

CentralSquare Support and Maintenance Agreement

This CentralSquare Support and Maintenance Agreement (the "**Agreement**"), is entered into between **CentralSquare Technologies, LLC**, a Delaware Limited Liability Company with its principal place of business in Lake Mary, Florida ("**CentralSquare**") and the County of El Dorado, California ("**Customer**"), together with CentralSquare, the "**Parties**", and each, a "**Party**".

WHEREAS, CentralSquare licenses and gives access to certain Software applications ("**Solutions**") to its customers and also provides maintenance, support, migration, installation and other professional services.

WHEREAS, Customer desires to license and/or gain access to certain Solutions and receive professional services described herein, and CentralSquare desires to grant and provide Customer license and access to such offerings as well as to support them with professional services, subject to the terms and conditions set forth in this Agreement.

WHEREAS, CentralSquare was engaged by Customer to provide the installation, integration, and training of the TRAKiT Software, a planning, permitting, and parcel management Software solution pursuant to Agreement for Services #472-S1611, dated January 3, 2017, First Amendment to Agreement for Services #472-S1611, dated June 6, 2017, and Second Amendment to Agreement for Services #472-S1611, dated September 25, 2020.

WHEREAS, the Agreement for Services #472-S1611, expires on January 2, 2022.

WHEREAS, Customer wishes to engage CentralSquare in a new Agreement to provide ongoing maintenance and support for the TRAKiT Software, for an additional five (5) year term starting on January 3, 2022.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by the signatures of their duly authorized representative below, the Parties intending to be legally bound, agree to all of the following provisions and exhibits of this Agreement:

CentralSquare Technologies, LLC	County of El Dorado
1000 Business Center Dr. Lake Mary, FL 32746	2850 Fairlane Court Placerville, CA 95667
By: <u>Dan Maier</u> <small>Dan Maier (Jan 10, 2022 15:26 EST)</small>	By: <u>Lori Partlin</u>
Print Name: Dan Maier	Print Name: <u>Lori Partlin</u>
Print Title: Chief Revenue Officer	Print Title: Board of Supervisors
Date Signed: 01/10/2022	Date Signed: <u>2-22-2022</u>
	By: <u>Kim Dawson</u>
	Print Name: Kim Dawson
	Print Title: Clerk of the Board of Supervisors
	Date Signed: <u>2-22-2022</u>

1. Solution: TRAKIT SOFTWARE

2. Term.

- 2.1. Initial Term. The Initial Term of this Agreement commences on January 3, 2022, (the "**Effective Date**") and will continue in effect for five (5) years from such date unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").
- 2.2. Renewal Term. This Agreement will automatically renew at the expiration of the Initial Term for additional successive one (1) year terms unless earlier terminated pursuant to any of the Agreement's provisions (a "**Renewal Term**" and, collectively, with the Initial Term, the "**Term**").

- 2.3. **Non-Renewal.** Either party may elect to end renewal of the contract by issuing a notice of non-renewal, in writing, to the other party six (6) months prior to the expiration of the current contract term.
3. **Fees.** In consideration of the rights and services granted by CentralSquare to Customer under this Agreement, Customer will make payments to CentralSquare pursuant to the amounts and payment terms outlined in Exhibit 1 (the "**Project Cost Summary**").
4. **Definitions.** Capitalized terms not otherwise defined in this Agreement have the meanings set forth below:
- 4.1. "**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity, or otherwise.
 - 4.2. "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.
 - 4.3. "**Authorized User**" means Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Solutions under the rights granted to Customer pursuant to this Agreement, and for whom access to the Solutions has been purchased.
 - 4.4. "**Baseline**" means the version of a Solution updated to the particular time in question through CentralSquare's warranty services and maintenance, but without any other modification whatsoever.
 - 4.5. "**Component System**" means any one of the Solutions identified in Exhibit 1, including all copies of Source Code, Object Code and all related specifications, Documentation, technical information, and all corrections, modifications, additions, development work, improvements and enhancements to and all Intellectual Property Rights for such Component System.
 - 4.6. "**Customer Data**" means information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from Customer, an Authorized User or end-users by or through the Solutions, provided the data is not personally identifiable and not identifiable to Customer.
 - 4.7. "**Custom Modification**" means a change that CentralSquare has made at Customer's request to any Component System in accordance with a CentralSquare-generated specification, but without any other changes whatsoever by any Person.
 - 4.8. "**Customer Systems**" means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated by Customer or through the use of third-party services.
 - 4.9. "**Defect**" means a material deviation between the Baseline Solution and its Documentation, for which Defect Customer has given CentralSquare enough information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control. Further, with regard to each Custom Modification, Defect means a material deviation between the Custom Modification and the CentralSquare generated specification and documentation for such Custom Modification, and for which Defect Customer has given CentralSquare enough information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control.
 - 4.10. "**Documentation**" means any manuals, instructions, or other documents or materials that CentralSquare provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Solutions, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
 - 4.11. "**Enhancements**" means general release (as opposed to custom) changes to a Baseline Component System or Custom Modification which increase the functionality of the Baseline Component System or Custom Modification in question.
 - 4.12. "**Harmful Code**" means any software, hardware, device or other technology, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Solutions as intended by this Agreement.
 - 4.13. "**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

- 4.14. **"Maintenance"** means optimization, error correction, modifications, and updates to CentralSquare Systems to correct any known Defects and improve performance. Maintenance will be provided for each Component System, the hours and details of which are described in Exhibit 2 (**"Support Standards"**).
- 4.15. **"New Releases"** means new editions of a Baseline Component System or Custom Modification.
- 4.16. **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.
- 4.17. **"Personal Information"** means any information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined in the EU General Data Protection Regulation (GDPR 2018), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.
- 4.18. **"Professional Services"** means installation, implementation, development work, training or consulting services including custom modification programming, support relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by CentralSquare.
- 4.19. **"Representatives"** means, with respect to a Party, that Party's employees, officers, directors, agents, subcontractors, and legal advisors.
- 4.20. **"CentralSquare Personnel"** means all individuals involved in the performance of Support Services and Professional Services as employees, agents, Subcontractors or independent contractors of CentralSquare.
- 4.21. **"Software"** As used herein, the term "Software" (or "CentralSquare Software") shall mean the computer Software in object code format which runs the components of the System, which Software is specifically described on Exhibit One attached hereto. CentralSquare Software shall include all modifications and updates thereto.
- 4.22. **"Solutions"** means the Component Systems, Documentation, Custom Modifications, development work, CentralSquare Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, Software, technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, provided or used by CentralSquare or any Subcontractor in connection with Professional Services or Support Services rendered under this Agreement.
- 4.23. **"CentralSquare Systems"** means the information technology infrastructure used by or on behalf of CentralSquare to deliver Solutions, including all computers, Software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by CentralSquare or through the use of third-party services.
- 4.24. **"Support Services"** means Maintenance, Enhancements, implementation of New Releases, and general support efforts to respond to incidents reported by Customer in accordance with the detailed Support Standards outlined in Exhibit 2.
- 4.25. **"Third-Party Materials"** means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, related services, equipment, or components of or relating to the Solutions that are not proprietary to CentralSquare.
5. **Use Restrictions.** Customer will not permit any other Person to, access or use the Solutions except as expressly permitted by this Agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer will not, except as this Agreement expressly permits:
- 5.1. copy, modify, or create derivative works or improvements of the Solutions, or rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Solutions to any Person, including on or in connection with the internet or any time-sharing, service bureau, Software as a service, cloud, or other technology or service;
- 5.2. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Solutions, in whole or in part;
- 5.3. bypass or breach any security device or protection used by Solutions or access or use the Solutions other than by an Authorized User through the use of his or her own then valid access;

- 5.4. input, upload, transmit, or otherwise provide to or through the CentralSquare Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- 5.5. damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the CentralSquare Systems, or CentralSquare's provision of services to any third-party, in whole or in part;
- 5.6. remove, delete, alter, or obscure any trademarks, Specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Documentation or Solutions, including any copy thereof;
- 5.7. access or use the Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third-party, or that violates any applicable law;
- 5.8. access or use the Solutions for purposes of competitive analysis of the Solutions, the development, provision, or use of a competing software service or product or any other purpose that is to CentralSquare's detriment or commercial disadvantage or otherwise access or use the Solutions beyond the scope of the authorization granted under this Section.

6. Customer Obligations.

- 6.1. Customer Systems and Cooperation. Customer will at all times during the Term: (a) set up, maintain, and operate in good repair all Customer Systems on or through which the Solutions are accessed or used; (b) provide CentralSquare Personnel with such access to Customer's premises and Customer Systems as is necessary for CentralSquare to perform the Support Services in accordance with the Support Standards and Specifications; and (c) provide all cooperation as CentralSquare may reasonably request to enable CentralSquare to exercise its rights and perform its obligations under and in connection with this Agreement.
- 6.2. Effect of Customer Failure or Delay. CentralSquare is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement.
- 6.3. Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 5, Customer will, and will cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Solutions and permanently erasing from their systems and destroying any data to which any of them gained unauthorized access); and (b) notify CentralSquare of any such actual or threatened activity.

7. Professional Services.

- 7.1. Compliance with Customer Policies. While CentralSquare Personnel are performing services at Customer's site, CentralSquare shall ensure that such personnel comply with Customer's reasonable security procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to CentralSquare in writing or in advance. Customer will promptly reimburse CentralSquare for any out-of-pocket costs incurred in complying with such procedures and policies. Additional fees shall not be charged to Customer without prior written approval from the Customer Contract Administrator.

8. **Confidentiality.** Confidential Information. Each Party possesses certain non-public proprietary information, which has economic value and is protected with reasonable safeguards to maintain its secrecy ("**Confidential Information**"). Confidential Information may include, but is not limited to any financial data, business and other plans, specifications, equipment designs, electronic configurations, design information, product architecture algorithms, quality assurance plans, inventions (whether or not the subject of pending patent applications), ideas, discoveries, formulae, models, requirements, standards, trade and manufacturing secrets, drawings, samples, devices, demonstrations, technical information, as well as any and all intellectual and industrial property rights contained therein or in relation thereto. CentralSquare shall own the copyrights, trade secrets, patent rights and other proprietary rights in and may use without restriction knowledge, information, ideas, methods, know-how, and copyrightable expression learned or acquired. Confidential Information will be disclosed either: (i) in writing and conspicuously marked with a restrictive legend identifying it as being a Party's Confidential Information; or (ii) orally or visually and identified at the time of disclosure as Confidential Information and subsequently confirmed in writing by the disclosing Party within fifteen (15) days after such disclosure specifically identifying that portion of information that is Confidential Information. Customer will not sell, transfer, publish, disclose or otherwise make available any portion of the Software or

its associated documentation to others. Customer will use its reasonable best efforts to cooperate with and assist CentralSquare in identifying and preventing any unauthorized use, copying or disclosure of the Software or any portion thereof or any of the algorithms or logic contained therein or any other deliverables.

- 8.1. Compelled Disclosures. If the either Party or any of its Representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall: (a) promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that they can seek a protective order or other remedy or waive its rights under Section 8; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.
- 8.2. Upon expiration or termination of this Agreement, or upon demand by CentralSquare, Customer will (i) return to CentralSquare all copies of CentralSquare's Confidential Information in Customer's possession or under Customer's control, or (ii) destroy all copies of CentralSquare's Confidential Information in Customer's possession and so certify such destruction to CentralSquare in writing. Notwithstanding the foregoing, Customer may retain data or records in electronic form containing Confidential Information for the purposes of backup, recovery, contingency planning, or business continuity planning, so long as such data or records, to the extent not permanently deleted or overwritten in the ordinary course of business, are not accessible in the ordinary course of business, and are not accessed except as required by Customer only for backup, recovery, contingency planning, or business continuity purposes.

9. Security.

- 9.1. CentralSquare shall implement commercially reasonable administrative, technical, and physical safeguards designed to ensure the security and confidentiality of Customer Data, protect against any anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access or use of Customer Data. CentralSquare will review and test such safeguards on no less than an annual basis.
- 9.2. Customer will maintain, in connection with the operation or use of the Solutions, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.
- 9.3. To the extent that Authorized Users are permitted to have access to the Solutions, Customer will maintain agreements with such Authorized Users that adequately protect the confidentiality and Intellectual Property Rights of CentralSquare in the Solutions and Documentation and disclaim any liability or responsibility of CentralSquare with respect to such Authorized Users.

10. Personal Data. If CentralSquare processes or otherwise has access to any personal data or personal information on Customer's behalf when performing CentralSquare's obligations under this Agreement, then:

- 10.1. Customer will be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and CentralSquare shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own);
- 10.2. Customer will ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to CentralSquare so that CentralSquare may lawfully use, process, and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include CentralSquare processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for CentralSquare to provide the Solutions and perform its other obligations under this Agreement;
- 10.3. CentralSquare shall process personal data and information only in accordance with lawful and reasonable instructions given by Customer and as set out in and in accordance with the terms of this Agreement;
- 10.4. Each Party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction, or

damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the Parties will cooperate to document these measures taken.

11. Representations and Warranties.

11.1. **LIMITED WARRANTY.** CentralSquare warrants that it owns or otherwise has the rights in the Software and has the right to license the Software as described in this Agreement. CentralSquare further warrants and represents that the CentralSquare Software does not contain any "back door", "time bomb", "Trojan horse", "worm", "drop dead device" or other program routine or hardware device inserted and intended by CentralSquare to provide a means of unauthorized access to, or a means of disabling or erasing any computer program or data, or otherwise disabling the CentralSquare Software. Nothing herein shall be deemed to constitute a warranty against viruses. The provisions of section and its subsections below, shall constitute the agreement of the Parties with respect to viruses. Customer's sole remedy with respect to the foregoing warranty shall be to receive an Update to the CentralSquare Software that does not contain any of the above-described routines or devices.

11.2. **DISCLAIMER OF WARRANTY.** EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH ABOVE, CENTRALSQUARE MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE SOLUTIONS, PROFESSIONAL SERVICES, SUPPORT SERVICES, AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND THAT CENTRALSQUARE DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER, INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND SPECIFICALLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FURTHER, CENTRALSQUARE EXPRESSLY DOES NOT WARRANT THAT A SOLUTION, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY CUSTOMER IF THE SOLUTION OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN CENTRALSQUARE PERSONNEL, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS-IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER. THIS AGREEMENT DOES NOT AMEND, OR MODIFY CENTRALSQUARE'S WARRANTY UNDER ANY AGREEMENT OR ANY CONDITIONS, LIMITATIONS, OR RESTRICTIONS THEREOF.

12. **Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when delivered personally, sent by United States registered or certified mail, return receipt requested; transmitted by facsimile or email confirmed by United States first class mail, or sent by overnight courier. Notices must be sent to a Party at its address shown below, or to such other place as the Party may subsequently designate for its receipt of notices in writing by the other Party.

If to CentralSquare	CentralSquare 1000 Business Center Dr. Lake Mary, Florida 32746 Phone: 407-304-3235 email: info@CentralSquare.com Attention: Senior Counsel / Contracts Department
---------------------	--

If to Customer:	County of El Dorado Planning and Building Department 2850 Fairlane Court Placerville, California 95667 Phone: 530-621-5132 email: karen.l.garner@edcgov.us Attention: Karen Garner, Director
-----------------	--

With a Copy to:

County of El Dorado
Chief Administrative Office
330 Fair Lane
Placerville, California 95667
Phone: 530-621-5567 email: michele.weimer@edcgov.us
Attention: Michele Weimer, Procurement and Contract Manager

13. Force Majeure. Neither Party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of Equipment, software, or services from suppliers, default of a subcontractor or vendor to the Party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other Party, or its officers, directors, employees, agents, contractors, or elected officials, and/or other occurrences beyond the Party's reasonable control ("Excusable Delay" hereunder). In the event of such Excusable Delay, performance shall be extended on a day for day basis or as otherwise reasonably necessary to compensate for such delay.

14. Indemnification.

14.1. CentralSquare Indemnification. CentralSquare shall indemnify, defend, and hold harmless Customer from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of CentralSquare, its employees, agents, contractors, or any subcontractor as a result of CentralSquare's or any subcontractor's performance pursuant to this Agreement; however, CentralSquare shall not be required to indemnify Customer for any claims or actions caused to the extent of the negligence or wrongful act of Customer, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a claim, lawsuit or liability results from or is contributed to by the actions or omissions of Customer, or its employees, agents or contractors, CentralSquare's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

14.2. Customer Indemnification. Customer shall indemnify, defend, and hold harmless CentralSquare from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of Customer, its employees, agents, contractors, or any subcontractor as a result of Customer's or any subcontractor's performance pursuant to this Agreement; however, Customer will not be required to indemnify CentralSquare for any claims or actions caused to the extent of the negligence or wrongful act of CentralSquare, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a claim, lawsuit or liability results from or is contributed to by the actions or omissions of CentralSquare, or its employees, agents or contractors, Customer's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

14.3. Sole Remedy. THIS SECTION SETS FORTH CUSTOMER'S SOLE REMEDIES AND CENTRAL SQUARE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND SOLUTIONS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD-PARTY.

15. Termination. This Agreement may be terminated:

15.1. For cause by either Party, effective on written notice to the other Party, if the other Party materially breaches this Agreement and: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.

15.2. For lack of payment by written notice to Customer, if Customer's failure to pay amounts due under this Agreement has continued more than ninety (90) days after delivery of written notice of non-payment.

15.3. Termination or Cancellation without Cause: Customer 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, Customer will pay for services rendered or established as due under the terms of this Agreement before the effective date of termination, as set forth in the Notice of Termination provided to

CentralSquare, and for any other services that Customer agrees, in writing, to be necessary for contract resolution. In no event, however, shall Customer be obligated to pay more than the total amount of the Agreement. In the event of Termination or Cancellation without cause, the Customer shall not be entitled to any credit, refund, or rebate of any prepaid fees, paid to that point. Upon receipt of a Notice of Termination, CentralSquare 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.

16. Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

- 16.1. Upon the expiration or earlier termination of this Agreement, each Party shall continue to hold such Confidential Information in confidence pursuant to Section 8; and
- 16.2. Upon the expiration of this Agreement, each Party shall pay to the other all amounts accrued prior to and through the date of termination of this Agreement.

17. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld; provided however, that in the event of a merger or acquisition of all or substantially all of CentralSquare's assets, CentralSquare may assign this Agreement to an entity ready, willing and able to perform CentralSquare's executory obligations hereunder, as evidenced by an express written assumption of the obligations hereunder by the assignee.

18. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including the breach, termination, or validity thereof, shall be resolved by final and binding arbitration.

- 18.1. Exclusive Dispute Resolution Mechanism. The Parties agree to resolve any dispute, controversy, or claim arising out of or relating to this Agreement (each, a "Dispute"), exclusively under the provisions of this Section. Either Party may seek interim or provisional relief in any court of competent jurisdiction if necessary, to protect the rights or property of that Party pending the appointment of the arbitrator or pending the arbitrator's determination of the merits of the dispute.
- 18.2. Good Faith Negotiations. The Parties agree to send written notice to the other Party of any Dispute ("Dispute Notice"). After the other Party receives the Dispute Notice, the Parties agree to undertake good faith negotiation between themselves to resolve the Dispute. Each Party shall be responsible for its associated travel costs. The Parties agree to attend no fewer than three (3) negotiation sessions attended Vice Presidents of each Party (or employees of equivalent or superior position).
- 18.3. Escalation to Mediation. If the Parties cannot resolve any Dispute during the good faith negotiations either Party must initiate mediation under Section 18.4.
- 18.4. Mediation. Subject to Sections 18.2 and 18.3, the Parties may escalate a Dispute to a mutually agreed mediator. Parties agree to act in good faith in selecting a neutral mediator and in scheduling the mediation proceedings. The Parties agree to use commercially reasonable efforts in participating in the mediation. The Parties agree the mediator's fees and expenses, and the mediator's costs incidental to the mediation will be shared equally between the Parties. The Parties shall bear their own fees, expenses, and costs.
- 18.5. Confidential Mediation. The Parties further agree all written or oral offers, promises, conduct, and statements made in the course of the mediation are confidential, privileged, and inadmissible for any purpose in any litigation, arbitration or other proceeding involving the Parties. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.
- 18.6. Litigation or Arbitration as a Final Resort. If the Parties cannot resolve a Dispute through mediation, then once an impasse is issued by the mediator either Party must commence binding arbitration in accordance with the provisions of 18.7 and 18.8.
- 18.7. Arbitration. The Parties agree that any dispute, controversy, or claim arising out of or related to this Agreement, or any alleged breach of this Agreement shall be governed by the Federal Arbitration Act (FAA) and submitted to and decided by binding arbitration to be held in Florida. Parties agree to hold the deliberations in such arbitration confidential.
- 18.8. Arbitration Procedure. The Parties agree arbitration must be commenced by delivering a notice of arbitration to the other Party. The Notice must set out the nature of the claim(s), and the relief requested. Within thirty (30) days of the receipt of the notice, the receiving Party shall deliver an answer, any counterclaim(s), and relief requested. Arbitration shall be heard by a single arbitrator. Each Party shall pay its own costs of arbitration. The Parties shall confer in good faith to attempt to agree upon a suitable arbitrator, and if unable to do so, they will select an arbitrator from the American

Arbitration Association's employment arbitration panel for the area. The arbitrator shall decide the procedures in the arbitration after consultation with the Parties. The arbitrator will have the power to grant any provisional or final remedy or relief it deems appropriate, including conservatory measures and an award of attorneys' fees. The decision of the arbitrator shall be final and binding upon the Parties hereto. The Parties agree that judgment may be entered upon the award by any court having jurisdiction.

- 19. Waiver/Severability.** The failure of any Party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions. If any provision of this Agreement is found to be unenforceable, that provision will be enforced to the maximum extent possible, and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.
- 20. LIABILITY.** EXCEPT FOR THE INDEMNIFICATION SET FORTH IN SECTION 14, REGARDLESS OF THE NUMBER OF LOSSES, WHETHER IN CONTRACT, EQUITY, STATUTE, TORT, NEGLIGENCE, OR OTHERWISE:
- 20.1. NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND, AND NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR LOSSES OF PROFIT, REVENUE, INCOME, BUSINESS, ANTICIPATED SAVINGS, DATA, REPUTATION, AND MORE GENERALLY, ANY LOSSES OF AN ECONOMIC OR FINANCIAL NATURE, REGARDLESS OF WHETHER SUCH LOSSES MAY BE DEEMED AS CONSEQUENTIAL OR ARISING DIRECTLY AND NATURALLY FROM THE INCIDENT GIVING RISE TO THE CLAIM, AND REGARDLESS OF WHETHER SUCH LOSSES ARE FORESEEABLE OR WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES; AND
- 20.2. CENTRALSQUARE'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT(S) ACTUALLY PAID BY CUSTOMER TO CENTRALSQUARE HEREUNDER FOR THE LAST TWELVE (12) MONTHS.
- 21. Third-Party Materials.** CentralSquare may from time to time, in its discretion engage third parties to perform services, provide software, or provide equipment. Customer acknowledges and agrees CentralSquare provides front-line support services for third parties, but these third parties assume all responsibility and liability in connection with the third-party software, equipment, or related services. CentralSquare is not authorized to make any representations or warranties that are binding upon the third-party or to engage in any other acts that are binding upon the third-party, excepting specifically that CentralSquare is authorized to represent third-party fees in the Agreement and to accept payment of such amounts from Customer on behalf of the third-party for as long as such third-party authorizes CentralSquare to do so. As a condition precedent to installing or accessing any third-party Materials, Customer may be required to execute a click-through, shrink-wrap End User License Agreement (EULA) or similar agreement provided by the Third-Party Materials provider. All third-party materials are provided "as-is" and any representation or warranty concerning them is strictly between Customer and the third-party.
- 22. Entire Agreement.** This Agreement, and any Exhibits specifically incorporated therein by reference, constitutes the entire agreement between the Parties with respect to the subject matter. These documents supersede and merge all previous and contemporaneous proposals of sale, communications, representations, understandings and agreements, whether oral or written, between the Parties with respect to the subject hereof. This Agreement may not be modified except by a writing subscribed to by authorized representatives of both Parties.
- 23. No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.
- 24. Counterparts.** This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. This Agreement shall be considered properly executed by a Party if executed by that Party and transmitted by facsimile or other electronic means including, without limitation, DocuSign, Adobe Sign, Tagged Image Format Files (TIFF), or Portable Document Format (PDF).
- 25. Material Adverse Change.** If any Law, Regulatory Approval, applicable standard, process, Original Equipment Manufacturer (OEM) requirement is changed or comes into force after the Effective Date, including but not limited to Payment Card Industry (PCI) standards (collectively, a "Material Adverse Change"), which is not explicitly addressed within this Agreement and results in *significant extra* costs for

either Party in relation to the performance of this Agreement, both Parties shall promptly meet, discuss in good faith, and agree upon reducing the technical, operational, and/or commercial impact of such Material Adverse Change.

26. Cooperative Purchases. This Agreement may be used by other government agencies. CentralSquare has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the compensation may be negotiated between CentralSquare and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The Customer will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.

27. Order of Precedence.

27.1. In the event of any conflict or inconsistency between this Agreement, the Exhibits, or any purchase order, then the following priority shall prevail:

27.1.1. The main body of this Agreement and any associated amendments or change orders.

27.1.2. The attached Exhibits to this Agreement.

27.1.3. Purchase Orders placed with CentralSquare in accordance with this Agreement.

Customer's purchase terms and conditions or CentralSquare's sales terms and conditions are not applicable and shall have no force and effect, whether referenced or not in any document in relation to this Agreement.

27.2. Incorporated Exhibits to this Agreement:

Exhibit 1 – Project Cost Summary

Exhibit 2 - Maintenance & Support Standards

28. Customer Contract Administrator. The Customer Officer or employee with responsibility for administering this Agreement is Karen Garner, Director, Planning and Building Department, or successor.

29. Ownership of Data. Upon completion or earlier termination of all services under this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in Customer without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to Customer. This is not inclusive of any Software owned by CentralSquare. Copies may be made for CentralSquare's records, but shall not be furnished to others without prior written authorization from Customer's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by Customer. CentralSquare shall furnish Customer all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement. Once per year, Data extraction will be free of charge. Any subsequent extractions within that one-year period shall be invoiced to the Customer at the then current Services rate.

30. Insurance. CentralSquare shall provide proof of a policy of insurance satisfactory to Customer's Risk Management Division and documentation evidencing that CentralSquare 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 CentralSquare'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 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by CentralSquare in performance of the Agreement.
- D. In the event CentralSquare is a licensed professional or professional consultant and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. CentralSquare shall furnish a certificate of insurance satisfactory to Customer's Risk Management Division as evidence that the insurance required above is being maintained.

- F. The insurance will be issued by an insurance company acceptable to Customer's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division. Acceptance of insurance company will not be unreasonably withheld.
- G. CentralSquare agrees that the insurance required herein 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, CentralSquare 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 CentralSquare agrees that no work or services shall be performed prior to the giving of such approval. In the event CentralSquare fails to keep in effect at all times insurance coverage as herein provided, the Parties will discuss reasonable resolutions or remedies that may be agreed upon, in lieu of Customer taking action in its sole discretion pursuant to this requirement.
- H. The certificate of insurance must include the following provisions stating that:
 - 1. Customer, 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. CentralSquare's insurance coverage shall be primary insurance in respect to Customer, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Customer, its officers, officials, employees, or volunteers shall be in excess of CentralSquare's insurance and shall not contribute with it.
- J. All deductibles on any policy shall be the responsibility of CentralSquare and shall be disclosed to the Customer at the time the evidence of insurance is provided.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to Customer, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the Customer, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. CentralSquare's obligations shall be limited in accordance with Section 20 of this Agreement and shall survive the expiration of this Agreement.
- N. The certificate of insurance will meet such additional standards as may be determined by the contracting Customer department, in consultation with Customer's Risk Management Division, and CentralSquare as essential for protection of Customer.

EXHIBIT 1
Project Cost Summary

Product: Product Name	Quantity	1/3/22 - 1/2/23	1/3/23 - 1/2/24	1/3/24 - 1/2/25	1/3/25 - 1/2/26	1/3/26 - 1/2/27
CodeTRAK License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
CodeTRAK Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Customer Relationship Manager (CRM) TRAK License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
CRM TRAK Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
eTRAKIT Citizen Portal License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
eTRAKIT Citizen Portal Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
GeoTRAK Update Routine Legacy Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Horizon Cloud for TRAKIT Annual Access Fee	1	USD 41,367.90	USD 43,436.30	USD 45,608.11	USD 47,888.52	USD 50,282.94
iTRAKIT Suite License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
iTRAKIT Suite Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
PermitTRAK License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
PermitTRAK Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT Application Programming Interface (API) for ProjectDox License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT API for ProjectDox Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT Community Development Core Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT End User License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT End User License Annual Maintenance Fee – Original Licenses	1	USD 54,614.70	USD 57,345.44	USD 60,212.71	USD 63,223.34	USD 66,384.51
TRAKIT End User License Fee	20	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT End User License Annual Maintenance Fee – Additional Licenses added in 2019	1	USD 8,400.00	USD 8,820.00	USD 9,261.00	USD 9,724.05	USD 10,210.25
TRAKIT Geographic Information System (GIS) Advanced Engine License Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
TRAKIT GIS Advanced Engine Annual Maintenance Fee	1	USD 0.00	USD 0.00	USD 0.00	USD 0.00	USD 0.00
Total Fees Per Year		USD 104,382.60	USD 109,601.74	USD 115,081.82	USD 120,835.91	USD 126,877.70

Note: Pricing for Professional Services is a good faith estimate based on the information available to CentralSquare at the time of execution of this Agreement. The total amount that Customer may pay for these services can vary based on the actual number of hours required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to CentralSquare's then-current list price rates for the services at issue. Customer will request a quote from CentralSquare for additional services and fees not specifically listed. Additional services shall not be ordered and additional fees shall not be charged to Customer without prior written approval from the Customer Contract Administrator.

PAYMENT TERMS:

RECURRING FEES

- a. Annual Support & Maintenance Fees are due thirty (30) days prior to the start of the Term and annually thereafter. Prior to the end of the then current support term, and each subsequent annual support term, CentralSquare will forward an invoice to Customer for the annual support fee, which fees are subject to increase.
- b. Customer is responsible for paying all taxes relating to this Agreement. Applicable tax amounts (if any) are not included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide CentralSquare with valid proof of exemption; otherwise, CentralSquare will invoice Customer and Customer will pay to CentralSquare all such tax amounts.
- c. If Customer fails to make any payment when due, then CentralSquare may charge interest on the past due amount at the rate of one point five percent (1.5%) per month calculated daily and compounded monthly, or, if lower, the highest rate permitted under applicable law; and if such failure continues for ninety (90) days following written notice thereof, CentralSquare may suspend performance or access until past due amounts have been paid.
- d. Annual fees are subject to a five percent (5%) annual increase.

EXHIBIT 2

Support Standards

I. **Support Hours: Hours During Which CentralSquare's Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance:** Unless otherwise noted in the Order as to Support Type, support hours are Monday through Friday, 8:00 A.M. to 5:00 P.M. Pacific Time within the continental United States, excluding holidays ("5x9").

II. **Targeted Response Times.**

"Notification" means a communication to CentralSquare's help desk by means of: (i) CentralSquare's web helpline; or (ii) the placement of a telephone call.

III. **Support Terms.**

Beginning on January 3, 2022 and continuing for twelve (12) months thereafter ("Initial Support Term"), CentralSquare shall provide the ongoing Support Services described herein for the corresponding Fees outlined in Exhibit 1. Upon expiration of the Initial Support Term, ongoing Support Services shall automatically renew, with customer paying for additional annual support periods, each a ("Renewal Support Term"). This renewal will continue until termination of this Agreement provided that CentralSquare hasn't given notice of termination that would be effective prior to a period equal to two (2) times the Agreement's Initial Support Term.

With respect to CentralSquare's support obligations, CentralSquare will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable CentralSquare "Telephone Support" hour occurring after CentralSquare's receipt of the Notification:

Priority	Description	Response Goal	Resolution Goal
Urgent 1	A support issue shall be considered Urgent when it produces a Total System Failure; meaning the Solution is not performing a process that has caused a complete work stoppage.	Within sixty (60) minutes of the issue being reported and a resolution planned within twenty-four (24) hours.	Although resolution times vary depending on the exact issue and customer environment, CentralSquare has a stated goal to resolve an urgent issue within twenty-four (24) hours or provide a resolution plan with urgent issues within twenty-four (24) hours of being reported.
Critical 2	A support issue shall be considered Critical when a critical failure in operations occurs; meaning CentralSquare's Solution is not performing a critical process and prevents the continuation of basic operations. Critical priority will also include all cybersecurity related issues requested by Customer to be fixed that could potentially affect the CIA model. During the Support Terms CentralSquare will provide support for cybersecurity related issues that are a direct result of insecurities in the Software product, not related to the Customer's IT environment. Critical problems do not have a workaround. This classification does not apply to intermittent problems.	Within two (2) hours of the issue being reported and a resolution planned within five (5) days.	A resolution plan will detail the steps necessary to understand and possibly resolve the issue.
Non-Critical 3	A support issue shall be considered Non-Critical when a non-critical failure in operations occurs; meaning the Solution is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.	Within four (4) hours of the issue being reported.	
Minor 4	A support issue will be considered Minor when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system.	Within twenty-four (24) hours of the issue being reported.	

Response timing is measured from the moment a Case number is created. As used herein a "Case number" is created when a) CentralSquare's support representative has been directly contacted by Customer either by phone, in person, or through CentralSquare's online support portal, and b) when CentralSquare's support representative assigns a case number and conveys that case number to the Customer. Customer must provide remote access to its facility using a CentralSquare approved remote access so that CentralSquare can perform the support obligations and/or services under this Agreement; and will provide appropriate security access and accounts for CentralSquare staff and each session participant.

Note: Pricing for Professional Services is a good faith estimate based on the information available to CentralSquare at the time of execution of this Agreement. The total amount that Customer may pay for these services can vary based on the actual number of hours required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to CentralSquare's then-current list price rates for the services at issue. Customer will request a quote from CentralSquare for additional services and fees not specifically listed. Additional services shall not be ordered and additional fees shall not be charged to Customer without prior written approval from the Customer Contract Administrator.