

## Exhibit B

# TriTech Subscription Service License & Use Agreement

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TriTech Software Systems  
9477 Waples Street, Ste. 100  
San Diego, CA 92121  
Phone: 858.799.7000  
Fax: 858.799.7011  
www.tritech.com

## Subscription Service License & Use Agreement

### I. Subscription Service License and Use Agreement.

This Subscription Service License & Use Agreement (the "Agreement") is made by and between, TriTech Software Systems (hereinafter referred to as "TriTech") and the client named on the signature page attached hereto ("Client") as of the date of last signature below. TriTech and Client may also be referred to herein individually as "Party", or collectively as the "Parties". The Parties have entered into a Software License and Service Agreement with Zuercher Technologies, LLC (a TriTech Software Systems company) (the "Purchase Agreement") which includes the provision of the subscription services defined in this Agreement and the Statement of Work, if applicable (the "SOW") attached as Exhibit A to the Purchase Agreement.

### II. Services; Software.

A. Under the terms of this Agreement, TriTech will be responsible for providing the following services ("Services"):

- (i) Hosting TriTech's software ("Software") for its Subscription programs and corresponding module(s) as indicated in the Purchase Agreement;
- (ii) Providing the Client with technical support for the Software as set forth in Schedule A ("Technical Support"), database hosting and other related services as further defined in the Purchase Agreement and SOW;
- (iii) Providing the Client with remote access to search Client's data and, if purchased, report on Client's data through the Software and the applicable database(s) for Authorized Users (as defined in Section III (B) hereof) for 24 hours per day, 7 days per week, except as otherwise provided in Schedule A hereto with respect to scheduled maintenance; and further provided, that TriTech shall not be responsible for connectivity issues due to an event of Force Majeure, as defined in paragraph B below;
- (iv) Providing the Client with certain user manuals and/or on-line Software education or other information on the TriTech website to assist Client with its use of the Software ("Documentation");
- (v) Enabling Client to update the applicable databases and obtain the agreed upon data processing output;
- (vi) Providing any other Software related services stated in the Purchase Agreement (together, the "Subscription Services"). Schedule A and any Documentation may be updated by TriTech from time to time in its sole discretion upon written notice to Client;
- (vii) Providing the Client with initial training as stated in the Purchase Agreement; and
- (viii) Populating the Software and the associated database(s) with Client Information (as defined in Section VII (B) hereof) and otherwise assist Client with the setup of the Software (together, the "Implementation Services").
- (ix) If applicable, TriTech and Client shall mutually agree in writing on a schedule for transfer of data from Client's existing system to the applicable Subscription application.

- B. Force Majeure. TriTech shall not be responsible for delays in performance, including connectivity issues, due to disruption of internet services beyond TriTech's control, war, acts of terrorism, strike, fire, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, unavailability of facilities, equipment or software from suppliers not contributed to or caused by TriTech, the actions or omissions of Client or its officers, directors, employees, agents, contractors or elected officials and/or other similar occurrences beyond TriTech's reasonable control.
- C. This Agreement allows Client to use the Software located on TriTech's servers, to which Client will be granted limited remote access. Client shall not receive a physical copy of the Software in any form, but will have the ability to use the Software on TriTech's servers, and to access the Software remotely as directed by TriTech.

### **III. License; Access.**

- A. Provided that Client has paid the applicable Fees (as defined in Section IV (A) hereof), TriTech grants to Client a limited non-exclusive, non-transferable license to use the Subscription Services, including the Software located on TriTech's servers, through Client's computer(s) for Client's internal operational use only for the Term set forth in Section V unless otherwise agreed to by TriTech in writing, and TriTech shall perform the applicable Implementation Services for the Client. The Subscription Services may only be accessed by an Authorized User. Client is expressly prohibited from sublicensing, selling, renting, leasing, providing service bureau or timeshare services, distributing or otherwise making the Subscription Services or the Software available to third parties other than any third-party Authorized Users.
- B. For purposes of this Agreement, an "Authorized User" is an individual (i) who is an employee of Client, a contractor or other representative of Client and (ii) who has been properly issued a valid password that subsequently has not been deactivated.
- C. Access to the Subscription Services by Authorized Users is enabled only by passwords to Authorized Users. Client is solely responsible for the management and control of those passwords and Authorized Users shall not be permitted to disclose or transfer a password to any third party. Client shall assign a "Client Administrator" to provide such password management and control. Upon request by Client, additional Authorized Users' passwords shall be activated by TriTech.
- D. Client acknowledges (i) that the protection of passwords issued to Authorized Users is an integral part of TriTech's security and data protection process and procedures and, (ii) that TriTech will rely on Client utilizing and maintaining proper password control obligations and procedures. In the event that Client has reasonable cause to believe that a password is being improperly used by an Authorized User or used by an unauthorized person, Client shall promptly notify TriTech. TriTech reserves the right to deactivate a compromised password immediately upon notice from Client without further notice to Client or the affected Authorized User. TriTech shall have the right, at its sole cost and expense, to utilize an independent certified accounting firm, to verify the number of passwords that have been issued for use by Authorized Users of the Client and use of these passwords within Client's organization in compliance with the terms of this Agreement.
- E. The number of Authorized Users having the ability to access the Subscription Services at any single moment in time shall be specified in the Purchase Agreement.

#### **IV. Fees; Payment; Taxes.**

- A. As consideration for use of the Subscription Services and the Implementation Services during the initial contract term, Client shall pay those fees and charges set forth in Exhibit B: Pricing Detail of the Zuercher Software License and Service Agreement (together, "Fees"). Subscription fees are due on an annual basis. Failure to pay may result in suspension or termination of your account until payment is made. Thereafter, fees are subject to change upon each successive renewal which shall be mutually agreed and set forth in the renewal notice. Pursuant to Missouri law, this contract is subject to the annual appropriation of fees and charges by the governing body of Client.
- B. As consideration for use of the Subscription Services during renewal contract terms, Client shall pay those fees and charges set forth in the Renewal Notice (together, "Fees").
- C. TriTech shall notify Client prior to the end of the initial subscription term of the subscription fees for the first renewal term. Unless otherwise agreed in writing, subscription fees shall be due on or before the commencement of each annual subscription term. Subscription fees for the first renewal term through the fifth renewal term (years two through five) shall be subject to increase on an annual basis at a rate of 4%, as set forth in Exhibit C: Payment Schedule of the Zuercher Software License and Service Agreement. Thereafter, all renewals shall be subject to increase on an annual basis at a rate of 5%.
- D. All amounts due and payable to TriTech hereunder shall, if not paid when due, bear a late charge equal to one and one-half percent (1-1/2 %) per month, or the highest rate permitted by law, whichever is less, from fifteen (15) days after their due date until paid.

#### **Remittance Address for Payments Only:**

TriTech Software Systems  
P.O. Box 203223  
Dallas, TX 75320-3223

- E. Payments may be made by check, wire transfer, or Automated Clearing House ("ACH"). TriTech will provide banking information if Client requests to pay by wire transfer or ACH.
- F. Any amounts payable pursuant to this Agreement are to be net to TriTech and shall not include taxes or other governmental charges or surcharges, if any. In addition to the fees and charges due TriTech under this Agreement, Client shall remain liable for and shall pay all local, state, and federal sales, use, excise, personal property, or other similar taxes or duties, and all other taxes, which may now or hereafter be imposed upon this Agreement or possession or use of the Software, excluding taxes based on TriTech's income.

#### **V. Term and Termination; Suspension of Services.**

- A. This Agreement shall commence upon execution hereof and shall continue in full force and effect for a period of two (2) years ("Initial Term") from the date of activation unless the Agreement is otherwise terminated as set forth herein. The "date of activation" will be defined as the date of the completion of Admin Training as mutually agreed, at which time the Client will be able to access the system and authorize users. If Client terminates this Agreement at any time from contract execution through the Initial Term, for any reason other than those defined in Sections V(D) and V(E), and VI (B)

below, Client shall pay one hundred percent (100%) of the remaining fees owed for the Initial Term plus implementation fees if not already paid. If Client terminates this Agreement for convenience during any Renewal Term, Client shall pay one hundred percent of the remaining fees owed for the Renewal Term.

- B. At the conclusion of the Initial Term, this Agreement shall automatically renew for successive one (1) year terms (each a "Renewal Term"), unless one Party notifies the other Party in writing of its decision not to renew at least thirty (30) days prior to the end of the Initial Term or any Renewal Term. (The Initial Term and any Renewal Term collectively are referred to herein as the "Term"). However, failure of the governing body of client to appropriate charges or fees shall terminate any renewal period or any remaining period of the initial term and any responsibility for payment of charges or fees during that period.
- C. Either Party may terminate this Agreement (i) immediately if the other party becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors, or (ii) immediately if the other party becomes the subject of an involuntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors, and such petition or proceeding is not dismissed within sixty (60) days of filing. No charges or fees shall be owed by Client unless TriTech continues to provide services at the same level as if no bankruptcy had been filed.
- D. Client may terminate this Agreement if TriTech breaches any term or condition of this Agreement and Addendum 1 and fails to cure such breach within thirty (30) days after receipt of written notice of the same. If this Agreement is terminated for breach, Client shall be entitled to a refund of a prorated portion of the annual subscription fees already paid for the then-current term. If a breach occurs within thirty (30) days of commencement of a renewal of a term, then Client shall owe no charges or fees for said renewal period.
- E. In addition to the circumstances as described in Subsection V(F) below, TriTech may terminate the Agreement at any time upon thirty (30) days prior written notice to the Client. In the event of termination by TriTech pursuant to this Subsection V(E), Client shall be entitled to a refund of a prorated portion of the annual subscription fees already paid for the then-current Term.
- F. If Client's scheduled Subscription Services payment or any other amount due and owing by Client to TriTech is delinquent, TriTech may, in its sole discretion, immediately terminate or suspend all or any portion of the Services forty-five (45) days after the date payment is due provided TriTech provides Client with written notification at least thirty (30) days before such termination or suspension to enable Client to cure such breach
- G. Upon the effective date of expiration or termination of this Agreement: (i) TriTech will immediately cease providing Client with any Services it is providing and any other applicable component of the Services; (ii) all issued passwords shall be deactivated; and (iii) Client shall immediately pay in full to TriTech any and all monies that are owed by the Client to TriTech under this Agreement for the Services furnished up to the effective date of the Agreement's termination or expiration unless termination is for breach by TriTech. In the event of breach by TriTech, Client shall owe no more monies to TriTech. TriTech shall remove any data of Client on TriTech servers.
- H. Upon TriTech's reasonable belief that tortious or criminal or otherwise improper activity may be associated with Client's utilization of the Services, TriTech may, without

incurring any liability, temporarily suspend or discontinue the Services pending investigation and resolution of the issue or issues involved. Reasonable belief is that belief sufficient for the filing of charges or a lawsuit and TriTech shall inform Client within two hours of the reason for such belief and if Client is able to provide some proof that steps have been taken to protect TriTech or that TriTech's information is not accurate, TriTech shall restore the service.

- I. If all or any components of the Services have been terminated as a result of a breach by Client, or suspended as provided herein, and Client requests that all or any component of the Services be restored, TriTech shall restore such Services immediately upon Client curing any breach including payment of charges and fees owed; and further, any such restoration shall be conditioned upon TriTech's receipt of all Fees due and owing hereunder.
- J. In the event of expiration or termination of this Agreement for any reason, each Party shall promptly return to the other Party all copies of the other Party's Confidential Information (including notes and other derivative material) that it has received pursuant to Section VII hereof. Within thirty (30) days of termination or expiration of the Agreement, TriTech shall remove and destroy Client's data if requested by Client. TriTech will not return the data to the Client as the Client still retains the source data.
- K. Sections IV, V, VII, VIII, IX, X, XI, XII, XIII and XIV shall survive any termination of this Agreement, as well as any other obligations of the Parties that contemplate performance by a Party following the termination of this Agreement.

#### **VI. Client Responsibilities.**

- A. In conjunction with its obligation to participate in the Implementation Services, Client will assign personnel with the required skills and authority to perform the applicable tasks effectively and, further, will make best efforts to meet its obligation to supply information and otherwise assist as necessary to effect the commencement of the Subscription Services via the Implementation Services. Management of Client's responsibilities in conjunction with the Subscription Services after implementation shall be assigned to a Client Administrator who has attended training offered by TriTech to Client. The Client Administrator that the Client appoints may be replaced at any time at the sole discretion of the Client upon Client's written notice to TriTech so long as the newly appointed Client Administrator has attended TriTech's training either for Client or another client of TriTech. Client will be charged additional fees for any such training for Client's employees beyond the initial training for the Software that is a part of the Implementation Services provided such fees are provided to Client in writing prior to any training taking place.
- B. Client is responsible for providing endpoint hardware, operating system and browser software that meets TriTech's technical specifications, as well as providing and maintaining a fast, stable, high speed connection and remote connectivity. TriTech shall provide Client prior to the signing of any agreement with its specifications to allow Client to determine its costs and ability to meet this responsibility. If TriTech changes any of its specifications including the form for data to be accepted, it shall provide Client with notice of at least sixty (60) days. If Client is unable to meet such new specification, Client may terminate this and any agreement and receive a pro-rata refund of any charges or fees paid for the period during which such specification changes.
- C. Client is solely responsible for the integrity of all data and information that is provided to TriTech under this Agreement (i.e., the Client Information), including completeness, accuracy, validity, authorization for use and integrity over time, regardless of form and

format, and whether or not such data is used in conjunction with the Subscription Services. Further, it is solely Client's responsibility to assure that the initial and one-time importing of the Client Information into Client's database by TriTech has been properly performed, acknowledging that thereafter the completion of the initial setup of all Code Files not already populated by TriTech and the input and modification of Client's database shall be performed solely by Client. The Client Information that is to be included in Client's database shall be provided by Client in a digital form that complies with the requirements of the Client Information format as stated in TriTech's policy for inputting Client Information in any Documentation TriTech provides to Client. In addition, Client is solely responsible for the accuracy of any and all reports, displays and/or uses of Client Information, whether or not TriTech assisted Client with the development or construction of such reports and displays and other uses of the Client Information.

- D. Client shall not attempt to decode, disassemble, copy, transmit, transfer or otherwise reverse engineer the Services, including, without limitation, the Software.
- E. Client is responsible for maintaining an active e-mail account for correspondence with TriTech.
- F. Client is responsible for maintaining the required certifications for access to Client's state CJIS systems(s), NCIC and/or other local state, federal and/or applicable systems.
- G. Client is responsible for proper firewall maintenance allowing for data to move from their on-premise data contributing system to the applicable TriTech Subscription application.

## **VII. Confidentiality, Privacy and Business Associate Provisions.**

- A. In association with the execution of this Agreement and TriTech's participation in the use and support of the Software, Client has obtained, will have access to, or will obtain confidential information regarding intellectual property of TriTech, the Software and its contents, sales and marketing plans and other similar information (hereinafter referred to as "Confidential Information"). Client acknowledges that the Software itself represents and embodies certain trade secrets and confidential information of TriTech. Client hereby agrees that, for itself and its shareholders, officers, directors, employees, and agents, Client shall not disclose any of TriTech's trade secrets or Confidential Information without TriTech's prior written consent for any such disclosure. TriTech acknowledges and understands that Client is a governmental entity and subject to the Missouri open records laws and nothing in this provision shall prohibit Client from complying with such laws.
- B. In association with the execution of this Agreement and the participation of TriTech in the support of the Software, TriTech has obtained or will obtain confidential information of Client regarding the business of Client, Client Information for its utilization in connection with providing the Services to Client, the records of individuals served by Client, incidents, accounts payable and accounts receivable of Client, trade secrets, customer lists, crime information, and other similar information. TriTech shall not disclose any of Client's confidential information without Client's prior written consent for any such disclosure. "Client Information" means confidential information about Client's business or its customers that (i) Client and/or its customers deliver to TriTech for use in its implementation of the Services, which Client subsequently updates and otherwise modifies, and (ii) TriTech hosts on services for access by and transmission to the Authorized Users via the Internet. TriTech shall not use any Client Information except as expressly set forth in this Agreement.



- C. In addition to TriTech's obligations regarding nondisclosure of Client Information set forth above, in the event that TriTech is a "Business Associate," and Client is a "Covered Entity" pursuant to 45 C.F.R. § 160.103, TriTech shall perform its obligations under this Agreement with respect to Protected Health Information ("PHI") as provided in Addendum 1 attached to this Agreement.
- D. Notwithstanding any provisions of this Agreement to the contrary, Client may terminate this Agreement if Client determines that TriTech has violated a material term of this Agreement with respect to its functions as a Business Associate in accordance with Addendum 1 and Client shall be entitled to a pro-rata refund as set out in this Subscription Agreement.
- E. Confidential Information other than PHI as defined in Addendum 1, shall not include any information that is (i) already known to the receiving Party at the time of the disclosure; (ii) publicly known at the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving Party; (iii) subsequently disclosed to receiving Party on a non-confidential basis by a third party not having a confidential relationship with the other Party hereto that rightfully acquired such information; (iv) communicated to a third party by receiving Party with the express written consent of the other Party hereto; or (v) legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process, provided the receiving Party provides prompt notice of any such subpoena, order, etc. to the other Party so that such Party will have the opportunity to obtain a protective order.
- F. Each Party agrees to restrict access to the Confidential Information of the other Party to those employees or agents who require access in order to perform the Subscription Services, Implementation Services or Additional Services, acknowledging that certain Confidential Information of each Party may be disclosed to Authorized Users as a necessary function of the Subscription Services; and, except as otherwise provided, neither Party shall make Confidential Information available to any other person or entity without the prior written consent of the other Party except Client as required to perform its duties, functions and business as a City agency.
- G. Notwithstanding the foregoing, Client understands and agrees that TriTech may transfer Confidential Information of Client to a third party hosting entity for the purposes of providing the communications infrastructure, hosting services and/or related support and other operations necessary to deliver all or certain portions of the Services; provided that TriTech, in turn, binds such third party to confidentiality and non-disclosure terms that are at least as protective of TriTech's and Client's interests as the terms stated herein provided such third party has the same capability to safeguard the data or confidential information as TriTech. Client acknowledges that TriTech shall have no responsibility or liability for unauthorized access to or dissemination of Client Information by Authorized Users or other third parties, whether as a result of breach of data security, misappropriation or misuse of passwords or any other cause.

#### **VIII. Ownership.**

- A. TriTech owns all rights and title in and to the Services, including, without limitation, the Software, and any Developments, as that term is defined below. Further, Client agrees that the Subscription Services' screens and any output of the Services, excepting the Client Information, are the property of TriTech and subject to United States and other patent, copyright, trademark, trade secret and other applicable laws and treaties and Client agrees that it shall not remove, alter or obstruct any ownership or use legends that TriTech places on any such screens or output of the Services. Nothing contained in this Agreement shall be construed as granting Client any rights in or to the

Subscription Services (including, without limitation, the Software and output of the Subscription Services), the deliverables from the Implementation or Additional Services or related Confidential Information, other than the right to use the Services and any applicable Confidential Information of TriTech during the Term, in accordance with this Agreement.

Client agrees that TriTech has and retains all rights to use any data and information relating to the Software and Services that it receives from Client including, without limitation, any information that constitutes, or results in, an improvement or other modification to the Software or the Services, but excluding the Client Information and PHI, or CJIS data.

As between the parties, TriTech agrees that all Client Information provided to TriTech under this Agreement for TriTech's use in connection with the Subscription Services is the property of Client; provided, however, TriTech shall have the right to retain Client Information in accordance with its obligations under the terms of this Agreement in the event that the return or the destruction of any Client Information is infeasible provided sufficient security or firewall technology is employed by TriTech to protect such confidential information.

The term "Developments" shall mean all programs, upgrades, updates or other enhancements or modifications to the Software, if any, and all Documentation or other materials developed and/or delivered by TriTech in the course of providing technical support or otherwise, under this Agreement.

- B. Client will not have the ability to copy the Client Information entered onto the Software. Rather, TriTech shall retain the physical copy of the Software, title, right and interest in and to the Software, including upgrades, updates, and/or other enhancements or modifications to the Software in any medium, including but not limited to all copyrights, patents, trade secrets, trademarks, and other proprietary rights.

**IX. Disclaimer; Limitation of Liability.**

- A. THE SERVICES, SOFTWARE AND ANY DOCUMENTATION ARE MADE AVAILABLE FOR CLIENT'S USE "AS IS" AND EXCEPT AS OTHERWISE SPECIFICALLY STATED HEREIN, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- B. TRITECH DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE. TRITECH HAS NO LIABILITY TO CLIENT, REGARDING THE CLIENT'S USE OF THE SERVICES, THE SOFTWARE AND ANY DOCUMENTATION OR OTHERWISE. IN NO EVENT SHALL TRITECH BE LIABLE TO CLIENT OR ANY THIRD PARTY, WHETHER IN CONTRACT, TORT, OR OTHERWISE FOR INCIDENTAL, SPECIAL, INDIRECT, GENERAL, OR CONSEQUENTIAL DAMAGE OR LOSS OF ANY NATURE, INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS PROFITS, INCOME, LOSS OR USE OF DATA, WHICH MAY ARISE IN CONNECTION WITH THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICES, SOFTWARE AND ANY DOCUMENTATION EVEN IF TRITECH HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS CLAUSE SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.
- C. TRITECH DISCLAIMS ALL LIABILITY FOR THE ACCURACY AND/OR COMPLETENESS OF DATA, INCLUDING BUT NOT LIMITED TO DATA SUPPLIED WITH THE SOFTWARE OR AS ADDED OR MODIFIED BY CLIENT OR ANY THIRD

PARTY, OR DATA AS PROCESSED ON CLIENT'S OR TRITECH'S COMPUTER NETWORK. CLIENT BEARS THE ENTIRE RESPONSIBILITY FOR ITS COMPUTER NETWORK, INCLUDING CLIENT'S USE OF THE SOFTWARE, THE PERFORMANCE OF THE SERVICES AND THE SOFTWARE AND THE BEHAVIOR OF THE CLIENT'S DATA ON EITHER CLIENT'S OR TRITECH'S COMPUTER NETWORK.

- D. TRITECH REPRESENTS AND WARRANTS TO CLIENT THAT THE SOFTWARE, WHEN USED IN ACCORDANCE WITH THIS AGREEMENT, DOES NOT VIOLATE ANY EXISTING U.S. COPYRIGHTS, PATENTS, TRADEMARKS, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY AS OF THE DATE OF THIS AGREEMENT. TRITECH MAY IN ITS DISCRETION (I) CONTEST, (II) SETTLE, (III) PROCURE FOR CLIENT THE RIGHT TO CONTINUE USING THE SOFTWARE, OR (IV) MODIFY OR REPLACE THE SOFTWARE SO THAT IT NO LONGER INFRINGES (AS LONG AS THE FUNCTIONALITY AND PERFORMANCE DESCRIBED IN THE SPECIFICATIONS SUBSTANTIALLY REMAINS FOLLOWING SUCH MODIFICATION OR REPLACEMENT.) TRITECH SHALL INDEMNIFY, DEFEND, AND HOLD CLIENT HARMLESS FROM AND AGAINST ANY AND ALL ACTIONS, SUITS, PROCEEDINGS, CLAIMS, DEMANDS, LOSSES, LIABILITIES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, INCURRED BY CLIENT ARISING OUT OF ANY BREACH OF THIS WARRANTY ON THE PART OF TRITECH.
- E. IN NO EVENT SHALL TRITECH'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY CLIENT AS FEES FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE OCCURRENCE OF THE EVENT THAT GAVE RISE TO SUCH CLAIM; OR, IN THE CASE OF BODILY INJURY OR PROPERTY DAMAGE, INCLUDING DATA, FOR WHICH DEFENSE AND INDEMNITY COVERAGE IS PROVIDED BY TRITECH'S INSURANCE CARRIER(S), THE COVERAGE LIMITS OF SUCH INSURANCE.

**X. Indemnification.**

To the extent permitted by Missouri law, Client shall indemnify and hold harmless TriTech from, against, and in respect of the full amount of any and all liabilities, damages, and claims, arising from, in connection with, or incident to the Client's use or misuse of the Software, except as may otherwise be agreed to in writing by the parties, and except as to any material breach of this Agreement by TriTech.

**XI. Assignment.**

Client shall not transfer or assign any of its rights or obligations under this Agreement to any other person or entity without the express written permission of TriTech, which permission shall not be unreasonably withheld. Any assignment without such express written permission of TriTech shall result in the automatic termination of this Agreement.

**XII. Written Notices.**

Written notices required or permitted to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) (three) 3 days after mailing by the party when notices are sent by First Class Mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service).

**A. Written Notices to Client:**

Written notices to Client may be provided at the address listed for Client on the signature page of this Agreement.

**B. Written Notices to TriTech:**

**TriTech Software Systems**  
9477 Waples Street, Ste. 100  
San Diego, CA 92121  
Attention: Contracts

**XIII. Governing Law.**

Except to the extent that this Agreement is governed by the laws of the United States, or where specifically called out, this Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of Missouri, without regard to its conflict of law provisions.

**XIV. Integration.**

This Agreement and the Purchase Agreement contain the entire understanding between the parties and supersede any proposal or prior agreement regarding the subject matter herein.

This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree to any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

If any term, clause, sentence, paragraph, article, subsection, section, provision, condition or covenant of this Agreement is held to be invalid or unenforceable, for any reason, it shall not affect, impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the term, clause, sentence, paragraph, article, subsection, section, provision, condition or covenant of this Agreement so adjudged to be invalid or unenforceable.

**XV. Enrollment in Work Authorization Program and Affidavit Concerning Employment of Unauthorized Aliens.**

Pursuant to Missouri law, TriTech, and any of its subcontractors, shall, by sworn affidavit and provision of documentation, affirm its or their enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. TriTech, and all of its subcontractors, shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. A subcontractor shall provide similar affidavits and documentation to TriTech at the time the subcontractor is hired pursuant to Section 15 CSR 60-15.020. A federal work authorization program is any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L.99-603.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first written above.

**CITY OF LEE'S SUMMIT**

**TRITECH SOFTWARE SYSTEMS**

\_\_\_\_\_  
Accepted By (Signature)

  
\_\_\_\_\_  
Accepted By (Signature)

\_\_\_\_\_  
Printed Name

Blake Clark  
\_\_\_\_\_  
Printed Name

City Manager  
\_\_\_\_\_  
Title

Chief Financial Officer  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

8/22/18  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Address Line 1 – Company/Agency Name

\_\_\_\_\_  
Address Line 2 – Street Address

\_\_\_\_\_  
Address Line 3 – City, State, Zip

## Schedule A

### TECHNICAL SUPPORT

This Schedule describes the terms and conditions relating to technical support that TriTech will provide to Client during the Term of the Agreement.

#### Product Updates:

From time to time TriTech may develop permanent fixes or solutions to known problems or bugs in the Software and incorporate them in a formal "Update" to the Software. If Client is receiving technical support from TriTech on the general release date for an Update, TriTech will provide the Client with the Update and related Documentation.

#### Technical Support Services:

**Telephone Assistance.** Client will be given the telephone number for TriTech's support line and will be entitled to contact the support line during normal operating hours, (between 7:30am and 7:30pm Central Time) on regular business days, excluding TriTech holidays, to consult with TriTech technical support staff concerning problem resolution, bug reporting, documentation clarification, and general technical guidance. Assistance may include remote connectivity, modem, or electronic bulletin board.

**Critical Priority Telephone Assistance after Normal Customer Service Hours.** After Normal TriTech Customer Service Hours, emergency support for Subscription applications will be answered by our emergency paging service. When connected to the service, the Client shall provide his or her name, organization name, call-back number where the Customer Service Representative may reach the calling party, and a brief description of the problem (including, if applicable, the information that causes the issue to be a **Critical Priority Problem**).

**Website Support.** Online support is available 24 hours per day, offering Client the ability to resolve its own problems with access to TriTech's most current information. Client will need to enter its designated user name and password to gain access to the technical support areas on TriTech's website. TriTech's technical support areas allow Client to: (i) search an up-to-date knowledge base of technical support information, technical tips, and featured functions; and (ii) access answers to frequently asked questions (FAQ).

**Software Problem Reporting.** Client may submit requests to TriTech identifying potential problems in the Software. Requests should be in writing and directed to TriTech by e-mail, FAX, or through TriTech's Support website. TriTech retains the right to determine in its sole discretion the final disposition of all requests, and will inform Client of the disposition of each request. If TriTech decides in its sole judgment to act upon a request, it will do so by providing a bug fix as described above.

**Scheduled Maintenance.** Subscription applications may be unavailable periodically for system maintenance. Regular system maintenance includes installation of the Subscription Updates, operating system updates/patches and updates to other third party applications as needed. Clients are notified of maintenance periods via an email message.

### **TriTech Service Commitment**

Provided that Client remains current on payment of its Subscription fees and provides equipment and remote connectivity that meet TriTech's recommended specifications, TriTech shall:

- Maintain the Subscription Services hosting infrastructure which includes OS updates, third party software updates, and hardware upgrades.
- Provide product version updates within thirty (30) days of general availability for Cloud operations.
- Perform daily backups of application files.
- Perform multiple daily database backups.

### **Exclusions from Technical Support Services:**

TriTech shall have no support obligations with respect to any third party hardware or software product ("Nonqualified Product"). If TriTech provides support services for a problem caused by a Nonqualified Product, or if TriTech's service efforts are increased as a result of a Nonqualified Product, TriTech will charge time and materials for extra service at its current published rates for custom software services. If, in TriTech's opinion, performance of technical support is made more difficult or impaired because of a Nonqualified Product, TriTech shall so notify Client, and Client will immediately remove the Nonqualified Product at its own risk and expense during any efforts to render technical support under this Agreement. Client shall be solely responsible for the compatibility and functioning of Nonqualified Products with the Software.

### **Client Responsibilities:**

In connection with TriTech's provision of technical support as described herein, Client acknowledges that Client has the responsibility to do each of the following:

- 1) Provide hardware, operating system and browser software that meets TriTech's technical specifications, as well as a fast, stable, high speed connection and remote connectivity.
- 2) Maintain the designated computer system and associated peripheral equipment in good working order in accordance with the manufacturers' specifications, and ensure that any problems reported to TriTech are not due to hardware malfunction;
- 3) Maintain the designated computer system at the latest code revision level deemed necessary by TriTech for proper operation of the Software;
- 4) Supply TriTech with access to and use of all information and facilities determined to be necessary by TriTech to render the technical support described herein;
- 5) Perform any test or procedures recommended by TriTech for the purpose of identifying and/or resolving any problems;
- 6) At all times follow routine operator procedures as specified in the Documentation or any policies of TriTech posted on the TriTech website;
- 7) Other than TriTech's confidentiality obligations with respect to Client Information as set forth in Section VII of this Agreement, Client shall remain solely responsible at all times for the safeguarding of Client's proprietary, confidential, and classified information; and
- 8) Ensure that the designated computer system is isolated from any process links or anything else that could cause harm before requesting or receiving remote support assistance.

- 9) For Caller Location Query (CLQ) - set up and maintain a web certificate on a public facing server.

### **Security**

- 1) TriTech maintains a Security program for security managing access to Client data – particularly HIPAA and CJIS information. This includes 1) a Pre-employment background check, 2) security training required by Federal CJIS regulations, and 3) criminal background checks/fingerprints required by Federal or State regulations. TriTech will work with the Client to provide required documentation (such as the CJIS Security Addendum Certification form and VPN documents).
- 2) If required by the Client, TriTech will provide paper fingerprint cards for such Security Approved personnel with the fingerprinting performed in the state of the TriTech staff's job assignment. If the Client requires fingerprints submitted in a form other than paper prints (such as Live Scan) or that such fingerprints be performed at the Client's site, the Client will reimburse TriTech for the cost of TriTech Security Approved Personnel traveling to the Client's site or for a vendor (such as Live Scan) to travel to the applicable TriTech Offices. This provision will apply during the duration of this Agreement.

### **Priorities and Support Response Matrix**

The following priority matrix relates to software errors covered by this Agreement. Causes secondary to non-covered causes - such as hardware, network, and third party products - are not included in this priority matrix and are outside the scope of this Technical Support Schedule A.



*This matrix defines the support issues, response times and resolutions for the Client's licensed Subscription application.*

**Note: Normal Customer Service Hours are 7:30am to 7:30pm (Central Time) on weekdays excluding holidays. Support after Normal Customer Service Hours is offered weekends, nights and holidays for Critical Priority issues only. Critical Priority (Priority 1) issues should always be reported via telephone at 800-987-0911.**

Software Errors for other than Critical Priority may be reported via the web portal: [TriTech.com](http://TriTech.com); or email: [CH\\_ClientServicesTriage@tritech.com](mailto:CH_ClientServicesTriage@tritech.com). For CrimeView Dashboard, FireView Dashboard, CrimeMapping.com; NEARme, Field Ops: [CrimeViewSupport@tritech.com](mailto:CrimeViewSupport@tritech.com).

Priority	Priority Definition	Response Times
<p><b>Priority 1 – Critical Priority</b></p>	<p>Search. 24X7 Support for live operations on the production system. This is defined as the following:</p> <ul style="list-style-type: none"> <li>• The applicable server is down and all workstations will not launch or function; the Client is experiencing complete interruption of ability to do perform queries.</li> <li>• The applicable system is inoperable due to data loss or corruption caused by TriTech Software</li> </ul> <p>This means that one or more TriTech server components are down or inaccessible, disabling all usability of Client's workstations</p> <p>These Software Errors are defined in <i>Special Note #1</i>, below.</p>	<p>Normal Customer Service Hours: Telephone calls to 800.987.0911 will be answered immediately and managed by the first available representative but not longer than 5 minutes.</p> <p>After Normal Customer Service Hours: Thirty (30) minute callback after client telephone contact to 800.987.0911.</p> <p>Priority 1 issues must be called in via 800.987.0911 to receive this level of response.</p> <p>There are no Priority 1 issues for:            CrimeView Dashboard            FireView Dashboard            CrimeMapping.com            NEARme            Field Ops</p>
<p><b>Priority 2 – Urgent Priority</b></p>	<p>Normal Customer Service Hours Support: A serious software error with no workaround and not meeting the criteria of a Critical Priority, but which severely impacts the ability of Users from performing a common function. Such errors will be consistent and reproducible.</p> <p>Generally, this means that a significant number of the system workstations are negatively impacted by this error (e.g. does not apply to a minimal set workstations). These Software Errors are defined in <i>Special Note #2</i>, below.</p>	<p>Normal Customer Service Hours: Telephone calls to 800.987.0911 will be answered and managed by the first available representative but not longer than 5 minutes.</p> <p>Priority 2 issues for Search, CrimeView Dashboard, FireView Dashboard, CrimeMapping.com, and NEARme are not managed after Normal Customer Service Hours.</p> <p>Customer Service Number 800.228.1059 for:            CrimeView Dashboard            FireView Dashboard            CrimeMapping.com            NEARme            Field Ops</p>

Priority	Priority Definition	Response Times
<b>Priority 3 - High Priority</b>	<p>Normal Customer Service Hours Support: A Software Error not meeting the criteria of a Critical or Urgent Priority, which has a workaround available, but which does negatively impact the User from performing common system functions. Such errors will be consistent and reproducible.</p> <ul style="list-style-type: none"> <li>• The system is unable to transfer data from external system to the TriTech system</li> <li>• The TriTech application system update causing system functions to be inoperative with no workaround</li> </ul> <p>A significant number of TriTech workstations are negatively impacted by this error (e.g., does not apply to a minimal set of workstations).</p>	<p>Normal Customer Service Hours: Telephone calls to 800.987.0911 will be answered and managed by the first available representative.</p> <p>Priority 3 issues for Search, CrimeView Dashboard, FireView Dashboard, CrimeMapping.com, and NEARme are not managed after Normal Customer Service Hours.</p> <p>Customer Service Number 800.228.1059 for:  CrimeView Dashboard  FireView Dashboard  CrimeMapping.com  NEARme  Field Ops</p>
<b>Priority 4 – Medium Priority</b>	<p>Normal Customer Service Hours Support: A Software Error related to a user function which does not negatively impact the User from the use of the system. This includes system administrator functions or restriction of User workflow but does not significantly impact their job function.</p>	<p>Normal Customer Service Hours: Telephone calls to 800.987.0911 will be answered and managed by the first available representative.</p> <p>Priority 4 issues for Search, CrimeView Dashboard, FireView Dashboard, CrimeMapping.com, and NEARme are not managed after Normal Customer Service Hours.</p> <p>Customer Service Number 800.228.1059 for:  CrimeView Dashboard  FireView Dashboard  CrimeMapping.com  NEARme  Field Ops</p>
<b>Priority 5 – Low Priority</b>	<p>Normal Customer Service Hours Support: Cosmetic or Documentation errors, including Client technical questions or usability questions would be a part of this level.</p>	<p>Normal Customer Service Hours: Telephone calls to 800.987.0911 will be answered and managed by the first available representative.</p> <p>Priority 5 issues for Search, CrimeView Dashboard, FireView Dashboard, CrimeMapping.com, and NEARme not managed after Normal Customer Service Hours.</p> <p>Customer Service Number 800.228.1059 for:  CrimeView Dashboard  FireView Dashboard  CrimeMapping.com  NEARme  Field Ops</p>

<b>Priority</b>	<b>Resolution Process</b>	<b>Resolution Time</b>
<b>Priority 1 – Critical Priority</b>	TriTech will provide a procedural or configuration workaround or a code correction that allows the Client to resume live operations on the production system.	TriTech will work (including after hours) to provide the Client with a solution that allows the Client to resume live operations on the production system.  TriTech will use commercially reasonable efforts to resolve the issue as soon as possible.
<b>Priority 2 – Urgent Priority</b>	TriTech will provide a procedural or configuration workaround or a code correction that allows the Client to resume normal operations on the production system.	TriTech will work to provide the Client with a solution that allows the Client to resume normal operations on the production system.  TriTech will use commercially reasonable efforts to resolve the issue as soon as possible.
<b>Priority 3 - High Priority</b>	TriTech will provide a procedural or configuration workaround that allows the Client to resolve the problem.	TriTech will work to provide the Client with a resolution which may include a workaround or code correction within a timeframe that takes into consideration impact of the issue on the Client, TriTech's User base, and the date of submission. Priority 3 issues have priority scheduling in a subsequent release.
<b>Priority 4 – Medium Priority</b>	If TriTech determines that a reported Medium Priority error requires a code correction, such issues will be addressed in a subsequent release when applicable.	TriTech will work to provide the Client with a resolution which may include a workaround or code correction in a future release of the software. Priority 4 issues have no guaranteed resolution time.
<b>Priority 5 – Low Priority</b>	Low Priority issues are logged by TriTech and addressed at the company's discretion according to TriTech's roadmap planning process.	There is no guaranteed resolution time for Low Priority Issues.

*Special Note #1:* Priority 1 –Search Critical Priority Issues meeting the previously noted criteria are defined as follows:

- a. The server is down and all workstations will not launch or function; the Client is experiencing complete interruption of ability to do perform queries.
- b. The system is inoperable due to data loss or corruption caused by TriTech Software
- c. Field Ops is down and all unit mobile devices are unable to log in or function.

There are no Priority 1 Issues for CrimeView Dashboard, FireView Dashboard, CrimeMapping.com, NEARme, or FieldOps.

*Special Note #2:* Priority 2 Urgent Priority issues meeting the previously noted criteria are defined as follows:

- a. The System has a serious Software Error that severely impacts the ability of Users to perform critical work functions. Such errors will be consistent and reproducible.
- b. The system is unable to generate and render reports
- c. Field Ops users are severely impacted due to one of the following conditions:
  - i. Inability to receive new requests for service from Inform CAD.
  - ii. Inability to view incident information needed to dispatch an incident.
  - iii. The inability to send and receive text messaging (within CAD, CAD to Mobile, or Mobile to Mobile).
  - iv. Inability to enter a traffic stop or on-view incident.
  - v. The inability to view premise or caution note information.

## ADDENDUM 1

### BUSINESS ASSOCIATE ASSURANCE

In the event that TriTech Software Systems (referred to herein as "TriTech") is deemed to be a "Business Associate" of Customer, and Customer is a "Covered Entity," as those terms are defined in 45 C.F.R. § 160.103, TriTech, effective on or after April 14, 2003, or such other implementation date established by law, will carry out its obligations under this Agreement in material compliance with the regulations published at 65 Federal Register 82462 (December 28, 2000) (the "Privacy Regulations") pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, et seq., as amended ("HIPAA"), to protect the privacy of any personally identifiable, protected health information ("PHI") that is collected, processed or learned in connection with TriTech supplied services. In conformity therewith, Contractor agrees that it will use its reasonable best efforts to:

- Not use or further disclose PHI except: (i) as permitted under separate TriTech Support Agreement; (ii) as required for the proper management and administration of TriTech in its capacity as a HIPAA Business Associate of Customer, in the event TriTech is deemed to be a Business Associate of Customer for these specified purposes; or (iii) as required by law;
- Use appropriate reasonable safeguards to prevent use or disclosure of PHI except as permitted by the TriTech Service Agreement;
- Report to Customer any use or disclosure of PHI not provided for by the TriTech Service Agreement of which TriTech becomes aware;
- Ensure that any agents or subcontractors to whom TriTech provides PHI, or who have access to PHI, agree to the same restrictions and conditions that apply to TriTech with respect to such PHI;
- Make PHI available to the individual who has a right of access as required under HIPAA in the event TriTech maintains any PHI in a designated record set as defined by 45 C.F.R. § 164.501;
- Make available for amendment and incorporate any amendments to PHI when notified to do so by Customer in the event that TriTech maintains any PHI in a designated record set as defined by 45 C.F.R. § 164.501;
- Make available to Customer the Information required to provide an accounting of the disclosures of PHI, if any, made by TriTech on Customer's behalf, provided such disclosures are of the type for which an accounting must be made under the Privacy Regulations;
- Make its internal practices, books and records relating to the use and disclosure of Customer's PHI available to the Secretary of the Department of Health and Human Services for purposes of determining Customer's compliance with HIPAA and the Privacy Regulations;
- At the termination of the TriTech Service Agreement, return or destroy all PHI received from, or created or received by TriTech on behalf of Customer. In the event the return or destruction of such PHI is infeasible, TriTech' obligations as defined in this Business Associate Assurance shall continue in force and effect so long as TriTech possesses any PHI, notwithstanding the termination of the Agreement for any reason. Notwithstanding any provisions of the TriTech Service Agreement to the contrary, Customer may terminate the Agreement if Customer determines that TriTech has violated a material term of the Agreement with respect to its functions as a Business Associate.
- Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic

Protected Health Information ("e-PHI") that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Security Rule at 45 C.F.R. §164.308, *et seq.*

- Implement reasonable and appropriate policies and procedures to comply with the standards, required implementation specifications, or other requirements of the Security Rule that apply to Business Associates.
- Promptly report to Covered Entity any Security Incident of which It becomes aware.
- Comply with applicable breach notification provisions and notify Customer of a breach of unsecured PHI in accordance with Subpart D of 45 C.F.R. Part 164, as applicable.

#### **Permitted and Required Uses and Disclosures by TriTech**

Except as otherwise limited by the Agreement, TriTech may use or disclose PHI as necessary to perform any and all functions, activities, or services for, or on behalf of Customer if such use or disclosure of PHI would not violate applicable laws and regulations relating to the privacy and security of PHI. Except as otherwise limited in the Agreement, TriTech may use PHI for the proper management and administration of TriTech or to carry out the legal responsibilities of TriTech. TriTech may disclose PHI for those purposes required or otherwise permitted under applicable law or regulations. Except as otherwise limited by the Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(i)(B) if TriTech has been otherwise engaged by Customer to perform these services.

