



Statewide Contract Addendum

This addendum is added to and is to be considered part of the subject contract.

ADDENDUM 1 TO STATE OF OKLAHOMA CONTRACT WITH INTRADO LIFE & SAFETY, INC. RESULTING FROM SOLICITATION NO. 0900000417

This Addendum 1 ("Addendum") is an Amendment to the Contract awarded to Intrado Life & Safety, Inc. ("Intrado") in connection with Solicitation #0900000417 ("Solicitation") and is effective June 5, 2020, ("Effective Date").

Recitals

Whereas, the State issued a Solicitation for proposals to provide for creating and maintaining GIS data that will be used to provide location and routing data for Next Generation 9-1-1 services in Oklahoma, as more particularly described in the Solicitation;

Whereas, Intrado Life & Safety, Inc. submitted a proposal which contained various other Contract Documents; and

Whereas, the State and Intrado Life & Safety, Inc. have negotiated the final terms under which Intrado Life & Safety, Inc. will perform the Services under the Contract.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. Addendum Purpose.


This Addendum memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to Intrado Life & Safety, Inc. as of even date with execution of this Addendum. The parties agree that Supplier has not yet begun performance of work contemplated by the Solicitation.

2. Negotiated Documents of the Contract.

2.1. The parties have negotiated certain terms of the Contract as follows:

- i. Incorporation of the Hosting Agreement as contained in Attachment A to this Addendum;
 - ii. Incorporation of the Web Terms for Service, Software, and Equipment as contained in Attachment B to this Addendum.
- 2.2. Accordingly, any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.
3. Intrado took exception to the Solicitation covering the Limitation of Liability. Intrado and the State agree the Limitation of Liability is stipulated and agreed to in Section 7 of Attachment B to this Addendum.
4. Intrado took exception to the Solicitation requirements G.1.1, requiring a signed of copy of the Hosting Agreement, which was later amended pursuant to Amendment Number two (2) of the Solicitation. Intrado and the State agree a signed of copy of the Hosting Agreement is required and is incorporated as Attachment A of this Addendum.
5. Intrado took exception to the Solicitation requirements G.2.1, requiring a completed Hosted Security Questionnaire, which was later amended pursuant to Amendment Number two (2) of the Solicitation. Intrado and the State agree a completed Hosted Security Questionnaire is required. Additionally, Intrado and the State agree approval by the State of Intrado's Hosted Security Questionnaire is required.

State of Oklahoma

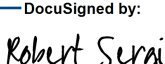
By: 
Jerry Moore (Jul 23, 2020 10:36 CDT)

Name: D. Jerry Moore

Title: Chief Information Officer

Date: Jul 23, 2020

Intrado Life & Safety, Inc.

DocuSigned by:
By: 
62294E7CEBC44B2...
Robert Sergi

Name: _____

Title: VP, Operations

Date: Jul-24-2020



OKLAHOMA
Office of Management
& Enterprise Services

State of Oklahoma Hosting Agreement

**Attachment A to
Addendum 1 to
STATE OF OKLAHOMA CONTRACT WITH INTRADO
RESULTING FROM STATE-WIDE NUMBER SW 1177**

HOSTING AGREEMENT

This Hosting Agreement (“Hosting Agreement”) is a Contract Document in connection with the Contract issued as a result of Solicitation No.0900000417 (the “Contract”) and entered into between Intrado Life & Safety, Inc (“Vendor”) and the State of Oklahoma by and through the Office of Management and Enterprise Services (“State” or “Customer”), the terms of which are incorporated herein. This Hosting Agreement is applicable to any Customer Data stored or hosted by Vendor in connection with the Contract. Unless otherwise indicated herein, capitalized terms used in this Hosting Agreement without definition shall have the respective meanings specified in the Contract.

I. Definitions

- a. “Customer Data” shall mean all data supplied by or on behalf of Customer in connection with the Contract, excluding any confidential information of Vendor.
- b. “Data Breach” shall mean the unauthorized access by an unauthorized person that results in the access, use, disclosure or theft of Customer Data.
- c. “Non-Public Data” shall mean Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.
- d. “Personal Data” shall mean Customer Data that contains 1) any combination of an individual’s name, social security numbers, driver’s license, state/federal identification number, account number, credit or debit card number and/or 2) contains electronic protected health information that is subject to the Health Insurance Portability and Accountability Act of 1996, as amended.
- e. “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with the hosted environment used to perform the services.

II. Customer Data

- a. Customer will be responsible for the accuracy and completeness of all Customer Data provided to Vendor by Customer. Customer shall retain exclusive ownership of all Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Vendor shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).
- b. Vendor shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the hosted environment. Vendor shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Vendor shall not respond to subpoenas, service or process, FOIA requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Vendor's proposed responses. Vendor agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.
- c. Vendor will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Vendor. Vendor will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Vendor will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Vendor as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Vendor's negligence or willful misconduct, Vendor, at the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

III. Data Security

- a. Vendor will use commercially reasonable efforts, consistent with industry standards, to provide security for the hosted environment and Customer Data and to protect against both unauthorized access to the hosting environment, and unauthorized communications between the hosting environment and the Customer's browser. Vendor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice

and not less stringent than the measures the Vendor applies to its own personal data and non-public data of similar kind.

- b. All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Vendor is responsible for encryption of Personal Data.
- c. Vendor represents and warrants to the Customer that the hosting equipment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Vendor will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Vendor will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Vendor, Vendor will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Vendor has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Vendor is responsible for costs incurred by Customer for Customer to remediate the virus.
- d. Vendor shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Vendor shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Vendor shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Vendor's obligations under the Contract.
- e. Vendor shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.
- f. Vendor shall perform an independent audit of its data centers at least annually at its expense, and provide a redacted version of the audit report upon request. Vendor may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.

IV. Security Assessment

- a. The State requires any entity or third-party vendor hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Vendor submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the Contract, including renewals, constitutes a material breach.
- b. To the extent Vendor requests a different sub-contractor than the third-party hosting vendor already approved by the State, the different sub-contractor is subject to the State's approval. Vendor agrees not to migrate State's data or otherwise utilize a different third-party hosting vendor in connection with key business functions that are Vendor's obligations under the Contract until the State approves the third-party hosting vendor's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party hosting vendor does not meet the State's requirements under the State Certification and Accreditation Review, Vendor acknowledges and agrees it may not utilize such third-party vendor in connection with key business functions that are Vendor's obligations under the Contract, until such third party meets such requirements.

V. Security Incident Notification and Responsibilities: Vendor shall inform Customer of any Security Incident or Data Breach

- a. Vendor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Vendor will coordinate with Customer prior to making any such communication.
- b. Vendor shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice period required by applicable law or regulation (i.e. HIPAA requires notice to be provided within 24 hours).
- c. Vendor shall: (i) maintain processes and procedures to identify, respond to and analyze Security Incidents; (ii) make summary information regarding such procedures available to Customer at Customer's request, (iii) mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Vendor; and (iv) documents all Security Incidents and their outcomes.

VI. Data Breach Notification and Responsibilities: This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Vendor.

- a. Vendor, unless stipulated otherwise, shall promptly notify the Customer identified contact within 2 hours or sooner, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a Data Breach. Vendor shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- b. Unless otherwise stipulated, if a Data Breach is a direct result of Vendor's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Vendor shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – (2), (3) and (4) not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach; and (5) complete all corrective actions as reasonably determined by Vendor based on root cause.
- c. If a Data Breach is a direct result of Vendor's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Vendor shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

VII. Notice: Contact information for Customer for notifications pursuant this Hosting Agreement are consistent with the Contract with a copy sent to:

Chief Information Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

And

Chief Information Security Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

And

OMES Information Services General Counsel
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

For immediate notice which does not constitute written notice:

OMES Help Desk
405-521-2444
helpdesk@omes.ok.gov
Attn: Chief Information Security Officer

VIII. Vendor Representations and Warranties: Vendor represents and warrants the following

- a. The product and services provided under this Hosting Agreement do not infringe a third party's patent or copyright or other intellectual property rights.
- b. Vendor will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.
- c. The execution, delivery and performance of the Contract, the Hosting Agreement and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Vendor will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Vendor and any third parties retained or utilized by Vendor to provide goods or services for the benefit of the Customer.
- d. Vendor shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting Environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any "copy-protected" devices, or any other harmful or disruptive program.

IX. Indemnity

- a. Vendor's Duty of Indemnification. Vendor agrees to indemnify and shall hold the State of Oklahoma and State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and

actions of third parties (including without limitation reasonable attorneys' fees) (collectively "Damages") (other than Damages that are the fault of Customer) arising from or in connection with Vendor's breach of its express representations and warranties or other obligations in this Hosting Agreement and the Contract. If a third party claims that any portion of the products or services provided by Vendor under the terms of the Contract or this Hosting Agreement infringes that party's patent or copyright, Vendor shall defend and indemnify the State of Oklahoma and Customer against the claim at Vendor's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State of Oklahoma and/or Customer. The State of Oklahoma and/or Customer shall promptly notify Vendor of any third party claims and to the extent authorized by the Attorney General of the State, allow Vendor to control the defense and any related settlement negotiations. If the Attorney General of the State of Oklahoma does not authorize sole control of the defense and settlement negotiations to Vendor, Vendor shall be granted authorization to equally participate in any proceeding related to this section but Vendor shall remain responsible to indemnify Customer and the State of Oklahoma for all associated costs, damages and fees incurred by or assessed to the State of Oklahoma and/or Customer. Should the software become, or in Vendor's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated under this Hosting Agreement, Vendor may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

X. Termination and Suspension of Service:

- a. In the event of a termination of the Contract, Vendor shall implement an orderly return of Customer Data in a mutually agreeable format at a time agreed to by the parties and the subsequent secure disposal of Customer Data.
- b. During any period of service suspension, Vendor shall not take any action to intentionally erase any Customer Data.
- c. In the event of termination of any services or agreement in entirety, Vendor shall not take any action to intentionally erase any Customer Data for a period of:
 - i. 10 days after the effective date of termination, if the termination is in accordance with the contract period
 - ii. 30 days after the effective date of termination, if the termination is for convenience
 - iii. 60 days after the effective date of termination, if the termination is for cause

After such period, Vendor shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

- d. The State shall be entitled to any post termination assistance generally made available with respect to the services.
- e. Vendor shall securely dispose of all requested data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer.

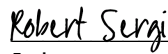
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IN WITNESS WHEREOF, each person executing this Contract below represents that he or she is authorized to enter into this Contract on behalf of such party and each party expressly agrees to the terms and conditions of this Contract.

VENDOR:

Intrado Life & Safety, Inc

DocuSigned by:



Jul-24-2020

[Robert Sergi]

VP, Operations]

Date

STATE:

State of Oklahoma by and through the Office of Management and Enterprise Services

[D Jerry Moore, Chief Information Officer]

Date

**Attachment B to
Addendum 1 to
STATE OF OKLAHOMA CONTRACT WITH INTRADO
RESULTING FROM STATE-WIDE NUMBER SW 1177**

The **Web Terms for Services, Software, and Equipment** is hereby amended as set forth below and supersedes all prior documents submitted by Intrado or discussed by the parties.

Web Terms for Services, Software, and Equipment

The **Web Terms for Services, Software, and Equipment** ("Terms"), is between the State of Oklahoma, by and through the Office of Management and Enterprise Services ("State") and Intrado Life & Safety, Inc. ("Licensor" or "Intrado") and is a Contract Document stemming from Oklahoma State-Wide Number 1177 ("SW 1177"). Customer shall mean any Authorized User. Any terms not defined herein, shall be defined in SW 1177.

1. Term

These Terms begin on the Effective Date and do not have a defined end date; rather, these Terms will apply to any Order for the duration of such Order. Termination of any Order will not affect these Terms or any other Order.

2. Confidentiality

Exhibit A: Confidentiality and FOIA applies to disclosure and use of Confidential Information (as defined in Exhibit A) exchanged under these Terms and disclosures required by applicable freedom of information or public records laws.

3. Software

3.1. License Grant

Subject to these Terms, Intrado grants to Customer a personal, nonexclusive, nontransferable, non-sublicensable license to use Software at the location ("Site") and on the number of servers, workstations, and users or other applicable metric set forth in the Order, solely for Customer's internal purposes, to copy Software onto a storage device, and to make one copy solely for backup and disaster recovery purposes.

3.2. Restrictions

Except as otherwise allowed herein, Customer will not knowingly itself, or through any agent: (a) sell, lease, sublicense, or otherwise transfer Software; (b) decompile, disassemble, reverse engineer, or otherwise attempt to derive source code from Software; (c) modify or enhance Software, or write or develop any derivative software, or any other functionally compatible, substantially similar, or competitive

products; (d) network Software or use Software to provide processing services to third parties, commercial timesharing, rental, or sharing arrangements, or otherwise use Software on a service bureau basis; (f) provide, disclose, divulge, or make available to, or permit use of Software by any third party without Intrado's prior written consent; or (g) use or copy Software except as permitted hereunder.

4. Intentionally left blank.

5. Limited Warranty

5.1. Software and Equipment Limited Warranty

Intrado warrants that the Intrado Software and Equipment will perform substantially in accordance with Intrado's specifications for 12 months from Acceptance Date. Intrado will, repair or replace the problem Software and Equipment, provided that the problem can be reproduced on either Intrado's or Customer's systems. Replacement parts are warranted to be free from defects in material and workmanship for 90 days, or for the remainder of the limited warranty period of the Intrado Equipment they are replacing, whichever is longer. The limited warranty includes remote support services (help desk) during the warranty period. Freight costs to ship defective Equipment to Intrado are borne by Intrado with return also at Intrado's expense. Intrado will pass through to Customer any third party manufacturer warranties for products supplied by Intrado.

5.2. Services Limited Warranty

Intrado warrants that Services will be provided in a workmanlike manner, in accordance with industry standards and by individuals with suitable skills and abilities.

5.3. Disclaimer

Intrado will not be obligated to repair or replace any Software or Equipment which (i) has been repaired by others without prior authorization from Intrado; (ii) has been abused or improperly handled, stored, altered, or used with third party material or equipment; (iii) has been subject to power failures or surges, lightning, fire, flood, or accident; or (iv) has not been installed by Intrado or an Intrado authorized technician. EXCEPT AS STATED IN THIS SECTION 5, INTRADO DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NETWORK CONNECTIVITY.

6. Customer Materials

Customer will provide information reasonably requested by Intrado to perform Services, including as applicable: telecommunication or cell site specifications; Customer or third party databases; network architectures and diagrams; performance statistics; interfaces and access to Customer systems, including third party systems; routing and network addresses and configurations ("Customer Materials"). Customer warrants that (a) Customer is solely responsible for the content and rights to Customer Materials; and (b) Intrado's use of Customer Materials will not violate the rights of any third party. Customer will retain ownership of all Customer Materials.

7. Limitation of Liability

7.1. Limitation

NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OR LOSS OF GOODWILL, OR PROFITS, OR COST OF COVER. THE TOTAL LIABILITY OF INTRADO FOR ANY REASON WILL BE LIMITED TO THE AMOUNT PAID BY CUSTOMER UNDER THE RELEVANT ORDER IN THE TWELVE MONTHS PRIOR TO THE CLAIM. THESE LIMITS ON LIABILITY APPLY WHETHER THE CLAIM ARISES OUT OF BREACH OF WARRANTY, CONTRACT, TORT, OR STRICT LIABILITY, AND EVEN IF THE DAMAGES ARE POSSIBLE OR FORESEEABLE.

Notwithstanding anything to the contrary in the Contract, the foregoing provisions of the Section shall not apply to or limit damages, expenses, costs, actions, claims and liabilities arising from or related to property damage, bodily injury or death caused by Intrado; the indemnification obligations set forth in this Contract; Intrado's confidentiality obligations set forth in this Contract; data security and breach notification obligations set forth in in the Contract; the bad faith, gross negligence or intentional misconduct of Intrado or its employees agents and subcontractors. No limitation will apply to any acts for which applicable law does not allow exemption from liability, even if enumerated above.

7.2 Intentionally left blank.

8. Indemnification

8.1. Intrado Indemnity

Intrado will indemnify, defend, and hold harmless Customer, from third-party claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including reasonable attorney fees and expenses (collectively, "Claims") for Intrado's acts or omissions arising under this contract resulting in physical injury or death or property damage to the extent caused by Intrado.

8.2. Procedures

The State will (a) notify Intrado of any Claim; and (b) assist Intrado as reasonably requested.

THE DEFENSE SHALL BE COORDINATED BY INTRADO WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN OKLAHOMA STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND INTRADO MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. INTRADO AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

IN THE EVENT THE OFFICE OF THE ATTORNEY GENERAL DOES NOT CONCUR WITH AN INTRADO PROPOSED SETTLEMENT AND THE PROPOSED SETTLEMENT DOES NOT IMPOSE ANY OBLIGATIONS ON THE NAMED AGENCY, INTRADO SHALL HAVE NO FURTHER OBLIGATION TO DEFEND AND INDEMNIFY CUSTOMER.

9. Termination

If either party fails to cure a material default within 30 days after notice specifying the default, the non-defaulting party may terminate the applicable Order, and pursue any other available remedies at law or equity. The cure period will extend for 30 more days if defaulting party uses good faith efforts to cure. Software licenses will remain in force until terminated, if at all, due to an uncured material default. On termination of a Software license, Customer will, to the extent applicable, (a) cease using Software, and (b) upon Intrado's request certify to Intrado within one month after termination that Customer has destroyed or has returned to Intrado the Software and all copies. This requirement applies to copies in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

10. Intellectual Property

Intrado retains full and exclusive ownership of and all rights in, to and under its trademarks, service marks, tradenames and logos, and any design, data, specification, know-how, software, device, technique, algorithm, method, discovery or invention, whether or not reduced to practice, relating to Services, Software, and Equipment, and any development, enhancement, improvement or derivative works thereto, except for Customer Materials (collectively, including all intellectual property rights, "Intrado IP"). Customer receives no other right, title, or interest in, to, or under Intrado IP. Intrado IP is Intrado's Confidential Information (as defined in Exhibit A hereto). Customer will cooperate to take such actions reasonably requested to vest ownership of Intrado IP in Intrado.

Customer will not knowingly disclose or allow access to Intrado IP, including without limitation, software and systems, by anyone other than Customer's employees and subcontractors who have a need to access Intrado IP and who are bound by law or written agreement to comply with Customer's duties under these Terms. Neither party will reverse engineer, decompile, disassemble, or translate the other party's intellectual property or confidential information. Each party reserves all rights to its intellectual property and confidential information.

11. Delivery

Software will either be shipped using the specified method below, or made available for download from a site designated by Intrado. Customer retains the right to determine the preferred delivery method. All shipping and handling charges will be prepaid by Intrado. .

All deliveries shall be F.O.B. Destination. The Supplier shall prepay all packaging, handling, shipping and delivery charges and prices quoted shall include all such charges. Any products delivered pursuant to this Contract shall be subject to final inspection and acceptance by the procuring entity at destination and the procuring entity has no responsibility for the delivered products prior to acceptance. Title and risk of loss or damage to all items shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance. "Destination" shall mean delivered to the receiving dock or other point specified in the applicable purchase order.

12. On-Site Services

12.1. Intrado Obligations

If Intrado performs Services at Customer's premises, such as installation ("Installation"), site survey, project management, training, or cutover services (as applicable, "On-Site Services"), Intrado will:

- If Installation is purchased, install and perform acceptance testing on Software and Equipment at the Site in

accordance with Intrado's normal installation and testing practices.

- If training is purchased, perform training as specified in the Order.
- Designate a project manager with authority, competence, and responsibility to communicate information to Intrado and to act as liaison between Intrado and Customer.

12.2. Exclusions, Changes

Neither party will not be deemed to be in default nor be held responsible for any delays or failures resulting from an event of Force Majeure. Changes to the design or installation plan by Customer after the original Order will be considered a request for a change order. On receipt of a request for a change order, Intrado will, within ten business days, either accept or refuse the request for a change order, and will issue a new quote to cover any costs, if applicable, associated with the change order.

13. Acceptance

If Intrado is not performing Installation, Software and Equipment will be deemed accepted when installed and performing as required under the contract.. If Customer does not accept Software and Equipment, it will notify Intrado in writing within thirty business days of the Notification Date, and will specify the Severity Level 1 or 2 failure. Intrado will use commercially reasonable efforts to promptly diagnose and correct all identified failures, and the acceptance process will be repeated until acceptance occurs. If Customer fails to provide written notice of rejection as stated above within the time stated above, acceptance will be deemed to have occurred. "System Cutover" will mean the first date that Software and Equipment is used for live call-taking or dispatching. If Software and/or Equipment are being installed at multiple Sites, the above acceptance process will apply to each Site. The date of acceptance of the first Site will be referred to as the "Acceptance Date." Services will be deemed accepted when performed.

14. Late Payments

Invoices not paid when due will bear interest at the lower of two percent per month, or the highest allowable rate.

Interest on late payment(s) made by the State of Oklahoma is governed by 62 O.S. §34.71 and 62 O.S. §34.72.

14.5. Reserved.

14.6 Payments Final

The State may terminate this Contract, in whole or in part, for convenience if the State Chief Information Officer determines that termination is in the State's best interest. The State shall terminate this Contract by delivering to Intrado a notice of termination for convenience specifying the terms and effective date of termination. The Contract termination date shall be a minimum of sixty (60) days from the date the notice of termination is issued by the State. Similarly, an Authorized user may

terminate its obligations to Intrado upon a determination by the proper authority for Authorized User that termination is in Authorized User's best interest and notice of termination by such Authorized User shall be provided in accordance with the foregoing requirements set forth in this subsection. If this Contract or certain obligations hereunder are terminated, the State, Authorized User, as applicable, shall be liable only for payment for products delivered and accepted and such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Intrado shall refund any fees prepaid but not used at the time of termination. If at any time the services are suspended, Intrado agrees Customer is not liable for any costs and/or fees accrued during the period of suspension. If Customer has prepaid under the terms of the contract, any costs and/or fees accrued during the time of any suspension shall be refunded to the Customer.

15. Insurance

Intrado will maintain: (a) Workers' Compensation and Employer's Liability insurance required by law; (b) comprehensive automobile liability insurance, with limits of at least \$1,000,000 per occurrence combined single limit for bodily injury and property damage for each claim covering **all owned vehicles, all non-owned vehicles, and all hired vehicles**; (c) Commercial General Liability insurance, including Blanket Contractual Liability and Broad Form Property Damage, with limits of at least \$1,000,000 per occurrence and combined single limit for personal injury, bodily injury, and property damage for each claim; (d) Professional Liability or Errors and Omissions insurance, **which shall include Consultant's Computer Errors and Omissions Coverage**, of at least \$1,000,000 for each claim; and (e) excess or umbrella liability at a limit of at least \$5,000,000 per claim, (f) Additional coverage is required by the State in writing in connection with a particular Acquisition. The CGL, excess or umbrella liability and automobile liability policies will designate the other as an Additional Insured. On request, the other party will furnish certificates evidencing the foregoing insurance. Each party will notify the other at least 30 days before any cancellation or termination of its policy.

16. Miscellaneous

16.1. Governmental Agencies

Use of Intrado Services or products by the United States Government or other governmental agencies will be as "restricted computer software" or "limited rights data" as set forth in 48 CFR 52.227-14, or as "commercial computer software" or "commercial computer software documentation" under DFARS 252.227-7202, or under such other similar applicable terms and conditions to prevent the transfer of rights in and to the technology to the government or such agency other than under normal commercial licensing terms and conditions. Contractor/manufacturer is Intrado

Corporation or its affiliates, 11808 Miracle Hills Dr., Omaha NE 68154.

16.2. Force Majeure

Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. In the event that a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. However, a Customer may terminate a purchase order if Intrado cannot cause delivery of Products or Services in a timely manner to meet the business needs of the Customer.

Exclusions: ¹Non-suspended Obligations: Notwithstanding the foregoing or any other provisions in the Contract, (1) in no event will any of the following be considered a force majeure event: (a) shutdowns, disruptions or malfunctions in Intrado's systems or any of Intrado's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Intrado's systems; or (b) the delay or failure of Intrado or subcontractor personnel to perform any obligation of Intrado hereunder unless such delay or failure to perform is itself by reason of a force majeure event; and (2) no force majeure event modifies or excuses Intrado's confidentiality, indemnification or data security and breach notification obligations set forth herein.

16.3 Independent Contractors, Beneficiaries

No agency, joint venture, or partnership is created under these Terms. These Terms benefit State and Intrado only; other than additional authorized users, there are no third party beneficiaries.

16.4. Interpretation, Conflict, Severability

"Including" means including, without limitation. "Days" means calendar days. No preprinted purchase order or other State form terms will apply. Any provision held unenforceable by a court will be enforced to the fullest extent permitted by law and will not affect the other provisions. No course of dealing or failure to exercise any right or obligation is an amendment

¹ Only use exclusion if there is a hosted component

or waiver. These Terms may be modified or amended only in a writing signed by the parties.

16.5. Assignment

Intrado's obligations under a Contract Document may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld in its sole discretion. Rights granted under the terms of this Contract may be assigned or transferred, at no additional cost, to other entities within the State.

16.6. Applicable Law and Remedies

These Terms are governed by Oklahoma law, with regard to choice of law principles. Each party waives all rights to a jury trial. All rights and remedies are in addition to any other rights or remedies at law or in equity. Each party will be entitled to the same governmental or other immunity or other protections afforded by any law, rule, or regulation to the other party, and neither party will object to or interfere with the other party's application of this sentence.

Any claims, disputes or litigation relating to the Contract Documents, singularly or in the aggregate, or the execution, interpretation, performance, or enforcement thereof shall be governed by the laws of the State of Oklahoma.

Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents shall be in Oklahoma County, Oklahoma, or in the case of an Affiliate, as agreed to between such Affiliate and Intrado or as otherwise provided by applicable law.

16.7. Compliance with Laws

Each party has or will timely obtain all consents, licenses, permits, and certificates required to perform under these Terms. Each party will comply with laws, rules, regulations, and court orders applicable to it or Services. Intrado may cease or modify Services or and by mutual written agreement

amendment these terms as reasonably required to comply with changes in law.

16.8 Advertising and Publicity

The award of this Contract to Intrado is not in any way an endorsement by the State of Oklahoma or the products and shall not be so construed by Intrado in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales promotion, and other publicity matters relating to this Contract wherein the State's name is mentioned or language used from which the connection of the State's name therewith may, in the State's judgment, be inferred or implied as an endorsement.

Neither party will use the other party's name or marks in any press release, advertisement, promotion, speech, or publicity, without the other party's prior written consent.

If Intrado is permitted to utilize subcontractors in support of this Contract, Intrado shall remain solely responsible for its obligations under the terms of this Contract and for its actions and omissions and those of its agents, employees and subcontractors. Any proposed subcontractor engaged to provide services under this Contract shall be identified by entity name and by individual name in the applicable proposal and shall include the nature of the services to be performed. Prior to a subcontractor being utilized by Intrado in connection with provision of the products and services, Intrado shall obtain written approval of the State of such subcontractor and each individual of such subcontractor proposed for use by Intrado. Such approval is within the sole discretion of the State. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

16.10 Notices, Entire Agreement, Survival

All notices must be in writing. Notices are effective on receipt when sent by certified or registered U.S. Mail, charges prepaid, return receipt requested, or when delivered by hand, overnight courier, or fax with confirmed receipt.

Exhibit A: Confidentiality and FOIA

Except to the extent disclosures are required under applicable freedom of information or public records laws or regulations, the terms of this Exhibit A-Confidentiality and FOIA will apply to information disclosed under these Terms. Customer may disclose the Intrado's Confidential Information only to the extent required by applicable law or regulation. Customer will give sufficient notice to Intrado to allow Intrado to claim applicable exemptions, make applicable objections, or seek appropriate limits or restrictions on use and disclosure of its Confidential Information.

1. Definitions

"Confidential Information" means all information disclosed by or on behalf of either party ("Discloser") to the other party ("Recipient") that is marked as confidential or proprietary. Confidential Information includes, but is not limited to, a party's financial, business, technical, marketing, sales, customer, product, pricing, strategy, personnel, software, systems, methods, processes, practices, intellectual property, trade secrets, software, data, contract terms, or other business information.

2. Exclusions

Confidential Information does not include any information that: (a) was or becomes generally available to the public through no breach of this Exhibit; (b) was previously known by Recipient or is disclosed to Recipient by a third party without any obligation of confidentiality; or (c) is independently developed by Recipient without use of Discloser's Confidential Information.

3. Use and Disclosure

Recipient and its employees, Affiliates, agents, and contractors will: (a) use Confidential Information only for the Terms; (b) disclose Confidential Information only to its employees, Affiliates, agents, and contractors with a "need to know" for the Terms; (d) use the same standard of care to protect Discloser's Confidential Information as Recipient uses to protect its own similar confidential or proprietary

information, but not less than reasonable care appropriate to the type of information; (e) reproduce Discloser's confidentiality or proprietary notices, legends, or markings on all copies or extracts of Confidential Information; and (f) use and disclose Confidential Information as authorized in writing by Discloser. Recipient is responsible for compliance with this Exhibit by its employees, Affiliates, agents, and contractors.

4. Required Disclosure

If required to disclose any Confidential Information by law or court order, Recipient will promptly notify the Discloser (unless prohibited by law) and cooperate with Discloser, at Discloser's expense, to seek protective orders or appropriate restrictions on use and disclosure. Confidential Information disclosed under this Section will continue to be subject to all terms of this Exhibit for all other purposes.

5. Return or Destruction

Within 30 days after termination of the Terms or written request of Discloser, Recipient will return or destroy Discloser's Confidential Information. Recipient will certify return or destruction if requested by Discloser. Recipient may retain Discloser's Confidential Information to the extent required by law. This Exhibit A will survive and continue to apply to Discloser's Confidential Information that is not reasonable to return or destroy (for example, retained in archive or backup systems) as long as it is retained by or for Recipient.

Request for IS Signature: EXECUTION VERSION SW1177 Addendum w Attach A-B. Intrado

Final Audit Report

2020-07-23

Created:	2020-07-21
By:	Jason Lawson (jason.lawson@omes.ok.gov)
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