

Please read the terms and conditions carefully. Agency may not use the Versaterm product and services unless Agency agrees to the terms of this Master Software and Services Agreement.

SPIDR MASTER TERMS OF SOFTWARE AND SERVICES AGREEMENT

This SPIDR Master Terms of Software and Services Agreement (the "Agreement") is entered into by and between the Versaterm Public Safety US, Inc. ("Versaterm") and the City of Yuma, on behalf of the Yuma Police Department, ("Agency") and is effective upon the last signature by a Party to this Agreement.

WHEREAS the Arizona Criminal Justice Commission ("ACJC") has awarded Appriss Insights, LLC, an Equifax Company ("Appriss") the contract for the Arizona Victim Notification initiative.

AND WHEREAS Appriss Insights have entered into an agreement for the provision of the services regarding the Arizona Victim Notification initiative ("ACJC Contract")

AND WHEREAS Versaterm shall provide SPIDR Tech related product regarding the end-to-end victim notification system in collaboration with Appriss

1. Definitions

For the purposes of this Agreement these terms will have the following meanings:

- 1.1. "ACJC Contract" means Contract Number CTR072831, entered through the State of Arizona procurement process by the State Procurement Office, inclusive of all amendments, solicitation documents, and bid/proposal documents.**
- 1.2. "Acknowledgement" means the applicable written document titled Acknowledgement Agreement which may attached as appendix B or separately signed by Agency and Versaterm which is otherwise incorporated as part of the Agreement, including training, specialized support, data sharing with ACJC and data migration.**
- 1.3. "API" means an application programming interface.**
- 1.4. "Authorized User" means an employee, consultant, or contractor of Agency authorized by Agency to access and use the Services on Agency's behalf.**
- 1.5. "Confidential Information" means this Agreement Software, Agency Data and all ideas, designs, business models, databases, drawings, documents, diagrams, formulas, test data, marketing, financial or personnel data, technology, products, sales information, trade services, know-how customer or supplier information, including information provided by such customers or suppliers, or any other information already furnished or to be furnished or made available by one Party to the other, whether in oral, written, graphic or electronic form including any such information exchanged during informational sessions designated as confidential, including, without limitation, information concerning a Party's actual and potential customers and other Intellectual Property Rights of such Party, provided, however, that Confidential Information shall not include any data or information: (i) that, at the time of disclosure, is in or, after disclosure, becomes part of the public domain, through no act or failure on the part of the receiving Party, whether through breach of this Agreement or otherwise; (ii) that, prior to disclosure by the disclosing Party, was already in the possession of the receiving Party, as evidenced by written records kept by the receiving Party in the ordinary course of its business, or as evidenced by proof of actual prior use by the receiving Party; (iii) independently developed by the receiving Party, by Persons having no direct or indirect access to the disclosing Party's Confidential Information provided that the receiving Party provides clear and convincing evidence of such independent development; (iv) which, subsequent to disclosure, is obtained from a third Person: (A) who is lawfully in possession of the such information; (B) who is not in violation of any contractual, legal, or fiduciary obligation to either Party, as applicable, with respect to such information; and (C) on a non-confidential basis; or (v) is further disclosed with the prior written consent of the disclosing Party, but only to the extent of such consent.**

- 1.6. "Agency Data" means collectively any data, files, documentation, or other information: (i) that Agency or any of its Authorized Users may upload to Versaterm Platform when using the Services; and (ii) processed through the use of the Services, excluding Third Party Data and any Versaterm Data.
- 1.7. "Effective Date" means the last signature date below. For the Agency, the last signature is that of the City of Yuma Mayor and/or Yuma City Council.
- 1.8. "Enhancements" means any changes or additions to the Software, that improve functions, add new functions, improve performance, or corrects errors by changes in system design or coding, including but not limited to changes or additions that are made to the Software to provide substantial additional value or utility.
- 1.9. "Go-Live Date" means the date on which the Software is available for production use, as may be further defined in a Scope of Work ("SOW").
- 1.10. "including" means "including without limitation" and is not to be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it.
- 1.11. "Intellectual Property" means any property, tangible or intangible, that may be subject to Intellectual Property Rights, including without limitation, ideas, formulae, algorithms, concepts, techniques, processes, procedures, approaches, methodologies, plans, systems, research, information, documentation, data, data compilations, specifications, requirements, designs, diagrams, programs, inventions, technologies, software (including its source code), tools, products knowledge, know-how, including without limitation, trade secrets, and other materials or things.
- 1.12. "Intellectual Property Rights" means: (a) any and all proprietary rights anywhere in the world provided under: (i) patent law; (ii) copyright law, including moral rights; (iii) trademark law; (iv) design patent or industrial design law; (v) semiconductor chip or mask work law; (vi) trade secret law; (vii) privacy law; or (viii) any other statutory provision or common law principal applicable to this Agreement which may provide a right in either: (A) Intellectual Property; or (B) the expression or use of Intellectual Property; and (b) any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing.
- 1.13. "Licensed Materials" means collectively the Versaterm Platform, Software, Maintenance and Support, and the User Documentation.
- 1.14. "Network Aggregator Provider" means a third-party service provider that offers connectivity services to securely link separate networks.
- 1.15. "Open-Source Software Components" means software programs, libraries, or distributables (commonly known as "public", "open source" or "free" software) made publicly available by the copyright holders.
- 1.16. "Party" means either Agency or Versaterm and "Parties" means both.
- 1.17. "Person" means any individual, company, corporation, partnership, government or government agency, authority, or entity howsoever designated or constituted.
- 1.18. "Point of Access" means Versaterm's, or its subcontractor's, border router, which is used to establish connectivity from the Versaterm Platform to Versaterm's, or its subcontractor's, internet provider, or the public internet.
- 1.19. "Professional Services" all professional services purchased by Agency in respect of the Subscription Services or use of Software (if installed on Agency's premises), including implementation services, data migration, specialized support, training services and any other services as agreed to in writing.
- 1.20. "Services" means the Subscription Service, Licensed Materials, Professional Services and maintenance and support as agreed to in the ACJC Contract.

- 1.21. "Software" means the SPIDR Tech Investigation Module, Patrol Module, Insights Module and Vinelink integration the computer programs owned by Versaterm and which are licensed to Agency, including: (a) all maintenance modifications (updates and upgrades); (b) Enhancements; (c) Customizations, now developed or to be developed by or for Versaterm during the Term; and (d) all formulas, routines, subroutines, algorithms, concepts, techniques, know-how and ideas implemented or embodied in any of the foregoing, in any form. For the avoidance of doubt, Software excludes Third Party Components.
- 1.22. "Subscription Service" means any combination of the following: (i) limited access and use rights to the Versaterm Platform on a hosted basis, (ii) hosting services, (iii) support services, and (iv) any other similar generally applicable services that Versaterm provides to its customers in accordance with the User Documentation. For the avoidance of doubt, Subscription Services do not include Professional Services.
- 1.23. "Subscription Term" means, with respect to any use of Software or access to Subscription Service, the subscription period commencing once software is made available to the Agency for use and shall end once the ACJC Contract, has been terminated or expired.
- 1.24. "Term" means the term set out in Section 17.1. of this Agreement.
- 1.25. "Third Party Data" means any data owned by a third party that the Agency accesses via the Software.
- 1.26. "Third-Party Component" means any components of the Subscription Services provided by third parties, including Open-Source Software Components and third-party proprietary software or services (e.g. Amazon Web Services (AWS)).
- 1.27. "Third-Party Supplier" means any party who provides products and/or services, including Open-Source Software and Third-Party Components that contribute to the overall Software provided to the Agency by Versaterm.
- 1.28. "User Documentation" means the user manuals, guides, and specifications with respect to the operation, use, functions, and performance of the Software, as revised from time to time, and any additional documentation for Customizations produced by Versaterm, in written or online electronic form.
- 1.29. "Versaterm Contracting Entity" means the Versaterm entity or affiliate that is counterparty to this Agreement with Agency and is set forth in Section 22.
- 1.30. "Versaterm Platform" means the Software, Versaterm Server and such devices and peripherals physically located with the Versaterm Server, including all computer hardware, software, network elements, and electrical and telecommunications infrastructure located behind the Point of Access.
- 1.31. "Versaterm Server" means that computer server located at Versaterm's premises, or a third-party provider of hosting and/or network services, that houses the Software.

2. License

- 2.1. Provided there is no default of payment, for the duration of the applicable Subscription Term, Versaterm hereby grants to Agency a revocable, limited, non-exclusive, non-sublicensable, non-transferable, and royalty-free license to access and use of the Subscription Service or Licensed Materials for the purpose of the ACJC Victim Notification initiative.

3. Usage Restrictions and Requirements.

- 3.1. Agency shall not (a) use, reproduce, display, perform or otherwise exploit the Software except as expressly authorized in this Agreement , (b) copy any of the Software or User Documentation except as reasonably necessary to use the Software for its internal use as authorized herein , and in all cases subject to the confidentiality provisions hereof, and provided that all copyright

notices and any other proprietary notices are included, (c) assign this Agreement or transfer, lease, export or grant a sublicense of the Software or the license contained in this Agreement to any Person except as expressly authorized herein, (d) decompile, disassemble, reverse engineer, or otherwise access or attempt to gain access to the Software's source code (e) give any Person other than its employees, consultants, contractors and/or clients of Agency or other individuals identified and approved by Versaterm to access to the Software, (f) rent or lend, with or without charge, any system which includes the Software to any Person including clients and customers, (g) operate at any time on a regular or irregular basis an online or offline customer service bureau involving the Software, (h) permit (and Agency shall take all necessary precautions to prevent) third parties (including, any parties affiliated or related to Agency) to use the Software in any way that would constitute a breach of this Agreement, (i) use any APIs, other than the APIs expressly authorized for use by Versaterm, with the Software or use any authorized APIs in a manner that is not permitted or published by Versaterm, (j) remove or modify any proprietary marking or restrictive legends placed on the Licensed Materials, (k) use any device, software, or routine to interfere with the proper working of the Software or to bypass any security features of the Software, (l) introduce into the Versaterm Platform any viruses, worms, defects, trojan horses, malware, or any items of a destructive nature.

- 3.2. Agency shall be solely and exclusively responsible for the supervision, management, and control of Agency's, and each of its Authorized User's, use of the Licensed Materials and shall require each Authorized User to maintain all passwords and other access credentials with respect thereto.

4. Agency's Obligations

- 4.1. Where the Software will require access and use of the Versaterm Platform, Versaterm shall operate and maintain the Versaterm Platform in accordance with the terms of this Agreement. Access to the Versaterm Platform may be through a secure connection with the public internet or using a Network Aggregator Provider. Agency acknowledges and agrees that Versaterm is not responsible or liable for any communication over the public internet, or for the Network Aggregator Provider's network or its operation or the Network Aggregator Provider's network's failure to deliver communication to and from the Versaterm Platform on a timely basis.
- 4.2. Agency shall be fully responsible for the acts and omissions of all Persons that are authorized or otherwise allowed, by Agency, to use or have access to the Software and User Documentation.
- 4.3. Agency agrees to co-operate with and advise Versaterm of all information which would be reasonably required to permit Versaterm to deliver and, if applicable, install the Software. Agency shall respond promptly to any Versaterm request to provide information, approvals, authorizations, or decisions that are reasonably necessary for Versaterm to provide the Software.
- 4.4. Subject to the terms and conditions of this Agreement, and if applicable, the SOW, Agency shall provide Versaterm with all reasonable access, which may include remote access, to Agency's systems and premises for the purpose of Versaterm performing its obligations pursuant to this Agreement, and the failure of Agency to provide such access shall relieve Versaterm of its obligation to perform such obligations.
- 4.5. Agency shall notify Versaterm immediately of any actual or suspected unauthorized use of its passwords or API keys for the Versaterm Platform.

5. Ownership

- 5.1. Agency acknowledges and agrees that all rights, title and interests in and to the Licensed Materials, including all Intellectual Property embodied therein, are and shall at all times remain the exclusive property of Versaterm and that, except as expressly set forth herein, no rights, title

or interests, including any license, is granted to Agency hereunder by implication, estoppel, or otherwise of any kind whatsoever in or to the Licensed Materials or any portion thereof, except, in each case, for the rights and licenses expressly granted to Agency herein. Agency further acknowledges and agrees that all Third-Party Components are and shall at all times remain the property of the applicable Third-Party Suppliers.

5.2. Agency shall not remove any Versaterm trademark, service mark or logo, or any proprietary notices or labels (including any copyright or trademark notices) from the Service.

5.3. If Agency provides any feedback, comments, suggestions, ideas, descriptions of processes, or other information to Versaterm about or in connection with any Licensed Materials, including any ideas, concepts, know-how or techniques contained therein (collectively, "Feedback"), then Agency hereby grants Versaterm and its affiliates a worldwide, fully paid-up, royalty-free, non-exclusive, perpetual and irrevocable license to use, copy, modify and otherwise exploit the Feedback for any purpose, without any compensation to Agency or any restriction or obligation on account of Intellectual Property Rights or otherwise. Without limiting the generality of the foregoing, nothing in this Agreement limits Versaterm's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

6. Agency Data and Hosting Provider

6.1. Agency hereby grants to Versaterm a limited, non-exclusive, non-transferable, royalty-free right to use, reproduce, manipulate, display, transmit and distribute the Agency Data solely in connection with providing the Licensed Materials to Agency, and improving and developing the Licensed Materials. In addition, Versaterm may analyze Agency Data, and data of other customers, to create aggregated and anonymized statistics or data that do not identify Agency or any individual, and Versaterm may during and after the Term use and disclose such statistics or data in its discretion. Except as specified otherwise in the Agreement, Agency shall be solely responsible for providing, updating, uploading, and maintaining all Agency Data.

6.2. Agency acknowledges and agrees that Versaterm: (i) will not be responsible for the accuracy, completeness or adequacy of any Agency Data or the results generated from any Agency Data uploaded to the Versaterm Platform and processed by the Software; (ii) has no control over any Agency Data or the results therefrom; (iii) does not purport to monitor Agency Data; and (iv) if Software is installed on Agency premises, shall not be responsible to back up or maintain any back up of the Agency Data or any portion thereof.

6.3. Versaterm may change its third-party hosting provider ("Hosting Provider") at any time. Agency's use of the Licensed Materials is subject to any applicable restrictions imposed by the Hosting Provider. Notwithstanding any other provision of this Agreement, Versaterm shall not be liable for any problems, failures, defects, or errors with the Licensed Materials to the extent caused by the Hosting Provider. Agency acknowledges that the Fees payable for the Licensed Materials reflect the fact that Versaterm is not responsible for the acts and omissions of the Hosting Provider.

6.4. Agency shall ensure that its employees, consultants, contractors, and agents comply with the terms and conditions of this Agreement or any SOW to the extent that such Persons are entitled or obligated under the terms hereof or thereof to exercise any rights or perform any obligations hereunder or thereunder. Agency shall be responsible for the actions of all such employees, consultants, contractors, and agents.

7. Fees and Payment Terms

7.1. Versaterm acknowledges that Agency shall not be invoiced for the Services provided that such Services are paid by ACJC.

8. Taxes. – Not applicable

9. Confidentiality

- 9.1. Each Party acknowledges that all Confidential Information includes confidential and proprietary information. Except as required by law, each Party shall hold Confidential Information of the other Party in trust and confidence for and on behalf of such other Party and shall take commercially reasonable measures to maintain the confidentiality of the Confidential Information, which measures shall in any event be no less than what such Party would implement to protect its own Confidential Information of a similar nature or value. Each Party agrees not to make use of Confidential Information other than to the extent necessary for the exercise of rights or the performance of obligations under this Agreement and not to release, disclose, communicate or otherwise make it available to any third-party other than officers, directors, employees, consultants and contractors of Versaterm or Agency, as applicable, who reasonably need to know it in connection with the exercise of rights or the performance of obligations under this Agreement. Notwithstanding the above language, Versaterm understands and acknowledges that Agency is bound by the State of Arizona laws pertaining to public records, primarily located at Arizona Revised Statutes, Title 39. Versaterm further understands and acknowledges that victims' personal identifying and locating information, as defined in A.R.S. § 13-4434, is generally confidential and protected information absent a court order, the release of which may violate Arizona Constitution Art. II § 2.1.
- 9.2. Each Party agrees that any breach of this Section 9 ("Confidentiality") may give rise to irreparable damage to the other Party, the injury to the other Party from any such breach would be difficult to calculate, and that money damages would therefore be an inadequate remedy for such breach. Each Party agrees that the other Party will be entitled, in addition to all other remedies that the other Party may have under this Agreement, at law or in equity, and without showing or proving any actual damage sustained by it, to a permanent or temporary injunction or other order to restrain any breach, threatened breach or the continuation of any breach of this Section 9.
- 9.3. Upon the termination or expiration of this Agreement, each Party will return to the other Party all Confidential Information which is then in its possession or control. Upon the termination of this Agreement, each Party will return to the other Party all Confidential Information of such other Party which is then in its possession or control.
- 9.4. Notwithstanding the above, Versaterm reserves the right to retain Agency Data that has been aggregated and anonymized, and Agency Data on audit logs and server system logs and in support tickets, support requests, and direct communications with Versaterm, saved as part of routine back-ups or as otherwise may be required by law.
- 9.5. If one Party becomes legally compelled to disclose any Confidential Information of the other Party (such as by a court order or similar legal instrument or proceeding), it shall provide the other Party with prompt notice thereof. If such actions are unsuccessful, or the other Party waives its rights to such remedies, then the compelled Party shall disclose only that portion of the Confidential Information necessary to comply with the applicable legal obligations. Versaterm understands and acknowledges that Agency is bound by the State of Arizona laws pertaining to public records, primarily located at Arizona Revised Statutes, Title 39. Versaterm acknowledges that Arizona public records laws prevent Agency from delaying the release of documents deemed to be public record for any purpose. Versaterm understands it must promptly seek injunction relief upon notice of a public record request.

10. Representations and Warranties of Versaterm.

10.1. Versaterm represents and warrants as follows: (a) Versaterm has the power and the capacity to enter into, and to perform its obligations under this Agreement. This Agreement and each of the agreements, contracts and instruments required by this Agreement to be delivered by Versaterm have been duly authorized by Versaterm. This Agreement has been duly executed and delivered by Versaterm and is a valid and binding obligation of Versaterm, enforceable in accordance with its terms, (b) neither the entering into of this Agreement, nor the performance by Versaterm of any of its obligations under this Agreement will contravene, breach, or result in any default under any organizational documents of Versaterm or under any agreement to which Versaterm is a party or by which Versaterm is otherwise bound and (c) Versaterm will use commercially reasonable efforts to ensure that all Software delivered to Agency is, at the time of shipment, free of any known computer software viruses.

11. Representations and Warranties of Agency.

11.1. Agency represents, warrants, and covenants, as follows: (a) Agency has the corporate power and the capacity to enter into, and to perform its obligations under this Agreement. This Agreement and each of the agreements, contracts and instruments required by this Agreement to be delivered by Agency have been duly authorized by Agency and (b) This Agreement has been duly executed and delivered by the Agency and is a valid and binding obligation of the Agency, enforceable in accordance with its terms; and neither the entering into of this Agreement, nor the performance by Agency of any of its obligations under this Agreement will contravene, breach, or result in a default under the articles, by-laws, constating documents or other organizational documents of Agency or under an agreement to which the Agency is a party or by which Agency is otherwise bound.

12. Versaterm's Indemnity

12.1. Versaterm will defend at its own expense any claim, proceeding or suit (for purposes of this Section 12, a "Claim") brought against Agency to the extent such Claim alleges that any Licensed Materials infringes a proprietary right of a third-party which is enforceable within Canada or the United States, and will indemnify and pay all damages finally awarded against Agency by courts of competent jurisdiction on account of such infringement together with all reasonable costs and expenses (including reasonable legal fees as determined by courts of competent jurisdiction) incurred by Agency as a direct result of such Claim, provided Versaterm is given: (i) prompt written notice, however, no later than ten (10) days, of the Claim; (ii) all reasonable information and assistance which it may require to defend the Claim; (iii) sole control of the defense of the Claim, and all negotiations for its settlement or compromise; and provided further: (iv) that the alleged infringement does not result from any alterations, modifications or enhancements to the Software or Documentation made by Agency or on its behalf by a third-party, or the use or operation of the Licensed Materials in combination with other software, products, data, apparatus or equipment not provided by Versaterm.

12.2. Notwithstanding anything to the contrary in this Agreement, Versaterm shall not be responsible for any cost, expense or compromise incurred or made by Agency in respect of a Claim without Versaterm's express prior written consent.

12.3. If any Claim has occurred, or in Versaterm's opinion is likely to occur, Versaterm may, at its option and expense: (a) procure for Agency the right to continue using the applicable Licensed Materials, (b) replace or modify the same so that it becomes non-infringing without loss of material functionality; or (c) if none of the foregoing alternatives is reasonably available, or available on commercially reasonable terms, at Versaterm's discretion, discontinue the Service and use of the Software and refund to Agency any pre-paid and unused portion of the Fees paid by Agency in respect of use of the Software for the remainder of the then-current portion of the Subscription Term or License Term.

12.4. Notwithstanding the above, Versaterm shall have no obligation for any Claim based upon Third Party Components, which are warranted solely by the individual Third-Party Supplier.

12.5. This Section 12 states the entire obligations of Versaterm with respect to any infringement of any Intellectual Property Rights of any third party.

13. Agency's Indemnity

13.1. Unless prohibited by applicable law, Agency shall defend at its own expense any Claim brought against Versaterm, its affiliates or any of their respective directors, officers, employees, consultants, contractors or agents (each, a "Versaterm Indemnitee"), to the extent such Claim: (i) alleges, directly or indirectly, that any Agency Data infringes any Canadian or U.S. Intellectual Property Right of a third person; or (ii) is in relation to Agency's use of the Software, including contrary to applicable law, except however to the extent Versaterm is obligated to indemnify Agency pursuant to Section 13; provided that Agency is given: (a) prompt written notice of the Claim or of any allegations or circumstances known to Versaterm which could result in a Claim, (b) all reasonable information and assistance from Versaterm, at Agency's expense, which Agency may require to defend the Claim; and (c) sole control of the defense of the Claim, and all negotiations for its settlement or compromise thereof; provided that Versaterm's express prior written consent shall be required for any such settlement or compromise that (i) does not fully and irrevocably release all Versaterm Indemnitees from any liability of any kind a full release with respect thereto, (ii) limits in any manner Versaterm's right to use, distribute or commercialize any Licensed Materials, or (iii) that includes any admission of wrongdoing by or creates or is reasonably likely to create any reputational harm to any Versaterm Indemnitee.

14. Exclusion of Other Warranties and Conditions

14.1. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT THE LICENSED MATERIALS, THIRD PARTY COMPONENTS OR ANY SERVICES PROVIDED HEREUNDER ARE PROVIDED ON AN "AS IS", "WHERE-IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTY OF ANY KIND. THE REPRESENTATIONS AND WARRANTIES GIVEN BY VERSATERM IN SECTION 11 ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, WHETHER EXPRESS OR IMPLIED, IN RELATION TO ANY LICENSED MATERIALS, THIRD PARTY COMPONENTS OR SERVICES PROVIDED UNDER THIS AGREEMENT INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. VERSATERM HEREBY DISCLAIMS ALL LIABILITY AND RESPONSIBILITY FOR ANY THIRD-PARTY COMPONENTS OR THE ACTS OR OMISSIONS (INCLUDING WITH RESPECT TO THE PROVISION OF ANY SERVICES) OF ANY THIRD-PARTY SUPPLIER.

14.2. AGENCY EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE USE AND OPERATION OF ANY SOFTWARE OR THIRD-PARTY COMPONENTS, AND THE RESULTS OBTAINED FROM SUCH USE AND OPERATION, ARE AT THE SOLE AND EXCLUSIVE RISK OF AGENCY AND THAT VERSATERM ASSUMES NO LIABILITY OR RESPONSIBILITY WITH RESPECT TO ANY RELIANCE UPON THE RESULTS OBTAINED BY AGENCY OR ANY THIRD-PARTY.

15. Exclusion of Indirect Damages.

15.1. UNDER NO CIRCUMSTANCES WILL VERSATERM BE LIABLE FOR ANY OF THE FOLLOWING UNDER THIS AGREEMENT FOR ANY REASON: (A) SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND,

INCLUDING WITH RESPECT TO LOSS OF PROFITS, REVENUES, AGENCYS OR CONTRACTS, LOSS OF USE OF EQUIPMENT, LOSS OF OR DAMAGE TO DATA OR AGENCY RECORDS, REPUTATIONAL HARM, OPERATIONAL OR SERVICE INTERRUPTIONS, BUSINESS INTERRUPTION, OR LACK OF AVAILABILITY OF AGENCY MATERIALS OR FACILITIES, INCLUDING AGENCY'S COMPUTER RESOURCES, SOFTWARE AND ANY STORED DATA (INCLUDING AGENCY DATA) OR RECORDS; OR (B) ANY THIRD-PARTY CLAIMS AGAINST AGENCY FOR LOSSES OR DAMAGES (EXCEPT AS EXPRESSLY PROVIDED IN SECTION 13), IN EACH CASE, EVEN IF ADVISED OF THE POSSIBILITY OF SAME OR EVEN IF SAME WERE REASONABLY FORESEEABLE.

16. Limitation of Direct Damages.

- 16.1. THE TOTAL AGGREGATE LIABILITY OF VERSATERM UNDER THIS AGREEMENT IS LIMITED TO THE VALUE OF THE SUBSCRIPTION FEES PAID TO VERSATERM FOR THE SERVICES USED BY THE AGENCY PURSUANT TO WHICH SUCH LIABILITY AROSE OR IS ASSOCIATED DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM GIVING RISE TO THE LIABILITY AROSE. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION SHALL NOT APPLY TO DAMAGES ARISING FROM VERSATERM'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

17. Term.

- 17.1. This Agreement shall commence upon the Effective Date and shall end once the ACJC Contract, has been terminated or expired.
- 17.2. Upon expiration this Agreement all rights to access and use or the license to use Licensed Materials, as applicable.
- 17.3. The Parties agree that if the Agency is already using the Services under a different contract signed between Agency and SPIDR Tech, Inc. or service schedule signed between Agency and Versaterm, the applicable contract or service schedule shall be considered terminated as of the Effective Date and the Services shall be governed by this Agreement.
- 17.4. Should Agency desire to continue using the Services following the expiration or termination of this Agreement the Parties shall enter into a separate master software and services agreement and service schedule or similar contract.

18. Termination.

- 18.1. In addition to any other rights or remedies hereunder:
- 18.1.1. Subject to terms of the ACJC Contract, Versaterm reserves the right to terminate this Agreement or parts of this Agreement for convenience by providing thirty (30) days written notice to the Agency.
- 18.1.2. Versaterm may terminate this Agreement at any time on giving Agency notice in writing if: (i) Agency infringes any copyright or other Intellectual Property Right or other industrial or proprietary right of Versaterm; (ii) in Versaterm's reasonable judgment, Agency's use of the Software poses a security risk to the Software or any third party; (iii) ; or (iii) Agency fails to observe or perform any other material obligation or covenant required to be observed or performed by it under this Agreement, , and solely in the case of (iii) above, such failure

continues for a period of thirty (30) days after delivery of written notice by Versaterm to Agency requiring Agency to cure such failure.

18.2. This Agreement shall be terminated should there be a material reduction in or cancellation of public funding.

18.3. This Agreement shall automatically terminate upon the expiration or termination of the ACJC Contract.

18.4. Subject to applicable law, Agency may terminate this Agreement immediately upon giving written notice to Versaterm if Versaterm: (i) makes any general assignment for the benefit of creditors or otherwise enters into any composition or arrangement with its creditors; (ii) is unable to pay its debts as they mature; (iii) has a receiver and/or manager appointed over its assets or an application is made to do so; (iv) becomes bankrupt or insolvent or commits an act of bankruptcy or (v) Versaterm fails to observe or perform any other material obligation or covenant required to be observed or performed by it under this Agreement and solely in the case of (v) above, such failure continues for a period of thirty (30) days after delivery of written notice by Versaterm to Agency requiring Agency to cure such failure.

19. Orderly Termination

19.1. Upon termination or expiration of this Agreement or termination or expiration of ACJC Contract, whichever occurs first, Agency shall: (a) immediately discontinue use of the Licensed Materials; (b) ensure that all Persons using the Licensed Materials pursuant to this Agreement cease all use thereof; (c) promptly (and in any event within five (5) days) return to Versaterm all copies of the Licensed Materials in its (or any Authorized Users' or other Persons' to whom it provided access to any Licensed Materials) possession or control; (d) permanently erase all Licensed Materials, in whole or in part, from all computer systems, storage devices and other electronic recording systems in Agency's possession or control and cause each Authorized User and each other Person to whom it provided access to any Licensed Materials to do the same; deliver within thirty (30) calendar days of such termination or expiration a certificate certifying that Agency and all such Persons to whom Agency has provided access to any Licensed Materials have complied with the terms of this Section 19, as applicable; and (e) pay Versaterm the full amount of any charges outstanding, including for any Professional Services performed, as of the date of termination, if any, whether invoiced or not (including any amounts due as late payment charges), and all other monies owing to Versaterm

20. Suspension

20.1. If Agency has materially violated the Agreement including failure to pay any Fees (if applicable) or any portion thereof when due (other than invoiced amounts disputed in good faith pursuant to Section 8(f)), Versaterm may immediately suspend Agency's and each of its Authorized Users' right to access or use any Licensed Materials (including access to the Versaterm Platform) or receive any Services.

21. Notices.

21.1. All notices, requests, demands and other communications under this Agreement shall be in writing and shall only be considered delivered as follows:

a) on the date of sending if sent by email to the email address indicated in Section 21(b); or

- b) on the tenth (10) calendar day after posting if sent, during normal postal conditions, by registered or certified mail to the Party for which it is intended and addressed to the below points of contact. In the event the point of contact changes for a Party, that Party shall notify the other Party, in writing, within five (5) calendar days:

To Versaterm at:
Versaterm Public Safety U.S. Inc.
1 North MacDonald, Suite 500
Mesa, Arizona, USA
85201

City of Yuma
Attn: Captain Wayne Boyd
1500 South 1st Avenue
Yuma, Arizona 85364

Attention: Legal Department
E-mail: legal@versaterm.com

wayne.boyd@yumaAz.gov

With copy to:
Versaterm Public Safety Inc.
1331 Clyde Avenue, Suite 400
Ottawa, Ontario, Canada
K2C 3G4

22. Miscellaneous.

- 22.1. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement or SOW shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right. No amendment or variation to this Agreement shall be effective unless signed in writing by both Parties.
- 22.2. This Agreement is between separate legal entities and neither Party is the agent, employee, or partner of the other for any purpose whatsoever. The Parties do not intend to create a partnership or joint venture between themselves. Neither Party shall have the right to bind the other to any with a third-party or to incur any obligation or liability on behalf of the other Party.
- 22.3. Agency may not assign any rights or benefits under this Agreement (including any SOWs), in whole or in part, to any Person without the express prior written consent of Versaterm. Versaterm may assign its rights and benefits under this Agreement to any Person by providing written notice to the Agency and may contract with any other Person to perform its obligations under this Agreement without obtaining Agency's consent to any such contract. Notwithstanding the foregoing, Versaterm may assign its rights and benefits under this Agreement to any Person without providing written notice to the Agency if such assignment is due to a corporate restructure, merger, or acquisition.
- 22.4. Except as expressly provided otherwise in a SOW dates and times by which Versaterm or Agency is required to render performance (other than dates and times for payment of money) under a SOW shall be postponed automatically to the extent and for the period of time that Versaterm or Agency, as the case may be, is prevented from meeting them by reason of any causes beyond its reasonable control, provided the Party prevented from rendering performance notifies the other Party promptly and in detail of the commencement and nature of such a cause, and provided further that such Party uses its commercially reasonable efforts to render performance in a timely manner utilizing to such end all resources reasonably required in the circumstances, including obtaining supplies or services from other sources if same are reasonably available.

- 22.5. If any provision of this Agreement or SOW is determined to be invalid or unenforceable by a court of competent jurisdiction from which no further appeal lies or is taken, that provision shall be deemed to be severed here from, and the remaining provisions of this Agreement or SOW shall not be affected thereby and shall remain valid and enforceable.
- 22.6. All obligations accrued to the date of termination as well as the Sections of this Agreement listed below shall survive the termination of this Agreement made pursuant to this Agreement for as long as necessary to permit their full discharge: 1, 3, 4.2, 7-9, 12-16, 19, and 21-22.
- 22.7. Section headings used in this Agreement are for convenience of reference only and shall not be construed as defining, limiting, or describing the scope or intent of this Agreement.
- 22.8. This Agreement and (if applicable) SOW made pursuant to this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.
- 22.9. Prior to the commencement of any legal proceeding under this Agreement all claims must be raised for good faith discussion between authorized representatives of both Parties with authority to resolve the dispute. Should the claims not be resolved within thirty (30) days of the date of the first request such discussion, each Party shall be free to pursue its legal remedies pursuant to the terms of this Agreement.
- 22.10. This Agreement and any SOW shall not be changed or amended except in writing by an amendment executed by authorized representatives of each Party.
- 22.11. The laws of the State of Arizona shall be applicable to the interpretation of this Agreement without regard to the conflicts of law principles thereof. The Uniform Computer Information Transactions Act and the United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 22.12. This Agreement, along with the SOW agreed to by the Agency in accordance with this Agreement or signed by the Agency, constitute the entire agreement between Versaterm and Agency regarding Agency's use of the Services. All prior agreements, negotiations, undertakings, and discussions, whether oral or written, are superseded by this Agreement and there are no warranties, representations, or covenants between the Parties in connection with this Agreement, except as specifically set forth or referred to in this Agreement. The ACJC Contract is incorporated into this Agreement by reference.
- 22.13. The Parties agrees that in the event of a conflict or inconsistency between the terms of this Agreement and or other documents, the order of precedence shall be the following: (1) this Agreement and (2) Acknowledgement.
- 22.14. The Parties agree that any terms or conditions set forth in a purchase order, acknowledgement or any other document or response issued by Agency shall not apply to this Agreement shall be deemed automatically rejected by Versaterm without need of any further or additional notice of rejection and void and of no effect.
- 22.15. Versaterm may reference the existence of this Agreement and the business relationship between the Parties for the purposes of: (a) issuing press releases to announce the beginning or continuation, as applicable, of the business relationship between the Parties; or (b) referencing Agency as a customer of Versaterm including in Versaterm's customer list and other marketing materials.
- 22.16. In the event of a Force Majeure Event, nonperformance or delay shall not be deemed to be a default hereunder. The Party declaring a Force Majeure Event shall continue to meet its security and confidentiality obligations and shall make all reasonable efforts to continue to meet all its

obligations throughout the duration of the Force Majeure Event. The Party declaring a Force Majeure Event shall notify the other party promptly when the Force Majeure Event begins. This provision shall not limit the Parties' rights under any similarly applicable state law.

- 22.17. Agency acknowledges details of the service level agreement can be found in the contract established within the ACJC Contract. Support requests can be raised via email (support@spidrtech.com) or phone (877-746-8276).

IN WITNESS WHEREOF this Agreement has been executed by the Parties as of the Effective Date.

Agreed to on behalf of:
The City of Yuma

John D. Simonton
City Administrator
[Date]

Yuma Police Department

Thomas Garrity
Chief of Police

Date:_____

Agreed to on behalf of:
Versaterm Public Safety US, Inc.

Adam Schwartz
Chief Revenue Officer
[Date]

ATTEST:

Lynda Bushong, City Clerk

Date:_____

APPROVED AS TO FORM:

Richard W. Files, City Attorney