms herein.

(b) **Other Charges:** **PANOSOFT** will invoice **Customer** for all other charges incurred in accordance with this Agreement, and **Customer** will pay such invoices within the time specified thereon.

8. **TERMINATION:** This Agreement may be terminated by either party upon material failure of the other party to perform its responsibilities and obligations 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. **Customer** upon ninety (90) days notice may terminate the maintenance agreement granted herein for any reason. If such prior termination is effected, **Customer** shall pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to **PANOSOFT**, and for such other services, which **Customer** may agree to in writing as necessary for

contract resolution. In no event, however, shall **Customer** be obligated to pay more than the total amount of the contract. Upon the 90<sup>th</sup> day of the Notice of Termination, **PANOSOFT** shall promptly discontinue all services affected unless the notice directs otherwise. This Agreement may be terminated by **PANOSOFT** upon thirty (30) 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**.

All other terms of the Software License Agreement between the parties shall govern this Software Maintenance Agreement. To the extent that there is any conflict between the terms of the agreements, the Software License Agreement provisions shall prevail.

Agreed to:  
County of El Dorado

Accepted By;  
Panoramic Software Incorporated

By: \_\_\_\_\_  
John R. Knight

\_\_\_\_\_  
Tim McCracken, Vice President

Title: Chair \_\_\_\_\_

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

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



## SCHEDULE "E"

### Statement of Work

#### DUTIES:

CONTRACTOR (**PANOSOFT**) agrees to exercise special skill to upgrade the EL DORADO COUNTY PG/GA AND APS Office from the current Legacy software. To the most current Web version of Panoramic Software's PG/GA/APS-Pro Web, referenced hereafter as PG/GA/APS-Pro Web.

**The following is an explanation of Tasks to be conducted in this Implementation Project. These Tasks are illustrative and not intended to limit the scope of the Project. We will conduct Project Meetings with key administrators and users. These meetings are designed to define your current functionalities, discover your additional needs, identify gaps in our "standard" application and validate the completion of Tasks below. Success will require both the County and Panoramic to work diligently during the Project phase.**

A. Analyze current data structures. This task produces a list of all of the tables that are relevant your current system. The field names and alias names as well as field type and length will be listed for each table.

B. Work with users to analyze current use and identify needs. Perhaps dropping some data items, adding others. This effort will produce a document that defines the data to be converted. (Tables, Columns, Descriptions) This document starts with the document from Task A and modifies it based on the actual current usage of each data item.

C. Analyze current data to be converted. Verify data converted is complete and accurate. The number of records in each table seen by users in the application should be the same as the number of records converted. This is the first-level verification of data conversion integrity.

D. Create a SQL Server database to accept the extracted data. This is what we call the "RAW" database. The schema matches the document produced in Task B.

E. Import the converted data into the RAW database. The output of this task includes a repeat verification that all of the data captured was successfully imported. In addition, second-level verifications that involve calculations can now be performed. For instance, the sum of all client balances in Cash accounts should be the same as in your current application.

F. Map the RAW data to our base Web Application. This task produces a document that explains how each data item to be converted will be transformed as it is imported into the new Web Application database. The practical implementation of this document is a custom-written data transformation application that can be repeated for verification of the process.

G. Transform the data from the RAW database to the Web Application database. Verify that data transformed was complete and accurate. At this point more detailed verifications can be done. A number of Clients can be selected for Cash Ledger History verification against the current application.

H. Server Setup. Panoramic works with our hosting company to make sure the capacity and security of the hosted server environment meets the needs of the new web application users.

I. Minor Modification - Perform minor modifications to our Current Off the Shelf PG/GA and APS Applications.

J. Implement the required changes to the Web Application.

K. Acceptance. The Users and the IT Department verify that the implemented modifications are appropriate to the document produced in Task I and accept the application as modified and the conversion process as refined. A date is agreed upon for putting the application on line.

L. Create a Training and Implementation Schedule document.

M. Do a full "User Training" process that exposes each user to the overall application (2-4 hours) as well as focused training on their own area of use (2 sessions of 2-3 hours each). This is for each application. Training to be for up to 15 PG users, 15 GA Users and 20 APS users.

N. Switch to the Web Application.

1. Halt new input on the current system and begin data capture. This usually starts on a Friday afternoon and it works best with the agency's work load to plan for the middle of the month (17-24).
2. Begin data capture and transformation.
3. Document the verifications done.
4. Load data into the Web Application. Verify.
5. Begin live operation on Monday morning.

O. Initial Personal Support Period. During the first few weeks, it is often helpful for a support person to be onsite to provide personal, one-on-one assistance for people who may experience difficulty and have critical tasks to perform. In addition, there are some specific, critical, tasks that should be supported onsite the first time (or two) they are done on the new application. These include the "End of Period" accounting process, the production of large batches of Board and Care payments at the first of the month, and the receipt of ACH deposits on the first and third of the month.

P. Ongoing Support and Maintenance. We provide toll-free helpdesk-type application support during business hours. Most problems can be resolved over the phone in a short period of time.

Our web application toolkit is regularly upgraded and expanded with new functionalities. We offer application upgrades on a quarterly or better schedule, covered by our Annual Maintenance fee. We will add or modify reports that are requested by the users and approved by administration.