



**OKLAHOMA**  
Office of Management  
& Enterprise Services

**State of Oklahoma**

**Office of Management and Enterprise Services**

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## **STATE OF OKLAHOMA STATEWIDE CONTRACT WITH Geotab USA, Inc.**

This State of Oklahoma Statewide Contract (“Contract”) is entered into between the state of Oklahoma by and through the Office of Management and Enterprise Services and Geotab USA, Inc (“Supplier”) and is effective as of the date of last signature to this Contract.

### **Purpose**

The State is awarding this Contract to Supplier for the provision of Global Positioning System (GPS) Automatic Vehicle Location (AVL) Fleet Management System for use by all applicable state agencies and Interlocal entities located across Oklahoma, as more particularly described in certain Contract Documents. Supplier submitted a proposal which contained exceptions to the Solicitation, which contained additional terms, and with certain information requested to be considered confidential. This Contract memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to Supplier.

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

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
  - 2.1. Solicitation, Attachment A;
  - 2.2. General Terms, Attachment B;
  - 2.3. Statewide Specific terms, Attachment C;
  - 2.4. Information Technology terms, Attachment D;
  - 2.5. Negotiated Exceptions to the Contract, Attachment E.2;
  - 2.6. Geotab EULA, Attachment E.3;
  - 2.7. Value Add, Attachment E.4; and
  - 2.8. Pricing, Attachment E.5.


3. The parties additionally agree:
- 3.1. Except for the following language as contained in the following Sections;
- 1. The 4<sup>th</sup> paragraph and the sub paragraphs in bold;
  - 10. The paragraphs on multi streaming and Motorpool suitability;
  - 11. The entire section 11;
- and information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.
- 3.2. revisions to terms and documents initially proposed in the Bid are contained in Attachment E.2 titled, Negotiated Exceptions to the Contract.

Attachments referenced in this section are attached hereto and incorporated herein.

4. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

**STATE OF OKLAHOMA**  
**by and through the**  
**OFFICE OF MANAGEMENT AND**  
**ENTERPRISE SERVICES**

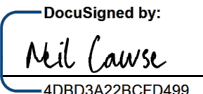
**Geotab USA, Inc.**

By:   
Joe McIntosh (Jul 28, 2023 12:20 CDT)

Name: Joe McIntosh

Title: Chief Information Officer

Date: Jul 28, 2023

By:   
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Name: Neil Cawse

Title: President and CEO

Date: 2023-Jul-18

**ATTACHMENT A**  
**EVENT NO. 0000000518**

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

**PURPOSE**

The Contract is awarded as a non-mandatory statewide contract on behalf of The Office of Management and Enterprise Services (OMES), Central Purchasing Division on behalf of Information Services Division (ISD), for a Global Positioning System (GPS) Automatic Vehicle Location (AVL) Fleet Management System for use by all applicable state agencies and Interlocal entities located across Oklahoma.

**1. Contract Term and Renewal Options**

The initial Contract term, which begins on the effective date of the Contract, is one year and there are four (4) one-year options to renew the Contract.

## **ATTACHMENT B**

### **STATE OF OKLAHOMA GENERAL TERMS**

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with a Contract awarded by the Office of Management and Enterprise Services on behalf of the State of Oklahoma.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

#### **1 Scope and Contract Renewal**

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Addendum. Further, any request for a price increase in connection with a renewal or otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.
- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State



exercises such option to extend ninety (90) days, the State shall notify the Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.

- 1.5** Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

## **2 Contract Effectiveness and Order of Priority**

- 2.1** Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.

- 2.2** Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:

- A.** any Addendum;
- B.** any applicable Solicitation;
- C.** any Contract-specific State terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
- D.** the terms contained in this Contract Document;
- E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
- F.** any statement of work, work order, or other similar ordering document as applicable; and
- G.** other mutually agreed Contract Documents.

- 2.3** If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms

provided by Supplier shall not take priority over this Contract Document or Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Addendum.

- 2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

### 3 **Modification of Contract Terms and Contract Documents**

- 3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

### 4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Addendum** means a mutually executed, written modification to a Contract Document.
- 4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.
- 4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.

- 4.5 Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 Debarment** means action taken by a debarring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.14 OAC** means the Oklahoma Administrative Code.
- 4.15 OMES** means the Office of Management and Enterprise Services.

- 4.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created,

prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

## **5 Pricing**

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

## **6 Ordering, Inspection, and Acceptance**

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.
- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3** Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.
- 6.4** Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

## **7 Invoices and Payment**

**7.1** Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** Supplier shall have no right of setoff.
- G.** Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H.** The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

## **8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation**

**8.1** As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set

forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.



- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.
- 8.3** Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

## **9 Compliance with Applicable Laws**

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
  - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
  - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
  - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
  - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
  - G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
  - H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
  - I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
  - J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [Information Security Policy, Procedures, Guidelines \(oklahoma.gov\)](http://Information%20Security%20Policy,%20Procedures,%20Guidelines%20(oklahoma.gov)). Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.
- 9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory

contract provisions required in connection with the receipt of federal funds or other funding source.

- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, 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 Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format

usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

## **10 Audits and Records Clause**

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer’s prior express written

permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.
- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and records.
- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents,

representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.

**11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

**11.7** Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

## **12 Conflict of Interest**

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is

related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

### **13 Assignment and Permitted Subcontractors**

- 13.1** Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.
- 13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.
- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to

the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

**13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

**13.5** Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

#### **14 Background Checks and Criminal History Investigations**

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

#### **15 Patents and Copyrights**

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property,



copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

## **16 Indemnification**

### **16.1 Acts or Omissions**

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

### **16.2 Infringement**

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

### **16.3 Notice and Cooperation**

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

### **16.4 Coordination of Defense**

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally

participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

#### **16.5 Limitation of Liability**

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.
- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

### **17 Termination for Funding Insufficiency**

- 17.1** 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 obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.
- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

## **18 Termination for Cause**

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence

of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

**18.4** The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.

## **19 Termination for Convenience**

**19.1** 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. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

**19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but

there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract.

A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

## **23 Force Majeure**

**23.1** Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar 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. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.

**23.2** Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.

**23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay

or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

## **24 Security of Property and Personnel**

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

## **25 Notices**

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

### **If sent to the State:**

State Purchasing Director  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

### **With a copy, which shall not constitute notice, to:**

Purchasing Division Deputy General Counsel  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

## **26 Miscellaneous**

### **26.1 Choice of Law and Venue**



Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

## **26.2 No Guarantee of Products or Services Required**

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

## **26.3 Employment Relationship**

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

## **26.4 Transition Services**

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

## **26.5 Publicity**

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

## **26.6 Open Records Act**

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

## **26.7 Failure to Enforce**

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

## **26.8 Mutual Responsibilities**

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

## **26.9 Invalid Term or Condition**

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or

condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

#### **26.10 Severability**

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

#### **26.11 Section Headings**

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

#### **26.12 Sovereign Immunity**

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

#### **26.13 Survival**

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

#### **26.14 Entire Agreement**

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition,

understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

#### **26.15 Gratuities**

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

#### **26.16 Import/Export Controls**

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

## **ATTACHMENT C**

### **OKLAHOMA STATEWIDE CONTRACT TERMS**

#### **1. Statewide Contract Type**

- 1.1** The Contract is a non-mandatory statewide contract for use by State agencies. Additionally, the Contract may be used by any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department or other entity designated to act on behalf of the political subdivision; a state, county or local governmental entity in its state of origin; and entities authorized to utilize contracts by the State via a multistate or multigovernmental contract.
- 1.2** The Contract is a firm, fixed price contract for indefinite delivery and quantity for the Acquisitions available under the Contract.

#### **2. Orders and Addendums**

- 2.1** Unless mutually agreed in writing otherwise, orders shall be placed directly with the Supplier by issuance of written purchase orders or by Purchase Card by state agencies and other authorized entities. All orders are subject to the Contract terms and any order dated prior to Contract expiration shall be performed. Delivery to multiple destinations may be required.
- 2.2** Any ordering document shall be effective between Supplier and the Customer only and shall not be an Addendum to the Contract in its entirety or apply to any Acquisition by another Customer.
- 2.3** Additional terms added to a Contract Document by a Customer shall be effective if the additional terms do not conflict with the General Terms and are acceptable to Supplier. However, an Addendum to the Contract shall be signed by the State Purchasing Director or designee. Regarding information technology and telecommunications contracts, pursuant to 62 O.S., §34.11.1, the Chief Information Officer acts as the Information Technology and Telecommunications Purchasing Director.

#### **3. Termination for Funding Insufficiency**

In addition to Contract terms relating to termination due to insufficient funding, a Customer may terminate any purchase order or other payment mechanism if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. The determination by the Customer of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

#### **4. Termination for Cause**

In addition to Contract terms relating to termination for cause, a customer may terminate its obligations, in whole or in part, to Supplier if it has provided Supplier with written notice of material breach and Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. The Customer may also terminate a purchase order or other payment mechanism or Supplier's activities under the Contract immediately without a thirty (30) day written notice to Supplier, if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements if such non-compliance relates or may relate to Supplier provision of products or services to the Customer or if Supplier's material breach is reasonably determined (i) to be an impediment to the function of the Customer and detrimental to the Customer, or (ii) when conditions preclude the thirty (30) day notice.

#### **5. Termination for Convenience**

In addition to any termination for convenience provisions in the Contract, a Customer may terminate a purchase order or other payment mechanism for convenience if it is determined that termination is in the Customer's best interest. Supplier will be provided at least thirty (30) days' written notice of termination.

#### **6. Contract Management Fee and Usage Report**

**6.1** Pursuant to 74 O.S. § 85.33A, the State assesses a contract management fee on all transactions under a statewide contract. The payment of such fee will be calculated for all transactions, net of returns and the Supplier has no right of setoff against such fee regardless of the payment status of any Customer or any aggregate accounts receivable percentage. Supplier acknowledges and agrees that all prices quoted under any statewide contract shall include the contract management fee and the contract management fee shall not be reflected as a separate line item in Supplier's billing. The State reserves the

right to change this fee upward or downward upon sixty (60) calendar days' written notice to Supplier without further requirement for an Addendum.

**6.2** While Supplier is the awardee of a statewide contract, transactions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided, however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

**6.3** All Contract Usage Reports shall meet the following criteria:

- i.** Electronic submission in Microsoft Excel format to [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov);
- ii.** Quarterly submission regardless of whether there were transactions under the Contract during the applicable quarterly reporting period;
- iii.** Submission no later than forty-five (45) days following the end of each calendar quarter;
- iv.** Contract quarterly reporting periods shall be as follows:
  - a.** January 01 through March 31;
  - b.** April 01 through June 30;
  - c.** July 01 through September 30; and
  - d.** October 01 through December 31.
- v.** Reports must include the following information:
  - a.** Procuring entity;
  - b.** Order date;

- c. Purchase Order number or note that the transaction was paid by Purchase Card;
- d. City in which products or services were received or specific office or subdivision title;
- e. Product manufacturer or type of service;
- f. Manufacturer item number, if applicable;
- g. Product description;
- h. General product category, if applicable;
- i. Quantity;
- j. Unit list price or MSRP, as applicable;
- k. Unit price charged to the purchasing entity; and
- l. Other Contract usage information requested by the State.

- 6.4** Payment of the contract management fee shall be delivered to the following address within forty-five (45) calendar days after the end of each quarterly reporting period:

State of Oklahoma  
Office of Management and Enterprise Services, Central Purchasing  
2401 North Lincoln Boulevard, Suite 116  
Oklahoma City, Oklahoma 73105

To ensure payment is properly accounted for, Supplier shall provide the following information with payment: (i) reference to the applicable Contract Usage Report and quarterly reporting period and (ii) the applicable statewide contract number(s) and the amount of the contract management fee being paid for each contract number.



**ATTACHMENT E.2****NEGOTIATED EXCEPTIONS TO THE CONTRACT**

<b>Term &amp; Section</b>	<b>Language</b>
Attachment B - General Terms Invoices and Payment (Section 7.1 H)	<p>Section 7.1 H is revised in the following way:</p> <p>The Supplier shall accept payment by ACH or check as allowed by Oklahoma law.</p>
Attachment B - General Terms Section 4 Definitions 4.21 Work Product	<p>The following text is added to section 4.21:</p> <p><b>Work Product</b> means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract that are not or are not related to commercial, off-the-shelf (COTS) items or software, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any...</p>
Attachment B - General Terms Section 9 Compliance with Applicable Laws 9.9	<p>Section 9.9 is revised in the following way:</p> <p>Supplier represents that, to the best of its knowledge, any material litigation or claim that would impair Supplier's ability to perform under the Contract, or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.</p>
Attachment B - General Terms Section 11 Confidentiality 11.1	<p>Section 11.1 is revised in the following way which is in line with the Geotab End User Agreement and State of Oklahoma Hosting Agreement executed by the Bidder and the State dated April 8, 2020.</p> <p>The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract, and to maintain and improve the Supplier's products. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information. Supplier compiles, stores and uses aggregated data and system usage information to monitor and improve Supplier's products and services and for the creation of new products, in accordance with the Geotab Data Analytics Policy. The aggregated data that Supplier uses in this manner is no longer associated with a device and as such is not confidential information for the purposes of this section. Supplier will not attempt to disaggregate the data or re-associate it with a device without Customer's consent or unless legally compelled to do so or unless required for safety or troubleshooting purposes. If Supplier must</p>

	disaggregate the data or re-associate it with a device as described in this section, Supplier will give the State notice of such action.
Attachment B - General Terms Section 11 Confidentiality 11.3	<p>Section 11.3 is revised in the following way:</p> <p>Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.</p>
Attachment B - General Terms Section 16 Indemnification 16.2 Infringement	Section 16.2 Infringement is covered by section 16 of the End User Agreement and Section IX of the Hosting Agreement between Bidder and State, dated April 8, 2020; Section 16.2 should therefore be intentionally omitted.
Attachment B - General Terms Section 16 Indemnification 16.3 Notice and Cooperation	Section 16.3 Notice and Cooperation is covered by section 16 of the End User Agreement and Section IX of the Hosting Agreement between Bidder and State, dated April 8, 2020; Section 16.3 should therefore be intentionally omitted.
Attachment B - General Terms Section 16 Indemnification 16.4 Coordination of Defense	Section 16.4 Coordination of Defense is covered by section 16 of the End User Agreement and Section IX of the Hosting Agreement between Bidder and State, dated April 8, 2020; Section 16.4 should therefore be intentionally omitted.
Attachment B - General Terms Section 16 Indemnification 16.5 Limitation of Liability	Section 16.5 Limitation of Liability is covered by Section 18 of the End User Agreement between Bidder and State, dated April 8, 2020; Section 16.5 should therefore be intentionally omitted.
Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - Section 1 Definitions 1.13 Work Product	<p>Section 1.13 is revised in the following way:</p> <p><b>Work Product</b> means any and all non-COTS-related deliverables produced by Supplier for Customer under a statement of work issued pursuant to the Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any..</p>
Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - Section 5 Offshore Services	<p>Offshore Services is covered in Appendix 1 to State of Oklahoma Information Technology Terms Section B.4 Data Security. We propose the revision below to Section 5 Offshore Services or to delete Section 5 Offshore Services in its entirety and have Appendix 1 to State of Oklahoma Information Technology Terms Section B.4 Data Security prevail.</p> <p>With the exception of support services provided from Canada, no offshore services are provided for under the Contract. State data shall not be used or accessed internationally for trouble shooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State's sole discretion, from the appropriate authorized representative of the State. Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-</p>

	the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer data being accessed or used.
Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - Section 11 Ownership Rights	<p>Section 11 is revised to align with sections 2 and 3 of the End User Agreement between Bidder and State, dated April 8, 2020:</p> <p>Any software developed by the Supplier under the terms of the Contract is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. Moreover, except with regard to any deliverable based on Supplier Intellectual Property, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto.</p> <hr/> <hr/> <hr/> <hr/>
Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - Section 12 Intellectual Property Ownership 12.8	<p>Section 12.8 is revised to reflect: the license for 3rd party intellectual property in the End User Agreement executed between Bidder and State dated April 8, 2020</p> <p>To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product, Supplier shall obtain from the applicable third party for the Customer's benefit, an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or necessary to provide services, Supplier grants to Customer an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for the Customer's internal business purposes...</p>
Appendix 1 to Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - B Data Security 7	Section 7 is deleted to align with the Hosting Agreement executed between Bidder and State dated April 8, 2020; therefore Section 7 should be intentionally omitted.
Appendix 1 to Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - C Security Assessment 1	<p>Section 1 is revised to align with the Hosting Agreement executed between Bidder and State dated April 8, 2020:</p> <p>The State requires any entity or third-party Supplier Hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier 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. Upon request, the Supplier shall provide updated data security information in connection with a potential renewal. If information provided in the security risk assessment changes, Supplier shall promptly notify the State and include in such notification the updated information; provided, however, Supplier shall make</p>

	<p>no change that results in lessened data protection or increased data security risk. Failure to provide the notice required by this section or maintain the level of security required in the Contract constitutes a material breach by Supplier and may result in a whole or partial termination of the Contract.</p>
<p>Appendix 1 to Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - C Security Assessment 2</p>	<p>Section 2 is revised to align with the Hosting Agreement executed between Bidder and State dated April 8, 2020:</p> <p>To the extent Supplier requests a different sub-contractor than the third-party Hosting Supplier already approved by the State, the different sub-contractor is subject to the State's approval. Supplier agrees not to migrate State's data or otherwise utilize the different third-party Hosting Supplier in connection with key business functions that are Supplier's obligations under the contract until the State approves the third-party Hosting Supplier's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party Hosting Supplier does not meet the State's requirements under the State Certification and Accreditation Review, Supplier acknowledges and agrees it will not utilize the third-party Supplier in connection with key business functions that are Supplier's obligations under the contract, until such third party meets such requirements.</p>
<p>Appendix 1 to Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - H Indemnity</p>	<p>H Indemnity is revised to align with the Hosting Agreement executed between Bidder and State dated April 8, 2020:</p> <p>Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents from all liabilities, claims damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification, excluding damages that are the sole fault of Customer, arising from or in connection with Supplier's breach of its express representations and warranties identified in Attachment D which include: virus check the data hosting environment; non-infringement; protecting confidential info with no less than reasonable care; non-violation of contracts between Geotab and its suppliers; and not passing along virus or other disabling code; and compliance with laws.</p> <p>If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party's patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier's expense and pay all related costs, damages, and attorney's fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier's...</p>

Appendix 1 to Attachment D - State of Oklahoma Information Technology Terms 4T454TQS - I Termination, Expiration, and Suspension of Service	<p>I Termination, Expiration, and Suspension of Service is revised to align with the Hosting Agreement executed between Bidder and State dated April 8, 2020:</p> <p>1. During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.</p> <p>2. In the event of a termination or expiration of the Contract, the parties further agree:</p>
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	<p>Supplier shall implement an orderly return of Customer Data in a mutually agreeable format specified by the Customer and, as determined by the Customer:</p> <p>return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;</p> <p><b>b.</b> transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or</p> <p><b>c.</b> a combination of the two immediately preceding options.</p> <p><b>3.</b> Supplier shall not take any action to intentionally erase any Customer Data for a period of:</p> <p><b>a.</b> 10 days after the effective date of termination, if the termination is in accordance with the contract period;</p> <p><b>b.</b> 30 days after the effective date of termination, if the termination is for convenience; or</p> <p><b>c.</b> 60 days after the effective date of termination, if the termination is for cause.</p> <p>After such period, Supplier 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.</p> <p><b>4.</b> The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.</p> <p><b>5.</b> Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. 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 within thirty (30) calendar day of its request for disposal of data-</p>
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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.



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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



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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

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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

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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



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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](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

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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 D. Jerry Moore  
Printed Name D. Jerry Moore  
Title Chief Information Officer  
Date 4/8/2020

**For Geotab, Inc.**

Signature   
Printed Name Neil Cawse  
Title CEO  
Date 4/7/2020

# Section Ten: Offer of Value-Added Products and/or Services

## RFP Section 8.2 Bid Packet Format RFP Requirement | N. Section Ten: Offer of Value-Added Products and/or Services

**If a Bid includes an offer of value-added products and/or services, such offer shall be inserted in this section and include associated pricing and any other information relevant to such value-added offer. However, the State is not obligated to purchase value-added products or services.**

Geotab has also outlined optional services and products available to the State of Oklahoma in Exhibit 2 - Pricing in Appendix 4. These options are offered as value-added services/products to enhance Geotab's offer and have included descriptions herein.

## Multi-Streaming (Extendable Services)

### What are Extendable Services?

Extendable Services enable the creation of multiple subscriptions or data feeds from a single GO telematics device. Agencies can share some or all of their device data with OMES and other government organizations for different use cases and objectives.

### How do Extendable Services work?

The agency administrator initiates the sharing capabilities of the GO telematics device and extends the service to OMES, without giving access to the agency's own database and vice versa. This process provides the added benefit that OMES does not have to add user credentials in the agency database which would allow OMES to view all agency data, and/or build separate M5 integrations for each agency database.

### What is the benefit?

Geotab is working with the world's most significant government and private entities. Having multiple users in a single database is cumbersome, which is why Geotab created multi-streaming from a single device. Geotab recognizes that each state agency is a separate business unit that uses the power of Geotab differently. OMES can now access the entire state fleet data in one instance of Geotab, while agencies can operate autonomously.

## Motorpool Suitability Assessment (MSA)

Capital vehicle costs and depreciation typically make up a large portion of an agency's fleet budget. As a result, any opportunity to fit the same number of trips into a smaller number of vehicles represents a large savings opportunity. Geotab's Motorpool Suitability Assessment is a telematics-based analytics tool that allows agencies to determine where they have strategic consolidation opportunities. More specifically, the MSA uses duty cycle data to determine opportunities to pool and share vehicles to right-size the overall fleet for the optimal utilization profile. See below for an example MSA demand probability matrix for a pool of mixed vehicles at a specific facility from a similarly-sized government agency customer. From the image you can clearly see that a pool of 8 shared vehicles could comfortably accommodate this fleet of 11, representing a strategic consolidation opportunity of 3 vehicles (11 - 8 vehicles). This consolidation could be achieved via the implementation of a car sharing technology like IOX-KEYLESS below.



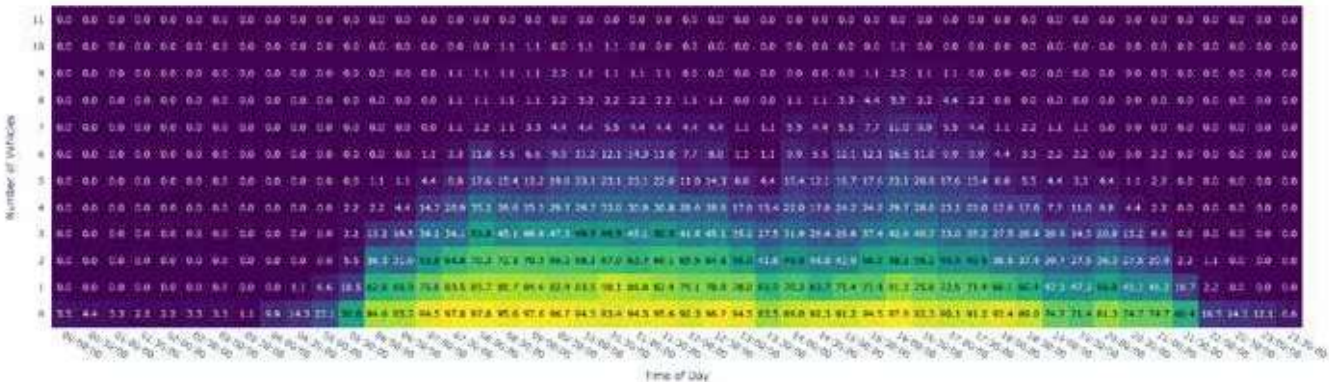


Figure 2. An example of a Motorpool Suitability Assessment (MSA) demand probability matrix

IOX-KEYLESS

Geotab Keyless is a technology platform that is revolutionizing remote vehicle management in numerous markets. Geotab Keyless leverages the IOX-KEYLESS, a hardware expansion device which enables vehicle command/control functionality from the GO device.

As the trend for car sharing schemes continues to grow, Geotab's IOX-Keyless solution makes accessing mobility easier by providing cyber-secured digitized keyfobs that can unlock, lock, and locate cars via smartphone apps or NFC fobs. The device uses a Bluetooth connection and pre-authorized NFC tags/stickers to pair with the vehicle's GO device. The pre-authorized NFC tags allow customers to perform the given functions in locations where there is weak cellular connection, for example, in underground parking garages.

By leveraging the best-in-class telematics technology customers are able to use IOX-Keyless to:

- Control costs with regards to productivity, maintenance, and fuel consumption.
- Reduce overhead costs related to replacing lost keys and staff to manage keys.
- Maximize utilization by identifying which vehicles are being underutilized.
- Accurately locate vehicles using a built in [curve logging algorithm](#).
- Allowing quick and easy access to vehicles regardless of staff availability .
- Manage vehicles remotely by unlocking vehicles for drivers who are locked out after-hours or locking vehicles after use.

IOX-Keyless is a scalable, yet secure, solution that is compatible with all makes and models of vehicles that have an existing keyfob and GO9 device. The solution allows multiple users to have access to the vehicle at the same time. However, in order to reduce loss from theft, only authorized users can lock/unlock the vehicle during their scheduled time period and vehicles cannot be started from a remote location. Additionally, each IOX is unique and can only be used by the vehicle with which the key is paired.

Electric Vehicle Suitability Assessment (EVSA)

Geotab introduced the EVSA [to help fleets](#) electrify. The EVSA helps fleet managers determine electric vehicle suitability by analyzing the existing telematics data on their conventional internal combustion engine vehicles and creating an electrification recommendation based on each vehicle's distinctive driving patterns.

Geotab's EVSA solution identifies which electric vehicles meet range requirements, make the most financial sense and will ultimately help make electrification as seamless as possible for fleets. Based on telematics data, fleets are provided with a report which presents lifetime cost and financial analysis, range assurance analysis, and an environmental impact analysis that calculates fuel and CO<sub>2</sub> emissions reductions.

Please visit [geotab.com/evsa](https://geotab.com/evsa) for more information on accessing the free assessment.

## EV Suitability Assessment

Tailored EV procurement recommendations based on real-world data



### Best fit analysis

Determine which vehicles are the best candidates for replacement by EVs. Analysis covers vehicle type, range capability and projected cost savings.



### Range assurance

Determine range capabilities specific to your fleet's needs including:

- + Does the EV meet your drivers' range requirements?
- + Is an overnight charge enough?
- + Will the battery still cover my required range in extreme weather conditions?



### Cost analysis

Understand if going electric will actually save money and, if so, how much? Determine how your cost structure may change.



### Environmental impact

Understand how much your fleet can reduce CO<sub>2</sub> emissions and fuel consumption.



## OEM Integrations

Geotab has numerous partnerships with OEM manufacturers that help Geotab integrate different vehicle data and stay on the cutting edge of telematics. Geotab has integrations with Ford, GM, Mercedes-Benz Connectivity Services, Volvo, Mack, PSA Group, Vermeer, Caterpillar Group, Allison Transmission, Eaton, Cummins, Bendix and Donaldson, and has many other partnerships and projects in progress. Geotab values the relationships that have been built with our OEM partners and invests resources to establish ourselves as a strategic business partner as the connected vehicle market grows and evolves. Artera will be able to leverage and benefit from our existing OEM integrations, and experience — firsthand — why Geotab has been able to cultivate such strong partnerships with premiere OEMs.

Learn more about our individual automotive partners by clicking on [this link](#)

## Camera

The camera captures the drive and driver behavior in real-time. Powered by AI and Machine Vision, the camera automatically detects and alerts distracted driver behavior and harsh driving incidents in real-time, addressing the leading causes of preventable accidents. Equipped with high-definition road-facing and cabin-facing cameras captures the drive, simultaneously providing fleets with on-demand video view and video evidence retrievals on the Geotab dashboard.



#### Features:

- High definition road-facing and cabin-facing cameras.
- IR for clear night vision in cabin.
- Built-in sensors and cameras powered by AI and Machine Vision.
- Built-in speaker and display for audio and visual coaching.
- On-demand video retrievals and live view from Geotab cloud.
- Turn any Geotab rule into a video event.
- Streamline video simultaneously from the road and driver.
- View up to 60 minutes of live video per month per device through the Order Now program.

#### Benefits:

- Improve safety with real-time alerts from harsh driving incidents.
- Reduce accidents with AI detecting distracted drivers.
- Reduce claims & insurance cost with live video evidence stored in the cloud.
- Improve operation visibility with on-demand video footage retrieval.
- Engaging employees in improving safety with data on driving behavior.
- Provide instant assistance and assess damages from the field in real-time with live video.
- Personalized drivers training based on the driver's driving style with data on each driver.
- Integrated seamlessly with the Geotab cloud platform, displaying vehicle video at your fingertips.
- 10-minute vehicle installation.

## Solar Trailer Tracker for Assets

The Solar Powered Trailer Tracker can be used to track trailers, containers, generators and other assets. With its rugged construction, long battery life, and highly efficient solar cell, this tracker is designed to endure the real-world abuse most large trailers experience. Use the collected data to stay on top of maintenance and avoid unexpected malfunctions; pinpointing exactly how trailers are being used to maximize their productivity and providing customers with updates on the status of their goods.

#### Features and Benefits

- **Simple Installation and Troubleshooting:** No complex configuration- 4 Bolts and Go!
- **Dynamic Tracking:** Get the current trailer position with 1 GPS fix/minute while in motion.
- **Self-Sustaining Solar Power:** With a 4-month backup battery life at 12 reports/day.
- **Rugged Design:** IP67 certified with a 5–7-year battery life.
- **Familiar User Experience:** Data accessible in the MyGeotab platform, used on the same map as the GO Devices.
- **Expandable:** Optional connector allows for capabilities such as tractor power detection, temperature monitoring, and door sensing.

#### Solve three common trailer management challenges:

- **Underutilized Trailers** - Reduce the need for more trailers with better utilization.
- **Disorganized Trailers** - Eliminate the time wasted looking for moved equipment.
- **Misplaced Trailers** - Avoid large costs incurred by replacing lost trailers.

## Roadside Assistance

Geotab Roadside Add-In is included with the Geotab telematics offering. This Add-In will help build a streamlined user experience using the Geotab Drive app and MyGeotab platform, provide near real-time service status updates to drivers via SMS and help increase vehicle uptime and fleet productivity.

## Section Nine: Pricing

RFP Section 8.2 Bid Packet Format RFP Requirement | M. Section Nine: Pricing

**Pricing associated with the Bid shall be inserted in this section and shall be in the required structure set forth above in Subsection 8.1, if any.**

The requested completed Exhibit 2-Price is attached as Attachment 4 to Geotab's response.

**SW1028 - Fleet Tracking Systems**

<b>System</b>	<b>Unit of Measure</b>	<b>List Unit Price</b>	<b>Percent off List</b>	<b>Oklahoma Price</b>
Software	Included	Included	Included	Included
Maintenance	Included	Included	Included	Included
Hosting	Included	Included	Included	Included

<b>Purchase of GPS Units (Unbundled)</b>	<b>Unit of Measure</b>	<b>List Unit Price</b>	<b>Percent off List</b>	<b>Oklahoma Price</b>
Device	Each	\$100.00	25%	\$75.00
Installation	Each	\$100.00	25%	\$75.00
Monthly Service Charge/Device	Each	\$20.00	40%	\$12.00

<b>Lease of GPS Units (Bundled)</b>	<b>Unit of Measure</b>	<b>List Unit Price</b>	<b>Percent off List</b>	<b>Oklahoma Price</b>
Device	Each	Included	Included	Included
Installation	Each	Included	Included	Included
Monthly Service Charge/Device	Each	\$20.50	28%	\$14.75
<b>Minimum 12-month commitment required, and a \$135 cost recovery fee applies if this service is canceled in the first 12</b>				

<b>Optional Equipment - Purchase</b>	<b>Unit of Measure</b>	<b>List Unit Price</b>	<b>Percent off List</b>	<b>Oklahoma Price</b>
Navigation	N/A	N/A	N/A	N/A
Navigation Installation	N/A	N/A	N/A	N/A
Mobile Data Terminals	N/A	N/A	N/A	N/A
Mobile Data Terminal Installation	N/A	N/A	N/A	N/A

<b>Value-Add Products</b>	<b>Unit of Measure</b>	<b>List Unit Price</b>	<b>Percent off List</b>	<b>Oklahoma Price</b>
See Tab 2				