



State of Oklahoma

Office of Management and Enterprise Services

**Addendum 2 to
State of Oklahoma Statewide Contract 1028 With AssetWorks**

This Addendum 2 (“Addendum”) is an Amendment to the Contract awarded to AssetWorks, LLC in connection with the Solicitation for Oklahoma Statewide Contract 1028 (“Solicitation”).

This Addendum memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being award to AssetWorks, LLC. The Contract is amended to include the below-referenced, negotiated documents and attachments, appendices and exhibits thereto, which are attached hereto and incorporated herein.

- 1) The Geotab End User Agreement executed between Geotab, Inc. and State as contained in Attachment A to this Addendum titled, “Geotab End User Agreement”; and
- 2) The Hosting Agreement as contained in Attachment B to this Addendum.

AssetWorks

By: Steven Occhiolini

Name: Steven Occhiolini

Title: Director, Finance

Date: 08 April 2020

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

By: D. Jerry Moore

Name: D. Jerry Moore

Title: Chief Information Officer

Date: 4/8/2020

ATTACHMENT A TO
ADDENDUM 2
State of Oklahoma Contract with AssetWorks, LLC
Resulting From Oklahoma Statewide Contract No. 1028

Geotab End User Agreement

This Geotab End User Agreement (“Agreement”) is between Geotab, Inc. (“Geotab” also referred to through this Agreement as “We” or “Us”) and the State of Oklahoma, by and through the Office of Management and Enterprise Services (“State” also referred to as “You”) and is a Contract Document in connection with the contract awarded under Statewide Contract 1028 (“Contract”).

Attached hereto and incorporated herein is the following document:

(a) Hosting Agreement

2. LICENSE. We grant you a limited, revocable, non-exclusive right to use any software, firmware and intellectual property (collectively, “software”) embodied in Products solely for your own internal business purposes and solely in connection with your use of our or other compatible in-vehicle telematics devices, on the condition and so long as you comply with all terms and conditions of this Agreement. Except as otherwise provided herein, such rights are non-assignable, non-transferable and non-sublicensable. You may not extract, copy or use the software in connection with any other product or for use on any other device.

3. PRODUCTS OWNERSHIP. The Products are protected by copyright and other intellectual property rights. Software and services are not sold, but only licensed or made available on a limited basis. Notwithstanding anything to the contrary herein, and notwithstanding any reference to the sale of any product to you hereunder, except for the rights expressly granted to you under this Agreement, all right, title and interest (including all copyrights, trademarks, service marks, patents, inventions, trade secrets, intellectual property rights and other proprietary rights) in and to the Products and any copies thereof (regardless of the form or media upon which such copies are recorded) are and shall remain exclusively owned by us and our licensors. You shall not remove or attempt to remove any marks, labels and legends from Products.

4. PROTECTIVE MEASURES. Products may contain technological measures (including the ability to disable the Products) designed to prevent the illegal usage of software or other violations of this Agreement or applicable law. You agree not to circumvent or attempt to circumvent such measures. To the extent such protective measures are not built in to the Products, they may only be taken after reasonable notice to and opportunity to cure by State.

5. UPDATES AND PATCHES. We shall continuously improve our Products and may, from time to time, cause software updates to be automatically installed with or without prior notification to you or provide access to updates through our website. You hereby consent to such automatic installations and agree to use only the updated version once it has been automatically installed.

6. RESTRICTIONS. To the fullest extent permissible under applicable law, you agree not to knowingly: (a) disclose, transfer or transmit in any manner any services, software or other copyrightable or licensed elements of Products whether temporarily or permanently; (b) modify, adapt, translate, reverse engineer, decompile, disassemble or convert into human readable form any software elements of Products; (c) use Products in a manner that violates laws or rights of others; (d) use the Products as part of a fail-safe design for dangerous or emergency applications or as part of control measures required for hazardous materials, life support systems, munitions or weapons; (e) engage in any activity that interferes or disrupts services or any computer, software, network or other device used to provide the services; or (f) cause any other person to do any of the foregoing on your behalf.

7. **COMPLIANCE.** Both parties shall comply with all applicable laws, including export control laws and regulations of the USA. Neither party shall export or re-export any Product directly or indirectly in contravention of such laws and regulations. You further acknowledge that the Products cannot be exported to, or used in, countries which are listed on Canada's Area Control List, including (as of the date of this Agreement) North Korea.

8. **SECURITY.** You are solely responsible for your failure to keep all user identifications and passwords (your "Login Credentials") secure. If you believe the security of your Login Credentials has been compromised, or you suspect unauthorized use, you will promptly notify us. We will be entitled to treat all communications, instructions and transactions as authorized by you if your Login Credentials are used unless you have notified us of compromise or unauthorized use of your Login Credentials. If we suspect, in our reasonable opinion, fraudulent or unauthorized activity on your account, we reserve the right to suspend your access to our website or any applicable services or both and will contact you to advise of this decision. Access will be immediately restored upon confirmation that no fraudulent or unauthorized activity has occurred.

9. **YOUR VEHICLE DATA.** We claim no ownership of any vehicle data that you generate and associate with our devices installed in your particular vehicle(s) ("Individual Vehicle Data") and which you transmit or process using our Products. We will process and transmit Individual Vehicle Data to provide, maintain and improve our Products and perform obligations under this Agreement and applicable law. In furtherance of such purposes, based on certain non-position data elements in your vehicle database (such a vehicle VIN), from time to time in certain jurisdictions we may query, on a confidential basis, databases maintained by reputable third party providers for additional information.

10. **AGGREGATED DATA.** Geotab compiles, stores and uses aggregated data and system usage information to monitor and improve the Products and for the creation of new products, in accordance with the [Geotab Data Analytics Policy](#). The aggregated data that we use in this manner is no longer associated with a device and as such is not Individual Vehicle Data. Geotab will not attempt to disaggregate the data or re-associate it with a device without your consent or unless legally compelled to do so or unless required for safety or troubleshooting purposes. If Geotab must disaggregate the data or re-associate it with a device as described in this section, Geotab will give the State notice of such action.

11. **FEEDBACK.** You understand and agree that any feedback, input, suggestions, recommendations, troubleshooting information or other similar information that you provide or which is made available to us (whether directly or through a reseller including in the course of utilizing support, maintenance or other services) may be used by us to modify, enhance, maintain and improve our Products and shall become our exclusive property without any obligation or payment to you or to any of your customers whatsoever.

12. **OUR LIMITED PRODUCT WARRANTY.** We warrant that during the Warranty Period each Product (including beta products obtained through the Geotab beta program, but excluding other test or demonstration products or product versions) will perform in accordance with the written specifications that we issue with respect to such Product, subject to the limitations and conditions set forth in our specifications and this Agreement, when used in accordance with our documentation and specifications. "Warranty Period" means either: (a) the one year period commencing on the activation date; or (b) the lifetime of the device, provided that the device is activated on certain rate plans (currently the ProPlus rate plan and any other rate plan as announced by us from time to time ("Limited Lifetime Warranty")). Provided you properly complete and we receive from you, directly or through an authorized reseller, a justified written warranty claim and, if applicable, all affected devices (returned at your expense to the reseller from whom you purchased the devices or as otherwise specified by us), prior to the expiration of the Warranty Period, we will either repair or replace such device or use commercially reasonable efforts to correct any material defects in software and services. We reserve the right to replace any device and software with a more current version or model or refurbished device units in our sole discretion, so long as such replacement has the same or better material service and functionality. We also reserve the right to charge you return shipping and a reasonable service fee if we determine that your warranty claim was not justified. The remaining Warranty Period for any purchased Products we repair or replace under

warranty is deemed to be the greater of: (aa) the actual remaining Warranty Period for the replaced or repaired Product; and (bb) 90 days following the completion of such repair or replacement. Additionally, under the Limited Lifetime Warranty we will replace the device in accordance with the process specified above if the network on which the device operates no longer provides adequate coverage in your usage area (as determined by us in our discretion). To the maximum extent permitted by applicable law, the foregoing constitutes your sole and exclusive remedy and our sole and exclusive obligation for any breach of the foregoing warranty.

13. **CONDITIONS AND EXCLUSIONS.** Warranty claims must be submitted promptly after the date when you noticed the defect. In order to make a warranty claim, you may be required to prove that the installation did not cause the defects or failures of the Product, unless the installation was performed by a Geotab-certified installer. Any products, services or items made or supplied by third parties (including vehicles tracked with our Products) are not covered by our limited warranty and we are not responsible for malfunctions by or in such products, services or items. You may need to purchase, license or procure products, software, data or services from third parties to enable the full use or functionality of our Products. You are responsible for ensuring that all such third party products, software, data or services meet our minimum requirements, including without limitation, processing speed, memory, client software, internet access, internet or other communication channel bandwidth.

14. **INSTALLATION WARNING.** Certain vehicles or installation configurations may require professional installation, additional equipment or modifications to your vehicles. Geotab may assist State in promptly finding and scheduling a certified installer. Prior to installing our Products you should carefully review the relevant [Geotab installation documentation](#). If you are uncertain that you have the requisite skills and understanding to install our Products, you must consult with an authorized Geotab reseller or installer. Improper installation can lead to short circuits and the risk of fire, leading to personal injury or significant damage to your vehicle. Installation or servicing may also require modifications to your vehicle. Failure to comply with procedures specified in the installation instructions for a Product, or attempting to install our Products without adequate knowledge of our Products, proper installation, configuration, servicing, repair or removal procedures, or your vehicle, may result in damage to the Product or your vehicle, which may cause malfunctions of vehicle controls or vehicular environmental systems and result in personal injury. You understand that any such activities not performed by an authorized Geotab reseller or installer will be at your sole risk. You also agree to comply with any safety-related instructions communicated to you by Geotab, including removing the Product from your vehicle if Geotab determines your vehicle is not suitable for the use of the Products. You hereby release and forever discharge us, our affiliates, resellers and agents and their directors, officers, employees and representatives from any and all losses, actions, causes of action, liability, claims, demands, penalties, costs, expenses (including legal fees and disbursements on a full indemnity basis), judgments and damages of any nature or kind whatsoever, whether under contract, tort, or any other theory of law or equity, which you have or will have, arising or accruing from, as a result of, in relation to, or in connection with, installation or de-installation of Geotab products whether or not an authorized installer is used.

15. **WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY TERMS, REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, QUIET ENJOYMENT OR QUIET POSSESSION AND THOSE ARISING BY STATUTE OR IN LAW, OR FROM A COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE CANNOT AND DO NOT REPRESENT, WARRANT OR COVENANT THAT: (A) ANY OF THE PRODUCTS WILL MEET YOUR BUSINESS OR OTHER REQUIREMENTS; (B) THE PRODUCTS WILL OPERATE OR BE PROVIDED WITHOUT INTERRUPTION CAUSED BY A THIRD PARTY; (C) THE PRODUCTS WILL BE ERROR-FREE, OR THAT THE RESULTS OBTAINED FROM THEIR USE WILL BE ACCURATE, RELIABLE OR CURRENT (D) ANY ERRORS IN THE PRODUCTS CAN BE CORRECTED OR FOUND IN ORDER TO BE CORRECTED. MOREOVER, WITHOUT LIMITING THE GENERALITY OF SECTION 13 (CONDITIONS AND EXCLUSIONS) WE DO NOT ENDORSE, AND MAKE NO REPRESENTATION, OR WARRANTY

WITH RESPECT TO, AND ASSUME NO RESPONSIBILITY, OBLIGATION OR LIABILITY FOR, ANY NON-GEOTAB PRODUCTS, SOFTWARE, DATA OR SERVICES INCLUDING BUT NOT LIMITED TO WIRELESS SERVICES, MAPPING SERVICES, POSTED ROAD SPEED SERVICES, INTERNET BANDWIDTH AND CLOUD STORAGE.

16. INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.

(a) If a third party claims that any portion of the Products provided by us under the terms of this Contract infringes that party's patent or copyright (an "Infringement Claim"), we shall defend you against the claim at our expense and pay all related costs, damages, and attorneys' fees incurred by, or assessed to you, provided you (i) promptly notify us in writing of the claim and (ii) to the extent authorized by the Attorney General of the State of Oklahoma, allow us to control the defense and any related settlement negotiations. If the Attorney General of the State of Oklahoma does not authorize sole control of the defense and settlement negotiations to us, we shall be granted authorization to equally participate in any proceeding related to this section but we shall remain responsible to indemnify you for all associated costs, damages and fees incurred by or assessed to you. For clarity, costs that you incur to defend or settle the claim in parallel to us under this section shall not be borne by us, but will be reimbursed to you by the department that purchased the Products under this Agreement. .

(b) Should any of our Products or any part thereof become, or in our sole opinion are likely to become, the subject of an Infringement Claim, we may, at our option and expense: (i) procure, at no cost to you, the right to continue to use such Products which are the subject of the Infringement Claim; (ii) replace or modify the Products or infringing part thereof with non-infringing equivalents, at no cost to you; or (iii) if none of the foregoing alternatives are reasonably practical in our sole judgement, we may: (A) in the case of software or services, terminate such services or the licenses for such software and refund or issue a credit for any prepaid but unused fees for such software or services paid to us, if any; and/or (B) in the case of our devices, require you to return such devices and refund or issue a credit for the purchase price paid to us for the devices returned, depreciated on a straight-line basis over a 36 month period from the date of purchase.

(c) We have no obligation or liability whatsoever in respect of any Infringement Claim that is based on any of the following (collectively, the "Excluded Claims"): (i) in the case of any software, the use of other than the latest release and version of such software resulting from your interference with or disabling of the automatic software update process; (ii) the use of any Products in breach of this Agreement; (iii) non-Geotab products, software, data or services, (iv) the use, association or combination of any of our Products with, or the incorporation or integration into our Products of, any non-Geotab product, software, service, data, information or other material (including your own) that is not supplied by us or expressly identified by us in our written specifications or documentation as being required for the use and operation of our Products; (v) the use or operation of any of our Products, in any manner or for any purpose other than as expressly specified in our documentation for same; (vi) any modification, alteration, change, enhancement, customization or derivative work of the Products made by anyone other than us or our agents or at the direction of us and our agents; (vii) your use or alleged misuse of data you collect through the operation of our products; (viii) for user-based vehicle insurance purposes, the use of the Products in association with driving, driver or vehicle activity or performance; or (ix) any reselling or distribution of our Products.

17. RESERVED.

18. LIMITATIONS OF LIABILITY. YOU AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE LIABILITY OF GEOTAB TO YOU HEREUNDER OR OTHERWISE IN RESPECT OF THE PRODUCTS EXCEED THE AMOUNT YOU HAVE PAID FOR THE PRODUCTS OR SERVICES OR THE RIGHTS TO USE THE SOFTWARE (THE "FEES") IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE TIME THE CAUSE OF ACTION AROSE OR THE TWENTY-FOUR MONTH PERIOD PRECEDING THE TIME THE CAUSE OF ACTION AROSE ONLY IN THE EVENT THAT THE CAUSE OF ACTION ARISES FROM GEOTAB'S BREACH OF ITS CONFIDENTIALITY OR DATA SECURITY OBLIGATIONS IN THIS AGREEMENT, INCLUDING NOTIFICATION OBLIGATIONS. IN THE EVENT THAT YOU HAVE NOT YET PAID FOR TWELVE (OR

TWENTY-FOUR, IF APPLICABLE) MONTHS OF SERVICES AT THE TIME THE CAUSE OF ACTION AROSE, GEOTAB'S LIABILITY TO YOU WILL BE CALCULATED BY CALCULATING THE AVERAGE AMOUNT OF FEES YOU HAVE PAID PER MONTH UP UNTIL THE TIME THE CAUSE OF ACTION AROSE AND MULTIPLYING THAT NUMBER BY TWELVE, OR TWENTY-FOUR ONLY IN THE EVENT THAT THE CAUSE OF ACTION ARISES FROM GEOTAB'S BREACH OF ITS CONFIDENTIALITY OR DATA SECURITY OBLIGATIONS IN THIS AGREEMENT, INCLUDING NOTIFICATION OBLIGATIONS. NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSSES OR DAMAGES, INCLUDING LOSS OF REVENUE OR PROFITS, BUSINESS INFORMATION OR LOSS OF USE THEREOF, FAILURE TO REALIZE EXPECTED PROFITS OR SAVINGS, COST OF CAPITAL, LOSS OF BUSINESS OPPORTUNITIES, LOSS OF GOODWILL OR ANY OTHER NON-DIRECT, PECUNIARY, COMMERCIAL OR ECONOMIC LOSS OR DAMAGE OF ANY KIND WHETHER FORESEEN OR UNFORESEEN ARISING FROM OR INCIDENTAL TO THIS AGREEMENT. Notwithstanding anything to the contrary in the Contract, the foregoing provisions of this Section shall not apply to or limit damages, expenses, costs, actions, claims and liabilities arising from or related to property damage, bodily injury or death caused by Geotab; the indemnification obligations set forth in this Contract; Geotab's confidentiality obligations set forth in this Contract; data security and breach notification obligations set forth in the Contract which are expressly limited to the amount set out above; the bad faith, gross negligence or intentional misconduct of Geotab's or its employees agents and subcontractors; or other acts for which applicable law does not allow exemption from liability.

19. APPLICABILITY. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS AGREEMENT WILL APPLY IRRESPECTIVE OF THE NATURE OR FORM OF THE CLAIM, CAUSE OF ACTION, DEMAND, OR ACTION, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR OF ANY REMEDY CONTAINED HEREIN.

20. TERMINATION. Either party may terminate for cause with a written notice and a thirty (30) day opportunity to cure. The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Geotab if Geotab fails to comply with confidentiality, privacy, security, environmental or safety requirements if such non-compliance relates or may relate to Geotab's provision of a product or service to the State or if Geotab's material breach is reasonably determined (i) to be an impediment to the function of the State and detrimental to the State or (ii) to cause a condition precluding the thirty (30) day notice or when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance. For clarity, Geotab's failure to make changes to its commercial offering in response to any requirements of the State shall not be grounds for termination for cause. The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. The State shall deliver to the Geotab a written notice of termination for convenience specifying the terms and effective date of termination. The Contract termination date shall be a minimum of thirty (30) days from the date the notice of termination is issued by the State.

21. Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay its obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Geotab will be provided fifteen (15) calendar days written notice of intent to terminate. The determination by the State as to whether sufficient appropriations are available shall be accepted by, and shall be final and binding on Geotab. Notwithstanding the foregoing, if State issues a purchase order or other payment mechanism and has accepted a product or service, the State is obligated to pay for the product or service. In the event of such termination, the State will not be considered to be in default or breach under the Contract nor shall it be liable for any further payments ordinarily due under the Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination. Any partial termination of the Contract for non-appropriation shall not be construed as a waiver of, and shall not affect, the rights and obligations of Geotab or the State regarding portions of

the Contract that are not terminated. Any amount paid to Geotab in the form of prepaid fees that are unused when the Contract, a purchase order or other payment mechanism, is terminated shall be refunded to State.

State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf. Geotab shall provide a Voluntary Product Accessibility Template ("VPAT") describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Geotab. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

22. ASSIGNMENT. Either party may assign this Agreement with written consent of the other party. Rights and obligations of the State under the terms of this Contract may be assigned or transferred, at no additional cost, to other State entities. In the event of such assignment, Geotab reserves the right to terminate the agreement without penalty in the event such assignment may cause Geotab to violate an agreement with any other party.

23. CHOICE OF LAW. This Contract will be governed by the laws of Oklahoma, without regard to conflict of law evaluations.

24. RELATED THIRD PARTY PROVIDER TERMS. Our related third party providers require us to obtain your agreement to certain terms and conditions prescribed by them. The Wireless Provider Terms are set out at the following [link](#) and the Other Provider Terms (including cloud storage, mapping and posted road speed provider terms) are set out at the following [link](#). These third party terms are hereby incorporated by reference into and form part of this Agreement and contain license and use limitations; limitations of liability; disclaimers; choice of law, arbitration and forum selection clauses; and other important terms and conditions that affect your rights and obligations. Geotab accepts no responsibility or liability for the services of such providers. By signifying your agreement to this Geotab End User Agreement you are also signifying your agreement to these third party terms.

25. ENTIRE AGREEMENT. This Agreement is a Contract Document of the Contract entered into between Geotab and State. This Agreement as well as all attachments are considered the entire and exclusive agreement between you and us with respect to the subject matter of this Agreement and cancels and supersedes any prior and contemporaneous understandings and agreements between the parties hereto with respect thereto. The headings in this Agreement are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

26. SEVERABILITY. To the extent that any provision of this Agreement is declared by a court or other lawful authority of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed and deleted or limited so as to give effect to the intent of the parties insofar as possible and you and we will use our respective best efforts to substitute a new provision of like economic intent and effect for the illegal, invalid or unenforceable provision, and the remainder of this Agreement shall continue in full force and effect with respect to all other provisions.

27. AMENDMENTS AND WAIVERS. All Amendments to this Agreement and all Waivers of any rights or obligations under this Agreement must be in writing and executed by both parties.

28. FORCE MAJEURE. Each party shall be relieved of their respective obligations hereunder and will not be liable to the other or to any third party if the affected party is unable or fails to perform any of its

obligations under this Agreement, as a result of events beyond its reasonable control including pandemic, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event., In the event that a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable. Subject to the conditions set forth above, such non-performance shall not be deemed a default. Provided however that the other party may terminate this Agreement if the affected party is unable to perform its obligations for a period of 30 days or more, upon written notice to the other during the time the affected party is prevented from so performing.

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

In Witness Whereof, this Agreement has been duly executed by the Parties by setting forth their respective hands below:

For State

Signature	<u>D Jerry Moore</u>
Printed Name	<u>D. Jerry Moore</u>
Title	<u>Chief Information Officer</u>
Date	<u>4/8/2020</u>

For Geotab, Inc.

Signature	<div>DocuSigned by: <u>Neil Cawse</u> 4DBD3A22BCFD499...</div>
Printed Name	<u>Neil Cawse</u>
Title	<u>CEO</u>
Date	<u>4/7/2020</u>



OKLAHOMA
Office of Management
& Enterprise Services

State of Oklahoma Hosting Agreement

ATTACHMENT B TO ADDENDUM 2

State of Oklahoma Contract with AssetWorks, LLC
Resulting From Oklahoma Statewide Contract No. 1028

HOSTING AGREEMENT

I. Definitions

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

II. Customer Data

- a. Customer will be responsible for the accuracy and completeness of all Customer Data provided to Vendor by Customer. Customer shall retain exclusive ownership of all Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer’s confidential information. Vendor shall restrict access to Customer Data

to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).

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

III. Data Security

- a. Vendor will use commercially reasonable efforts, consistent with industry standards, to provide security for the hosted environment and Customer Data and to protect against both unauthorized access to the hosting environment, and unauthorized communications between the hosting environment and the Customer's browser. Vendor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the Vendor applies to its own personal data and non-public data of similar kind.
- b. All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the Vendor is responsible for encryption of Personal Data.

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

IV. Security Assessment

- a. The State requires any entity or third-party vendor hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Vendor submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the Contract, including renewals, constitutes a material breach.

- b. To the extent Vendor requests a different sub-contractor than the third-party hosting vendor already approved by the State, the different sub-contractor is subject to the State's approval. Vendor agrees not to migrate State's data or otherwise utilize a different third-party hosting vendor in connection with key business functions that are Vendor's obligations under the Contract until the State approves the third-party hosting vendor's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party hosting vendor does not meet the State's requirements under the State Certification and Accreditation Review, Vendor acknowledges and agrees it may not utilize such third-party vendor in connection with key business functions that are Vendor's obligations under the Contract, until such third party meets such requirements.

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

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

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

- a. Vendor, unless stipulated otherwise, shall promptly notify the Customer identified contact within 24 hours or sooner, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been a Data Breach. Vendor shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related

to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

- b. Unless otherwise stipulated, if a Data Breach is a direct result of Vendor's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Vendor shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – (2), (3) and (4) not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach; and (5) complete all corrective actions as reasonably determined by Vendor based on root cause.
- c. If a Data Breach is a direct result of Vendor's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Vendor shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

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

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

And

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

And

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

For immediate notice which does not constitute written notice:

OMES Help Desk

405-521-2444

helpdesk@omes.ok.gov

Attn: Chief Information Security Officer

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

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

IX. Indemnity

- a. Vendor's Duty of Indemnification. If a third party claims that any portion of the products or services provided by Vendor under the terms of the Contract or this Hosting Agreement infringes that party's patent or copyright, Vendor shall defend and indemnify the State of Oklahoma and Customer against the claim at Vendor's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State of Oklahoma and/or Customer. The State of Oklahoma and/or Customer shall promptly notify Vendor of any third party claims and to the extent authorized by the Attorney General of the State, allow Vendor to control the defense and any related settlement negotiations. If the Attorney General of the State of Oklahoma does not authorize sole control of the defense and settlement negotiations to Vendor, Vendor shall be granted authorization to equally participate in any proceeding related to this section but Vendor shall remain responsible to indemnify Customer and the State of Oklahoma for all associated costs, damages

and fees incurred by or assessed to the State of Oklahoma and/or Customer. Should the software become, or in Vendor's opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated under this Hosting Agreement, Vendor may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

X. Termination and Suspension of Service:

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

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

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

