

Ordinance No. 28 20 18

ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE-SAFETY AND/OR THE MAYOR TO ENTER INTO AN EQUIPMENT PURCHASE AND SALE AGREEMENT UNDER THE STATE BID PURCHASE PROGRAM WITH COMMUNICATIONS VENTURE CORPORATION, dba INDIGITAL FOR 911 EMERGENCY COMMUNICATIONS EQUIPMENT, SOFTWARE LICENSE AGREEMENT, AND SUPPORT & MAINTENANCE AGREEMENT, AND DECLARING AN EMERGENCY

WHEREAS, The City of Norwood is a 911 Public Service Answering Point (PSAP); and

WHEREAS, Cincinnati Bell Telephone currently routes 911 calls for the City of Norwood and surrounding locations to the Norwood PSAP; and

WHEREAS, Cincinnati Bell has announced that it will be terminating certain 911 services and support of the call handling equipment as of January 31, 2019; and

WHEREAS, Council desires to authorize the Service-Safety Director and/or the Mayor to enter into an equipment Purchase and Sale Agreement, Software License Agreement, and Support & Maintenance Agreement with Communications Venture Corporation, dba INDigital, so that it may continue to be a PSAP for the citizens of Norwood and other communities for which their 911 calls are routed through the Norwood PSAP; now, therefore,

BE IT ORDAINED by the Council of the City of Norwood, State of Ohio, that:

SECTION 1. The Council of the City of Norwood has determined that the city needs to acquire the 911 communication equipment and other services described in the Equipment Purchase and Sale Agreement, Software License Agreement, and Support & Maintenance Agreement between the City of Norwood and Communications Venture Corporation, dba INDigital.

SECTION 2. The Council of the City of Norwood has determined that the Purchase and Sale Agreement, Software License Agreement, and the Support & Maintenance Agreement, substantially in the form presented, is in the best interests of the City for the acquisition of such equipment and services, and the Director of Public Service-Safety and/or the Mayor is hereby authorized to enter into a contract under the State Bid Purchase Program with Communications Venture Corporation, dba INDigital for the purchase of equipment and services described in "Exhibit A" "Exhibit B", and Exhibit C" for use by the Norwood Emergency Communications Center. The total costs of the equipment and services is as follows:

Payment 4/1/2019	\$31,073.84
Payment 4/1/2020	\$31,073.84
Payment 4/1/2021	\$31,073.84
Payment 4/1/2022	\$31,073.84
Payment 4/1/2023	\$31,073.84
Payment 4/1/2024	\$31,073.84
Payment 4/1/2025	\$31,073.84

SECTION 3. The Auditor is hereby authorized to execute, on behalf of the City, any and all financing agreements to obtain financing for the purchase of the aforementioned communication equipment and other services.

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall take effect and be in force immediately upon its passage. The reason for said emergency is the need to proceed forthwith because of time needed to order, install, test, and train on the new equipment, prior to the deadline of January 31, 2019.

PASSED October 24, 2018
Date

Donna M. Laake
Donna M. Laake
President of Council

ATTEST:

Joseph S. Geers, the duly appointed Clerk of Council, attests that this ordinance was passed at a regular/special meeting of Norwood City Council on the 24th day of October, 2018 in compliance with the rules of Norwood City Council and the laws of the State of Ohio. The foregoing ordinance was submitted to the Mayor of the City of Norwood, Ohio for his signature on the 25 day of October, 2018.

Joseph S. Geers
Joseph S. Geers
Clerk of Council

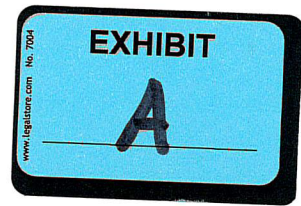
APPROVED 10/24/18
Date

Thomas F. Williams
Thomas F. Williams
Mayor

CERTIFICATION OF PUBLICATION:

Joseph S. Geers, the duly appointed Clerk of Council, attests that this Ordinance was published in the _____ on _____ and _____.
(Name of Newspaper) (date) (date)

Joseph S. Geers
Joseph S. Geers
Clerk of Council



EQUIPMENT PURCHASE AND SALE AGREEMENT

This Equipment Purchase and Sale Agreement (this "**Agreement**"), together with any other documents incorporated into this Agreement by reference (including all Exhibits and Schedules to this Agreement, including the General Terms and Conditions of Equipment Sale, which are attached to this Agreement as Exhibit A), constitute the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

The exhibits, schedules, attachments and appendices referred to in this Agreement are incorporated into this Agreement by reference and are an integral part of this Agreement to the same extent as if they were set forth verbatim in this Agreement, and the Parties have read, understand, and agree to all terms and conditions of all such exhibits, schedules, attachments, and appendices.

1. Purpose

Sale and installation of Equipment

Type of Agreement/Document

- ☒ Original Agreement
☐ Amendment

2. Parties / Notices:

Seller/ INdigital:

Communications Venture Corporation (d/b/a INdigital)
("INdigital")
1616 Directors Row
Fort Wayne, IN 46808
Fax: (260) 469-4329
E-mail: contracts@indigital.net
Attention: Larry Stidham

Purchaser / Customer:

Norwood Communications Center
("Customer" and together with INdigital, the "Parties", and, each, individually, a "Party")

Address: 4645 Montgomery Road
Norwood, OH 45212
Phone: (513) 458-4545
E-mail: admin@norwoodpolice.org
Contact Person: Lt. Mark Rankin

3. Effective Date

October 18, 2018

4. Equipment subject to Sale and Installation

See hardware, tools, materials, and equipment listed in Exhibit B ("**Equipment**") attached to, and incorporated in its entirety by reference into, this Agreement.

5. Purchase Price

\$118,489.00

6. Purchase Price Payment Terms

- 50% within 30 days after the date of execution of the Agreement

- 40% within 30 days after the beginning of the installation
- Remaining 10% after the Acceptance Date

7. Installation Schedule

See Exhibit C attached to, and incorporated in its entirety by reference into, this Agreement.

8. Equipment Delivery Site

Customer's facility (or facilities, if applicable) designated for delivery of Equipment as set forth in Exhibit B attached to, and incorporated by reference into, this Agreement (a "Facility").

9. Title to Equipment; Risk of Loss

Title and risk of loss to all Equipment shall pass to Customer

- ☒ shipment
☐ delivery

of Equipment to a Customer's Facility.

10. Exhibits

- ☒ **Exhibit A** – General Terms and Conditions of Equipment Sale (attached to, made part of, and incorporated in its entirety by reference into, this Agreement).
☒ **Exhibit B** – Description of Equipment
☒ **Exhibit C** – Installation Schedule and Installation Charges
☒ **Exhibit D** – Scope of Work
☒ **Exhibit E** – Price List
☒ **Exhibit F** – Final Certificate of Acceptance (Form)

11. Other Agreements between Parties

- ☒ Support and Maintenance Agreement
☒ Enhanced 9-1-1 Services Software License Agreement

This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

CUSTOMER:

INDIGITAL:

COMMUNICATION VENTURE CORPORATION (D/B/A INDIGITAL)

Name:
Title:

Name: Jon Whirledge
Title: CFO

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

1. **Applicability.** These General Terms and Conditions (the “**Terms**”) supplement the related specific Equipment Purchase and Sale Agreement (together with the Terms, the “**Agreement**”) between you (“**you**” or “**Customer**”) and Communications Venture Corporation (d/b/a INdigital), an Indiana corporation (“**INdigital**”). These Terms will be deemed to be a part of and are hereby incorporated by reference into the Agreement.

These Terms prevail over any of Customer’s general terms and conditions regardless of whether or when Customer has submitted its request for proposal, order, or such terms. INdigital’s provision of services, Equipment, or other products or goods to Customer does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Terms.

INdigital and you may each individually be referred to as a “**Party**” and collectively as the “**Parties**”. All capitalized terms used, but not otherwise defined, in these Terms shall have the meaning ascribed to them in the Agreement.

2. **No License Grant.** Nothing in the Agreement (including these Terms) grants or shall be construed to grant to Customer any license or any other rights to any software owned or licensed by INdigital in connection with the Equipment.

3. **Purchase Price Payment.** The Purchase Price shall be paid by Customer to INdigital in US dollars by check or wire transfer of immediately available funds to an account designated by INdigital to Customer in writing.

4. **Taxes.** The Purchase Price, the Installation Charges (as defined hereinafter), and other amounts payable by Customer pursuant to the Agreement shall be exclusive of taxes and similar assessments, including the following taxes and charges with respect to the Equipment: (i) any present or future Federal, State, or local excise, sales, or use taxes; (ii) any other present or future excise, sales or use tax, or other charge or assessment upon or measured by the gross receipts from the transactions provided in the Agreement or any allocated portion thereof or by the gross value of the Equipment, and other materials provided under the Agreement; and (iii) any present or future property, inventory, or value-added tax or

similar charge. Customer will pay and discharge, either directly to the governmental agency or as billed by INdigital, the foregoing taxes and charges and all assessments, and other taxes with respect to the transactions provided in the Agreement and all Equipment and services provided under the Agreement, including these Terms (excluding any Federal, state, local or foreign income taxes, or any tax on gross receipts or gross revenue which is in the nature of an income tax, or any franchise, net worth or capital taxes, imposed upon INdigital).

5. **Title; Risk of Loss; Security.** Title and risk of loss to all Equipment shall pass to Customer as set forth in Section 9 of the Agreement. The Agreement will constitute a security agreement with respect to all Equipment up to the date of payment of the Purchase Price and Installation Charges in full, and Customer hereby authorizes INdigital to sign and file on behalf of Customer any financing statements or other documents that may be necessary for INdigital to perfect or maintain such security interest. In furtherance and not in limitation of the foregoing, Customer shall promptly execute and deliver such documentation as may be reasonably requested by INdigital, in proper form, to perfect INdigital’s security interest under the applicable statute, law, or regulation. Customer will not cause or permit any other security interest, lien, encumbrance, or claim to attach to any of the Equipment which shall have priority over or be ahead of INdigital’s security interest. Until INdigital has received full payment of the Purchase Price and Installation Charges, INdigital shall have all rights and remedies of a secured party under the Uniform Commercial Code and other applicable laws, statutes, codes, and regulations, in addition to all other rights as established in the Agreement, which rights and remedies, to the extent permitted by law, shall be cumulative.

6. **Site Preparation.** Customer shall be responsible for preparing a site suitable for the installation and operation of the Equipment (the “**Installation Site**”). Specifically, Customer agrees to provide at all times climate controlled facilities at the Installation Site for the proper installation and operation of the Equipment in accordance with the manufacturer’s specifications. Customer shall provide all necessary heat, A/C, and electricity, including without limitation backup generator power, where the

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

Equipment will be located within the Installation Site for proper operation of the Equipment. In addition to the foregoing, Customer shall install or cause to be installed all telecommunications and data facilities necessary to properly operate the Equipment which are not specifically provided by INdigital under the Agreement.

7. **Installation.** Upon delivery of the Equipment to the applicable Facility, INdigital shall install the Equipment at the Installation Site at that Facility in accordance with the installation schedule for that piece of Equipment as set forth in Exhibit C attached to, and incorporated by reference into, the Agreement (the "**Installation Schedule**"), and Customer shall pay to INdigital the fees associated with such installation as set forth in the Installation Schedule (the "**Installation Charges**"). INdigital shall install the Equipment in a workmanlike manner, consistent in all material respects with the manufacturer's instructions and the scope of work set forth in Exhibit D (the "**Scope of Work**") attached to, and incorporated by reference into, the Agreement.

8. **Testing; Acceptance.** Upon completion of the Equipment installation, INdigital shall notify Customer in writing that the Equipment has been installed and is ready for use (an "**Installation Notice**") and shall present Customer with a final certificate of acceptance in the form of Exhibit E to the Agreement for Customer's execution (a "**Final Certificate of Acceptance**"). Upon its receipt of the Installation Notice, Customer shall have fourteen (14) days to test the Equipment. If, upon completion of such Equipment testing, Customer does not identify any material deficiencies or defects in the Equipment, Customer shall send INdigital a Final Certificate of Acceptance, duly executed by an authorized officer or representative of Customer. If, however, upon completion of such Equipment testing, Customer does identify any material deficiencies or defects in the Equipment in good faith, Customer shall provide INdigital with written notice setting forth in reasonable detail the description of any defect or deficiency in the Equipment that does not meet the Scope of Work (a "**Deficiency Notice**"). INdigital shall cure any material defect or deficiency set forth in a Deficiency Notice in a timely manner and then issue Customer a new Installation Notice. If Customer does not issue a Deficiency Notice to INdigital within

fourteen (14) days after its receipt of an Installation Notice, then the Equipment shall be deemed to meet the Scope of Work and to have been accepted by Customer upon such fourteenth day (the "**Acceptance Date**"), and Customer shall deliver to INdigital a Final Certificate of Acceptance, duly executed by an authorized officer or representative of Customer.

9. **Manufacturer's Warranty.**

(a) INdigital shall provide Customer with any manufacturer's warranty provided by the manufacturer of the Equipment (the "**Manufacturer**"), including any warranty relating to defects in material and manufacturing workmanship (the "**Warranty**"). To the extent provided by the Manufacturer, the Warranty also shall apply to any replacement part. INdigital shall take reasonable steps to transfer the Warranty directly to the Customer, to the extent requested by the Customer; otherwise, INdigital shall cooperate with Customer in making any claims against the Manufacturer relating to the Warranty, so long as Customer: (i) notifies INdigital in writing of the warranty breach before the expiration of the Warranty; and (ii) as of the date of notification, is in compliance with all terms and conditions of the Agreement (including the payment of all amounts and payments then due and owing).

(b) Notwithstanding anything to the contrary contained in the Agreement, the Terms, or otherwise, Customer acknowledges that the Warranty may not apply with respect to problems arising out of or relating to the following, without limitation: (i) Equipment or any components or parts thereof that are modified or damaged by Customer or any third party; (ii) any operation or use of, or other activity relating to, the Equipment other than as specified in the manuals, instructions, specifications, and other documents and materials issued by the Manufacturer describing the functionality, components, features, or requirements of the Equipment ("**Documentation**"), including any operation or use of the Equipment with any technology (including any software, hardware, firmware, system, or network) or service not specified for Customer's use in the Documentation; (iii) any negligence, abuse, misapplication, or misuse of the Equipment, including any Customer use of the Equipment other than as specified in the Documentation; (iv) any delay or failure of

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

performance caused in whole or in part by any Customer's delay or failure to perform its obligations; (v) Equipment that has been subject to unauthorized alteration, modification, or repair; (vi) defects or failures resulting from handling, storage, operation, or interconnection of the Equipment; (vii) failure to continually provide a suitable installation and operational environment at the Facility and/or the Installation Site; or (viii) any other cause beyond the range of normal usage for the Equipment.

10. Disclaimer of Other Warranties. EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 9 ABOVE, THE EQUIPMENT AND SERVICES DELIVERED BY INDIGITAL PURSUANT TO THE AGREEMENT (INCLUDING THESE TERMS) ARE PROVIDED "AS IS." INDIGITAL HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT WITH RESPECT TO THE EQUIPMENT OR ANY SERVICES DELIVERED PURSUANT TO THE AGREEMENT (INCLUDING THESE TERMS). WITHOUT LIMITING THE FOREGOING, INDIGITAL MAKES NO WARRANTY OF ANY KIND THAT THE EQUIPMENT, THE SERVICES DELIVERED PURSUANT TO THE AGREEMENT (INCLUDING THESE TERMS), OR ANY OTHER GOODS, SERVICES, TECHNOLOGIES, INFORMATION, OR MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE OF ANY OF THEM, WILL MEET CUSTOMER'S OR OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES, INFORMATION, OR MATERIALS, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. IN ADDITION, CUSTOMER HAS SOLE RESPONSIBILITY FOR ANY AND ALL CHANGES THAT MAY BE REQUIRED TO ENSURE FITNESS FOR USE IN CUSTOMER'S APPLICATION AND FOR OBTAINING ALL

NECESSARY GOVERNMENTAL AND ANY OTHER CERTIFICATIONS THAT MAY BE REQUIRED FOR CUSTOMER'S OPERATION OF THE EQUIPMENT.

11. General Indemnification.

(a) Customer and INdigital shall indemnify, defend and hold the other harmless from and against any claims, demands, and causes of action asserted against the indemnitee by any person for personal injury or death or for loss of or damage to property resulting from the indemnitor's gross negligence or knowing and willful misconduct under the Agreement. Where personal injury, death or loss of or damage to property is the result of the joint gross negligence or knowing and willful misconduct of Customer and INdigital, the indemnitor's duty of indemnification shall be in proportion to its allocable share of joint gross negligence or knowing and willful misconduct.

(b) Customer shall indemnify, defend and hold INdigital harmless from and against any claims, demands, and causes of action asserted against the indemnitee by any person (including, without limitation, any of Customer's customers or any person or entity that Customer permits to use any service provided by Customer) based on any claim in connection with: (i) the Equipment provided to any customer of Customer (including end users) or the failure of Customer to provide such Equipment and any service; (ii) any material misrepresentation or material omission made by Customer regarding the Equipment or any service to be provided by Customer; (iii) any claim by any customer or subscriber of Customer arising from loss of service due to the termination of the Agreement or any other reason; and (iv) any violation by Customer of local, state or federal laws, rules and regulations.

(c) Each Party's indemnification obligation shall be contingent upon the indemnitee giving prompt written notice to the indemnitor of any such claim, demand, or cause of action and permitting the indemnitor to have sole control of the defense thereof.

12. Default by INdigital

(a) The occurrence of any one or more the

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

following events (herein called “**Events of INdigital Default**”) shall constitute a default by INdigital under the Agreement:

(i) Default by INdigital in the performance of any other term, covenant or condition of the Agreement (including these Terms), which default shall continue for a period of thirty (30) days after receipt of a written notice of such default from Customer; or

(ii) The making of an assignment by INdigital for the benefit of its creditors or the admission by INdigital in writing of its inability to pay its debts as they become due, or the insolvency of INdigital, or the filing by INdigital of a voluntary petition in bankruptcy, or the adjudication of INdigital as bankrupt, or the filing by INdigital of any petition or answer seeking for itself any reorganization, arrangement, composition or readjustment precipitated by the insolvency or bankruptcy of INdigital, any liquidation, dissolution or similar relief under any present or future statute, law or regulation, or the filing of any answer by INdigital admitting, or the failure by INdigital to deny, the material allegations of a petition filed against it for any such relief, or the seeking or consenting by INdigital to, or acquiescence by INdigital in, the appointment of any trustee, receiver or liquidator of INdigital or of all or any substantial part of the properties of INdigital, or the commission by INdigital of any act of bankruptcy, as amended; or

(iii) The failure by INdigital, within sixty (60) days after the commencement of any proceeding against INdigital seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, to obtain the dismissal of such proceeding or, within sixty (60) days after the appointment, without the consent or acquiescence of INdigital, or any trustee, receiver or liquidator of INdigital or of all or any substantial part of the properties of INdigital, to vacate such appointment.

(b) Upon the occurrence of any one or more

Events of INdigital Default, Customer may, in addition to any other rights or remedies available to it at law or in equity (subject to the limitations described in Section 14 of these Terms), terminate the Agreement (including these Terms) immediately upon written notice. INdigital shall in any event remain fully liable for reasonable damages as provided by law and for all costs and expenses incurred by Customer on account of such default including all court costs and reasonable attorneys’ fees.

13. Default by Customer.

(a) The occurrence of any one or more the following events (herein called “**Events of Customer Default**”) shall constitute a default by Customer under the Agreement (including these Terms):

(i) Default by Customer in the payment of any charge payable under the Agreement (including these Terms) as and when the same becomes due and payable and such default continues for a period of fifteen (15) days after written notice of such default from INdigital; or

(ii) Default by Customer in the performance of any other term, covenant or condition of the Agreement (including these Terms), which default shall continue for a period of thirty (30) days after written notice thereof from INdigital; or

(iii) Customer is in breach of any other agreement between the Parties and such breach is not cured pursuant to the terms of such agreement; or

(iv) The making of an assignment by Customer for the benefit of its creditors or the admission by Customer in writing of its inability to pay its debts as they become due, or the insolvency of Customer, or the filing by Customer of a voluntary petition in bankruptcy, or the adjudication of Customer as bankrupt, or the filing by Customer of any petition or answer seeking for itself any reorganization, arrangement, composition or readjustment precipitated by the insolvency or bankruptcy of Customer, any liquidation, dissolution or similar relief under any present or future statute, law or

EXHIBIT A

GENERAL TERMS AND CONDITIONS **(EQUIPMENT PURCHASE AND SALE AGREEMENT)**

regulation, or the filing of any answer by Customer admitting, or the failure by Customer to deny, the material allegations of a petition filed against it for any such relief, or the seeking or consenting by Customer to, or acquiescence by Customer in, the appointment of any trustee, receiver or liquidator of Customer or of all or any substantial part of the properties of Customer, or the commission by Customer of any act of bankruptcy; or

(v) The failure by Customer, within sixty (60) days after the commencement of any proceeding against Customer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, to obtain the dismissal of such proceeding or, within sixty (60) days after the appointment, without the consent or acquiescence of Customer, or any trustee, receiver or liquidator of Customer or of all or any substantial part of the properties of Customer, to vacate such appointment.

(b) Upon the occurrence of any Event of Customer Default, INDigital may, in addition to any other rights or remedies available to it at law or in equity, withhold performance or further performance under the Agreement (including these Terms) until all such defaults have been cured or terminate the Agreement (including these Terms) immediately upon written notice. In addition, upon termination of the Agreement (including these Terms) for the default of Customer, INDigital may, at its option, require Customer to disable any Equipment previously installed pursuant to the Agreement (including these Terms). Customer shall in any event remain fully liable for reasonable damages as provided by law and for all costs and expenses incurred by INDigital on account of such default including all court costs and reasonable attorneys' fees.

14. Limitation of Liability.

(a) IN NO EVENT WILL INDIGITAL (OR ANY OF ITS AFFILIATES, EMPLOYEES, REPRESENTATIVES, AGENTS, SUPPLIERS, SERVICE PROVIDERS, LICENSORS, OR INDEPENDENT CONTRACTORS) BE

LIABLE UNDER OR IN CONNECTION WITH THE AGREEMENT (INCLUDING THESE TERMS) OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, FOR ANY INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, LOSS OF GOODWILL OR REPUTATION, OR OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER INDIGITAL WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT WILL THE AGGREGATE LIABILITY OF INDIGITAL AND ITS AFFILIATES, EMPLOYEES, REPRESENTATIVES, AGENTS, SUPPLIERS, SERVICE PROVIDERS, LICENSORS, AND INDEPENDENT CONTRACTORS ARISING OUT OF OR RELATED TO THE AGREEMENT (INCLUDING THESE TERMS), WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE PURCHASE PRICE AND INSTALLATION CHARGES PAID TO INDIGITAL PURSUANT TO THE AGREEMENT (INCLUDING THESE TERMS). THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

(c) The remedies of Customer and INdigital set forth in the Agreement (including these Terms) are exclusive and in lieu of all other remedies, express or implied. Except for the remedies provided for in the Agreement (including these Terms), neither INdigital nor its subcontractors shall be liable for any delay or failure of performance of the Equipment or services provided in the Agreement.

15. **Force Majeure.** In no event will INdigital be liable or responsible to Customer, or be deemed to have defaulted under or breached the Agreement (including these Terms), for any failure or delay in fulfilling or performing any term of the Agreement (including these Terms), when and to the extent such failure or delay is caused by any circumstances beyond INdigital's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either Party may terminate the Agreement (including these Terms) if a Force Majeure Event continues substantially uninterrupted for a period of ninety (90) days or more. In the event of any failure or delay caused by a Force Majeure Event, INdigital shall give prompt written notice to Customer stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

16. **Confidentiality.**

(a) In connection with the Agreement each Party (as the "**Disclosing Party**") may disclose or make available to the other Party (as the "**Receiving Party**") Confidential Information. Subject to Section 16(b) of these Terms, "**Confidential Information**" means information in any form or medium (whether oral,

written, electronic or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated or otherwise identified as "confidential". Without limiting the foregoing the financial terms of the Agreement (including these Terms) are the Confidential Information of INdigital.

(b) Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with the Agreement (including these Terms); (b) was or becomes generally known by the public other than by the Receiving Party's or any of its representatives' noncompliance with the Agreement (including these Terms); (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

(c) The Receiving Party shall:

(i) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement (including these Terms);

(ii) except as may be permitted under the terms and conditions of Section 16(c) of these Terms, not disclose or permit access to Confidential Information other than to its representatives who: (A) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with the Agreement (including these Terms); (B) have been informed of the

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 16; and (C) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 16;

(iii) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;

(iv) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and

(v) ensure its representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 16.

Notwithstanding any other provisions of the Agreement (including these Terms), the Receiving Party's obligations under this Section 16 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable laws other than as a result of any act or omission of the Receiving Party or any of its representatives.

(d) If the Receiving Party or any of its representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, the Receiving Party shall: (i) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 16(b) of these Terms; and (ii) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and

assistance required under this Section 16(c), the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

(e) Confidential Information will remain the property of the Disclosing Party and will, at the Disclosing Party's request and after it is no longer needed for the purposes of the Agreement (including these Terms) or upon expiration or termination of the Agreement for any reason, whichever occurs first, promptly be returned to the Disclosing Party or be destroyed, together with all copies made by the Receiving Party and by anyone to whom such Confidential Information has been made available by the Receiving Party in accordance with the provisions of this section.

17. General.

(a) *Relationship of the Parties.* The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement (including these Terms) shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

(b) *Interpretation.* For purposes of the Agreement (including these Terms): (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to the Agreement as a whole (including these Terms); (iv) words denoting the singular have a comparable meaning when used in the plural, and *vice versa*; and (v) words denoting any gender include all genders. Unless the context otherwise requires, references in the Agreement (including these Terms): (x) to exhibits, schedules, attachments and appendices mean the exhibits, schedules, attachments and appendices attached to, the Agreement (including these Terms);

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

(y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend the Agreement (including these Terms) to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to in the Agreement (including these Terms) are an integral part of the Agreement to the same extent as if they were set forth verbatim in the Agreement.

(c) **Headings.** The headings in the Agreement (including these Terms) are for reference only and do not affect the interpretation of the Agreement (including these Terms).

(d) **Entire Agreement.** The Agreement, together with these Terms and any other documents incorporated by reference in the Agreement (including these Terms), constitute the sole and entire agreement of the Parties with respect to the subject matter of the Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

(e) **Assignment.** Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under the Agreement (including these Terms) without INdigital's prior written consent. Any purported assignment, delegation or transfer in violation of this Section 17(e) is void. The Agreement (including these Terms) inures to the benefit of, and is binding on and enforceable against, the Parties and their respective permitted successors and assigns.

(f) **No Third-Party Beneficiaries.** The Agreement (including these Terms) are for the sole benefit of the Parties and their respective permitted successors and permitted assigns and nothing in the Agreement (including these Terms), express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason

of the Agreement (including these Terms).

(g) **Amendment and Modification; Waiver.** No amendment to, modification of, or rescission, termination or discharge of the Agreement (including these Terms) is effective unless it is in writing, identified as an amendment to or rescission, termination or discharge of the Agreement (including these Terms) and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions of the Agreement (including these Terms) shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in the Agreement (including these Terms), no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement (including these Terms) shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under the Agreement (including these Terms) preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(h) **Severability.** If any provision of the Agreement (including these Terms) is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement (including these Terms) or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify the Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by the Agreement be consummated as originally contemplated to the greatest extent possible.

(i) **Governing Law; Submission to Jurisdiction.** The Agreement (including these Terms) is governed by and construed in accordance with the internal laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Indiana. Any legal suit, action or proceeding arising out of or related to the Agreement will be instituted exclusively in the federal courts of the United States

EXHIBIT A

GENERAL TERMS AND CONDITIONS (EQUIPMENT PURCHASE AND SALE AGREEMENT)

District Court of the Northern District of Indiana or the courts of the State of Indiana in each case located in the city of Fort Wayne and County of Allen, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in Section 2 of the Agreement will be effective service of process for any suit, action or other proceeding brought in any such court.

(j) ***Waiver of Jury Trial.*** Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement or the transactions contemplated by the Agreement (including these Terms).

(k) ***Equitable Remedies.*** Customer acknowledges and agrees that a breach or threatened breach by Customer of any of its obligations under Section 11 (Indemnification) or Section 16 (Confidentiality) of these Terms would cause INdigital irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, INdigital will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

(l) ***Attorneys' Fees.*** In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of or related to the Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys, expert witness and accountants' fees and court costs from the non-prevailing Party.

(m) ***Responsibility for Employees.*** Customer shall remain responsible and liable for: (a) the supervision, coordination, and performance of Customer's employees, officers, directors, consultants, agents, independent contractors, and representatives (the "**Representatives**") in connection with the Agreement; and (b) all acts and omissions of Customer's Representatives, each of which

shall be ascribed to the Customer to the same extent as if such acts or omissions were by Customer itself. Any noncompliance by any Customer Representative with the provisions of the Agreement will constitute Customer's breach of the Agreement (including these Terms). In no event shall Customer, or the principals or employees of Customer, be deemed employees, servants or agents of INdigital, and in no event shall INdigital be liable for the acts of Customer or the principals or employees of Customer. Each Party will be responsible for the payment of compensation to their own employees, including, if applicable, withholding of income taxes and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits. The terms and conditions of this Section 17(m) shall survive termination of the Agreement.

(n) ***Survival.*** The provisions set forth in the following sections, and any other right, obligation or provision under the Agreement (including these Terms) that, by its nature, should survive termination of the Agreement, will survive any termination of the Agreement: Sections 10 (Disclaimer of Other Warranties), 11 (Indemnification), 14 (Limitation of Liability), 16 (Confidentiality), and 17 (General) of these Terms.

(o) ***Compliance with Laws.*** Each Party agrees to comply with all applicable laws, rules, and regulations in connection with its activities under the Agreement.

(p) ***Notices.*** Except as otherwise expressly set forth in the Agreement, any notice, request, consent, claim, demand, waiver or other communication under the Agreement will have legal effect only if in writing and addressed to a Party at its address or e-mail designated in the Agreement. Notices sent in accordance with this Section 17(p) will be deemed effectively given: (i) when received, if delivered by hand, with signed confirmation of receipt; (ii) when received, if sent by a nationally recognized overnight courier, signature required; (iii) when sent, if by facsimile or e-mail, (in each case, with confirmation of transmission), if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours; and (iv) on the third business day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

EXHIBIT B**DESCRIPTION OF EQUIPMENT**

Line		Description	QTY
		HOSTED Solacom Guardian	
		Solacom Software Licenses	
1	P-IRR	Dual IRR Recording Software License	3
2	SL-GUARDPOS LIC	Guardian Call Taker Position License	3
3	SL-MIS G/C_POS_GEO	MIS Position License	3
4		Total:	
		Solacom Provided Station Hardware	
5	P-PAC II	Position Audio Controller II w/ Jack Box	3
6		Custom Genovation Keypad Key Set	3
7	P-KYPADU6	Genovation Keypad - 24 Button 6' Cable	3
8		Total:	
		Solacom provided Support	
13	MT-SSGUARD-05	Position Software Support - Years 1 to 7	3
10		Total:	
		INDigital Supplied Hardware Components	
11	1026 - Planar Touchscreen Monitor	Planar Touchscreen Monitors 22"	3
12	1036 - Dell 3420 Precision Work Station	Dell 3420 Precision Workstation	3
13	Logitech Z130	Logitech Z130 5Watt Speakers	3
14		INDigital Misc. Hardware Bundle	3
15	1090 - Xonar D-1 Soundcard	Xonar D-1 Soundcard	3
16		Total:	
17		Primary CPE Subtotals:	
		Supplemental Hardware and Services	
18		INDigital Telephony Integration Gateway	1
19	1110 - Audiocodes MP-114	Audiocodes MP-114 FXS	2
20		Total:	
		Miscellaneous	
21	1200 - Perle ioLAN DS1	Perle ioLAN DS1	3
22	1300 - Cisco 2960 Series Switch	Cisco 2960 Series Switch	2
23		Total:	
		INDigital Labor & Services	
24		INDigital Installation Per Hosted Controller	1
25		INDigital Installation Per Workstation	3
26		Call taker Training per Day	2
27		Administrative Training per day	1

Optional Call Taker Mapping solution (three seats)			
36	SL-MAPSTDPOS	Guardian Map Software License - Per Pos	3
37	SL-MAPSYNCPOS	Guardian Map Sync Software Lic - Per Pos	3
38	SV-SGIS-DA	GIS Data Assessment	1
39	MT-MAPSTDPOS	Map Software Support / Position - 7 Year	3
40	MT-MAPSYNCPOS	Map Sync Software Support / Position - 7 Years	3
42	1026 - Planar Touchscreen Monitor	Planar Touchscreen Monitors 22"	3
43		Mapping Installation Services	3

EXHIBIT C

INSTALLATION SCHEDULE

Installation Schedule:

INDigital shall be responsible to install the Equipment only when Customer has properly prepared the Installation Site at Customer's sole expense in accordance with the Agreement. Customer shall be responsible for having the Installation Site fully ready to receive the Equipment on the estimated delivery date.

<u>Project Milestone</u>	<u>Estimated Completion Date</u>
Contract Signing	October 18, 2018
Equipment Ship Date	October/November 2018
Setup and Test	October/November 2018
Cut-over	November 2018

EXHIBIT D
SCOPE OF WORK



City of Norwood 911, Ohio
(3 Hosted Solacom Guardian Answering Positions)
R17-031v1.0.2

Current Release: R17-031
Document type: Summary
of Work
Issued: 8/24/2018
Version: V1.0.1

Contents

Document Management	16
Executive Summary	17
City of Norwood 911, OH	Error! Bookmark not defined.
Admin lines	Error! Bookmark not defined.
Vendor equipment and contact details:	Error! Bookmark not defined.
Alternate route agency	Error! Bookmark
not defined.	22

Document Management

Document location

Location
INDigital corporate file repository

Author

Position	Name	Contact no
Sales Engineer	Brian Rumsey	260-469-2138

Revision history

Version	Issue date	Author/editor	Description/Summary of changes
1.0.0	08/24/18	Brian Rumsey	Document Creation

Review/Approvals

Version	Issue date	Name	Position	Approval date
---------	------------	------	----------	---------------

Related documents

Document	Location

Executive Summary

This Scope of Work (SOW) is intended to be a high-level overview of the sale of Three (3) Hosted Solacom Guardian Answering Positions at the City of Norwood, Ohio. INdigital Telecom is in the process of a network build to add/establish a pair of Geo Diverse, redundant Solacom Controllers to reside in Kentucky and support the deployment of Hosted Solacom Guardian answering positions throughout the Northern Kentucky Region. This would include Ohio agencies that are currently hosted off of Cincinnati Bell's hosted 911 solution. The build of the Hosted Solacom controllers in the NKY region is a separate order and is not part of this SOW. The Solacom workstations will be installed as Remote Answering Positions serviced from the above mentioned Solacom controller pair. Primary call delivery responsibilities will remain with CBT and CBT will remain as the county's primary 911 services provider. ALI database functions will remain with CBT with connections to the INdigital Solacom controllers.

NETWORK IMPACT:

- CBT will remain the City's primary 911 services provider.
- CBT will work with INdigital to evaluate the current call delivery network and augment as necessary to assure proper connectivity of the Solacom Controllers to the Remote answering positions such as City of Norwood 911. This is CBT's responsibility.
- CBT will route all ingress 911 traffic to the INdigital ESRP short stacks or the Solacom controllers located in West Liberty and Florence. (Newly Installed). Calls will then be extended to the PSAP on CBT network connections.
- INdigital will install an independent 4G wireless connection to each PSAP to enable MEVO backup functionality should the primary network provided by CBT be non-operational. One MEVO phone should be installed per each Solacom Guardian answering position.

ALI DATABASE SERVICES:

Cincinnati Bell Telephone will remain the 911 ALI database services provider for the City of Norwood. CBT will continue to provide:

- ALI Management
 - ALI record aggregation
 - Ali record discrepancy management
 - MSAG management
 - PANI management
- Static record ALI Storage
- CBT will provide digital connections to the INdigital ESRP and Solacom Controllers for ALI query resolution.

Backroom Equipment:

The Hosted Solacom Guardian system quoted does not require a lot of space or resources in the equipment room. The Controller or “Brains” of the Hosted Guardian system reside in the INdigital Central Office. Back room equipment at the main PSAP consist of:

- Two Network IP routers (already in service at location today)
- Two 24 Port Ethernet switches
- One MEVO administrative integration server
- CAD interface device
- Recorder connection block

The equipment room must be climate controlled and INdigital will request two separately fused 110v 20amp power circuits to power equipment. (Electrical service should already be in place to support routers already in use).

Call Taker Solacom Guardian answering positions; (three (3) answering positions)

INdigital has proposed hosted Solacom Guardian answering positions as a solution for the City of Norwood. The price quoted includes:

- PC, cables and wiring necessary to make answering position operational
- Position Audio Controller device to allow call taker PC to integrate to a radio console for headset integration, and also allow for voice recorder interface.
- 22 inch touchscreen monitors
- speakers for audio alerts, standard keyboard and mouse
- Genovation keypad
- Light Bar (Two Lights)
- Wireless headset base
- IRR operator call check recorder software
- Integrated TTY/TDD interface

Call Taker Solacom Guardian Mapping; (three (3) answering positions)

This installation will include a mapping display system that will allow incoming 911 traffic location to be displayed automatically with the presentation of a call to a 911 call taker.

The City will be responsible for providing the GIS mapping database that will be utilized in the system. The City will also be responsible for upgrades and changes to the mapping database going forward.

INdigital will request a sample or full copy of the mapping database from the City GIS department as soon as possible so that it can be sent to Solacom for mapping data evaluation. This evaluation will verify that all critical mapping elements are present in the proposed database. If any elements are lacking, Solacom will provide a full report of what must be changed or added.

A mapping server will be installed in the equipment room or location specified by the City to be the main processing engine for the Guardian Mapping system. Updates of the city's mapping database will be downloaded to this server, and the server will automatically update each answering position.

INdigital will equip all three Guardian Answering Positions with Guardian Mapping Companion Software. This software will allow a PSAP to visualize the location of incoming and in progress 911 calls on their Guardian Call taker screen. Each answering position will also be loaded with a Mapping Sync application that will keep the answering positions' mapping database up to date with the back-room mapping server.

Cabling:

INdigital will provide and install CAT5/6 cabling from the equipment room to the call taker location as required. If existing available cable exists, INdigital will utilize that cable as to not overcrowd end points with excess cabling. If existing cabling is not available, INdigital will install the necessary cabling at no additional cost to the county. INdigital will provide connecting blocks and terminations as required at no additional cost to the county.

CAD:

INdigital will provide one or two interfaces as needed to support connectivity to CAD and/or Mapping systems or servers. This is typically an RS-232 serial connection, but INdigital also supports IP connectivity to CAD/Mapping providers if they support that type of connectivity.

Recorder Interface:

INdigital will provide a 66 style or similar connecting block to allow for a two-wire analog connection for audio from each answering position. This is an old-style analog audio connection that is common in most recording equipment and does not require any specialized recorder interface. INdigital can provide a contact closure notification to the recorder for control if needed.

MEVO Backup Telephones: (PSAP)

INdigital will install one MEVO backup IP telephone for each Guardian Answering Position purchased. INdigital will also provide, install and activate a 4G wireless router data solution capable of supporting the MEVO Backup System even if primary IP connectivity from CBT is lost or not operational. This 4G backup connection is capable of supporting all MEVO phones at that location. INdigital will provide an activated SIM card to support this service

Administrative Telephone Lines:

Current administrative telephone lines are provided by Cincinnati Bell and are terminated via IP connectivity to the existing VoIP enabled 911 system also provided by CBT. Cincinnati Bell will modify this arrangement to send the administrative lines to INdigital's TIG server, and the Solacom Controllers instead of the existing solution.

These administrative lines originate in a 5ESS class 5 originating end office operated by CBT. They will be provisioned to a PRI line that is delivered to INdigital equipment in the Florence and West Liberty central offices. At this point INdigital will utilize PRI to VoIP gateways to convert the PRI traffic to SIP for delivery through the IP network to the TIG and Solacom Controllers. Calls can then be answered on the Solacom Guardian answering positions, or on the INdigital MEVO telephones.

Administrative transfers will be accomplished by conferencing the call to be transferred to a ten-digit destination number. Further transfer capabilities may be available through the integration of the TIG server to an agency owned and operated PBX. This enhancement is optional.

PBX:

INdigital will work with the provider of the county PBX or telephone system to integrate the administrative call traffic into the Solacom Guardian 911 system if desired. This is typically done by establishing connectivity between the city PBX and the Solacom/MEVO system via IP trunking (SIP trunking). This does require SIP/IP licenses on an IP enabled PBX. The PBX vendor must provide for their own SIP license at additional cost to the county. INdigital will also need to request assistance and cooperation from the PBX vendor to plan call flow meeting between the two systems and perform any adds or changes to the PBX system that may be required. The cost of such assistance is not included in the INdigital price.

It is not known if the City of Norwood will wish to establish any PBX connectivity. This is an option.

Position Light Bars:

Each Answering position is to be equipped with a two light, Light Bar. The City must determine how they want the lights set up to be activated. Possible configurations are:

- Light if on an administrative telephony call (requires contact closure from INdigital)
- Light if on a 911 telephony call (requires contact closure from INdigital)

- Light if on any telephony call (requires contact closure from INdigital)
- Light if receiving audio on radio (requires contact closure from radio vendor)
- Light if transmitting on radio (requires contact closure from radio vendor)

Other options are available as long as the item/feature being monitored with the lights can provide a contact closure that is active during feature operation.

Texty:

INdigital will provide TCC services for Texting to 911 for Norwood Communications Center. This service will include coordinating with the wireless carriers to establish the texting to 911 functionality as needed to each wireless provider. Norwood Communications Center will utilize the INdigital TEXTY web-based system for incoming and outgoing texting capabilities. The TEXTY session may be implemented on the INdigital provided Solacom application workstation or on another county owned resource based on customer preference and engineering concerns. (access to internet, security).

Warranty:

INdigital provides a full one-year warranty on all parts, labor, and services from the time of system acceptance. This covers all equipment and functionality of the CPE equipment. INdigital provides a two-hour response time on all major issues, and a next business day time frame on minor system issues. A major issue is defined as any issue that impacts a center's capability to answer their 911 calls. With the new technology, most system features and configurations can be accessed remotely by our technicians and over 90% of our trouble tickets are cleared via remote access upon initial contact.

Equipment Maintenance:

After the year of warranty, INdigital will offer a continuing maintenance contract to allow the option to provide the same high level of support that was provided by the warranty. The offered maintenance will consist of two parts:

- **Software Support (Mandatory):** The software support assures that each PSAP answering position is kept up to the latest level or release of Solacom Software as they are adopted into the INdigital hosted Solacom solution. All answering positions must be at the same current level in a hosted solution and this coverage is mandatory. This keeps each PSAP at the top level of new features and functionality as they become available.
- **Hardware Support (Optional):** The hardware support option expands the Software support to include any issues with the system hardware or configuration.

The purchase price quoted to the City of Norwood includes Five years of both Hardware and Software Support.

User and Administrative training:

INdigital will provide a temporary installation of two answering positions in the training room for

training purposes.

- Temporary CAT5/6 cables will be run to training location
- Two of the answering positions installed for training purposes. These will later be moved to the dispatch center for permanent placement.
- Customer Data Gathering performed
- Screen Layout/Speed dial programming
- Call taker: Three days of training with two classes each day, with two students at each answering position. Class can be equipped with up to three answering positions for training purposes.
- Reporting: two classes, four hours each, up to four students
 - Web portal to access Solacom reports: call times, answer times etc....

Contact Information:

Address: 4645 Montgomery Rd Norwood, Ohio 45212

Contact Name: Lt. Mark Rankin

Phone number: (513) 458-4549

e-mail Address: admin@norwoodpolice.org

PSAP Main Admin Number: 513-458-4520

END OF DOCUMENT

EXHIBIT E

PRICE LIST

Hardware, Software & Support - 5 yrs (Solacom, MEVO, lightbars)		5 Yr. Totals	Year 6	Year 7
One Time Cost per Workstation	\$24,440			
Number of Workstations	3		3	3
Solacom Position Software Support	Incl		\$1,444	\$1,444
One Time Total	\$73,320	\$73,320	\$4,333	\$4,333

Hardware, Software & Support - 5 yrs (Solacom Guardian map)				
One Time Cost per Workstation	\$9,139		\$585	\$585
Number of Workstations	3		3	3
Solacom Map Software Support	Incl		\$538	\$538
One Time Total	\$27,417.00	\$27,417	\$2,293.00	\$2,293.00

Texty One-time Installation Costs			
ECRF setup (IN450059)			\$1,500
Carrier Coordination (IN450150)			\$2,500
Network Setup labor (IN450151)			\$500
One-time Total			\$4,500

Total Investment	\$118,489.00
------------------	--------------

EXHIBIT E
FORM OF CERTIFICATE OF ACCEPTANCE

FINAL CERTIFICATE OF ACCEPTANCE
FOR PURCHASE OF EQUIPMENT

Dated _____, 20__

In compliance with the terms, conditions and provisions of the Equipment Purchase and Sale Agreement dated _____, 20__ (the "**Agreement**"), by and between the undersigned ("**Customer**") and Communication Venture Corporation (d/b/a INdigital) ("**INdigital**"), Customer hereby:

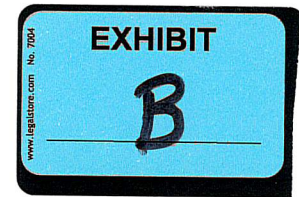
- (a) certifies and warrants that all equipment described in the above-referenced Agreement (the "**Equipment**") is delivered, inspected, fully installed and operational as of the Acceptance Date, as indicated and defined below;
- (b) accepts all of the Equipment for all purposes under the Agreement and all attendant documents as of this _____ day of _____, 20__ (the "**Acceptance Date**").

CUSTOMER:

Printed Name: _____

Title: _____

**9-1-1 SERVICES AND
SOFTWARE LICENSE AGREEMENT**



This 9-1-1 Services and Software License Agreement (this "**Agreement**"), together with any other documents incorporated into this Agreement by reference (including all Exhibits to this Agreement, including the General Terms and Conditions of Software License, which are attached to this Agreement as Exhibit A), constitute the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

The exhibits, attachments and appendices referred to in this Agreement are incorporated into this Agreement by reference and are an integral part of this Agreement to the same extent as if they were set forth verbatim in this Agreement, and the Parties have read, understand, and agree to all terms and conditions of all such exhibits, attachments, and appendices.

Any capitalized terms used, but not defined, below will have the meanings ascribed to them in the General Terms and Conditions of Software License attached to this Agreement as Exhibit A and incorporated into this Agreement by reference in their entirety.

1. Purpose

Grant of a *non-exclusive, non-sub licensable and non-transferable*, limited license to use the Software, which shall include any third-party software, necessary or required for the operation of Customer's emergency telephone system in the Territory.

Type of Agreement/Document

- ☒ Original Agreement
☐ Amendment

2. Parties/Notices:

INdigital:

Communications Venture Corporation (d/b/a INdigital)
("INdigital")

1616 Directors Row
Fort Wayne, IN 46808
Fax: (260) 469-4329
E-mail: contracts@indigital.net
Attention: Larry Stidham

Customer:

Norwood Communications Center
("Customer" and together with INdigital, the "Parties", and, each, individually, a "Party")

Address: 4645 Montgomery Road
Norwood, OH 45212
Phone: (513) 458-4545
E-mail: admin@norwoodpolice.org
Contact Person: Lt. Mark Rankin

3. Effective Date

October 18, 2018 ("Effective Date").

4. Software

Software listed and described in Exhibit C attached to, and incorporated by reference into, this Agreement, together with any Maintenance Releases provided to Customer pursuant to this Agreement.

5. Territory

Ohio ("Territory").

6. Permitted Use

Use of the Software by Customer for the purpose of operating an emergency telephone system in the Territory ("**Permitted Use**").

7. Installation

INdigital will deliver and install one copy of the Software to Customer.

8. Maintenance Releases

During the Term, INdigital will provide Customer with all Maintenance Releases that INdigital may make generally available to its licensees at no additional charge.

9. License Fee

See Exhibit D attached to, and incorporated by reference into, this Agreement. If the Term is renewed, Customer will pay the then-current standard license fees that INdigital charges for the Software.

10. Additional Charges

See Exhibit D attached to, and incorporated by reference into, this Agreement for a exhibit of additional charges, if any, for installation, training, and acceptance testing services. Customer will also reimburse INdigital for out-of-pocket expenses incurred by it in connection with performing such additional services.

11. Term

Initial Term: From Effective Date until **Seven (7)-year** anniversary of such date unless terminated earlier pursuant to any of the Agreement's express provisions.

Renewal Terms: This Agreement will automatically renew for additional successive 12-month terms unless earlier terminated pursuant to any of the Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term.

12. Exhibits

- ☒ **Exhibit A** – General Terms and Conditions of Software License (attached to, made part of, and incorporated in its entirety by reference into, this Agreement).
- ☒ **Exhibit B** – Designated Sites
- ☒ **Exhibit C** - Software/Services Description
- ☒ **Exhibit D** – Payment and Fees

13. Other Agreements between Parties

- ☒ Equipment Purchase and Sale Agreement
- ☒ Support and Maintenance Agreement

This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

CUSTOMER:

Name:
Title:

INDIGITAL:

**COMMUNICATION VENTURE CORPORATION (D/B/A
INDIGITAL)**

Name: Jon Whirledge
Title: CFO

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

These General Terms and Conditions for INdigital's 9-1-1 Services and Software License Agreement (the "**Terms**") supplement the related specific 9-1-1 Services and Software License Agreement (together with these Terms, the "**Agreement**") between you ("**you**" or "**Customer**") and Communications Venture Corporation (d/b/a INdigital), an Indiana corporation ("**INdigital**"), for the grant by INdigital to you of a license to certain software specified in the Agreement. These Terms will be deemed to be a part of and are hereby incorporated by reference into the Agreement.

These Terms prevail over any of Customer's general terms and conditions regardless of whether or when Customer has submitted its request for proposal, order, or such terms. Provision of services, software license, equipment or other products or goods to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.

INdigital and you may each individually be referred to as a "**Party**" and collectively as the "**Parties**".

1. DEFINITIONS. Capitalized terms used in the Agreement (including these Terms) have the meanings set forth or referred to in this Section 1:

- 1.1.** "**Acceptance Testing**" has the meaning set forth in Section 4 of these Terms.
- 1.2.** "**Action**" has the meaning set forth in Section 8.2(d) of these Terms.
- 1.3.** "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including these Terms "controlled by" and "under common control with") means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.
- 1.4.** "**Business Day**" means a day other than a Saturday, Sunday or other day on which commercial banks in Fort Wayne, Indiana are authorized or required by Law to be closed for business.
- 1.5.** "**Confidential Information**" has the meaning set forth in Section 5.1 of these Terms.
- 1.6.** "**Controlled Technology**" means any software, documentation, technology or other technical data, or any products that

include or use any of the foregoing, the export, re-export or release of which to certain jurisdictions or countries is prohibited or requires an export license or other governmental approval, under any Law, including the US Export Administration Act and its associated regulations.

- 1.7.** "**Customer**" has the meaning set forth in the preamble to these Terms.
- 1.8.** "**Designated Sites**" means any of Customer's facilities set forth in Exhibit B attached to, and incorporated by reference into, the Agreement.
- 1.9.** "**Disclosing Party**" has the meaning set forth in Section 5.1 of these Terms.
- 1.10.** "**Documentation**" means any and all manuals, instructions and other documents and materials that INdigital and/or any third-party provides or makes available to Customer in any form or medium which describe the functionality, components, features or requirements of the Software, including any aspect of the installation, configuration, integration, operation, use, support or maintenance thereof.
- 1.11.** "**Effective Date**" has the meaning set forth in Section 3 of the Agreement.
- 1.12.** "**Force Majeure Event**" has the meaning set forth in Section 14.1 of these Terms.
- 1.13.** "**Indemnitee**" has the meaning set forth in Section 11.3 of these Terms.
- 1.14.** "**Indemnitor**" has the meaning set forth in Section 11.3 of these Terms.
- 1.15.** "**INdigital**" has the meaning set forth in the preamble to these Terms.
- 1.16.** "**INdigital Indemnitee**" has the meaning set forth in Section 11.2 of these Terms.
- 1.17.** "**Initial Term**" has the meaning set forth in Section 9.1 of these Terms.
- 1.18.** "**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

- protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 1.19. **"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.
- 1.20. **"Loss"** means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification under the Agreement and the cost of pursuing any insurance providers.
- 1.21. **"Maintenance Release"** means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that INdigital and/or any third party may provide to Customer from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software, but does not include any New Version.
- 1.22. **"New Version"** means any new version of the Software may from time to time be introduced and marketed generally as a distinct licensed product (as may be indicated by INdigital's and/or a third party's designation of a new version number), and which INdigital and/or a third party may make available to Customer at an additional cost under a separate written agreement.
- 1.23. **"Parties"** has the meaning set forth in the preamble to these Terms.
- 1.24. **"Party"** has the meaning set forth in the preamble to these Terms.
- 1.25. **"Payment Failure"** has the meaning set forth in Section 9.3(a) of these Terms.
- 1.26. **"Permitted Use"** has the meaning set forth in Section 6 of the Agreement.
- 1.27. **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.
- 1.28. **"Receiving Party"** has the meaning set forth in Section 5.1 of these Terms.
- 1.29. **"Renewal Term"** has the meaning set forth in Section 9.2 of these Terms.
- 1.30. **"Representatives"** means, with respect to a Party, that Party's employees, officers, directors, consultants, agents, independent contractors, service providers, sub licensees, subcontractors and legal advisors.
- 1.31. **"Software"** means the software listed in Exhibit C attached to, and incorporated by reference into, the Agreement, together with any Maintenance Releases provided to Customer pursuant to this Agreement.
- 1.32. **"Term"** has the meaning set forth in Section 9.2 of these Terms.
- 1.33. **"Territory"** has the meaning set forth in Section 5 of the Agreement.
- 1.34. **"Third-Party Materials"** means materials and information, in any form or medium, that are not proprietary to INdigital, including any third-party: (a) documents, data, content or specifications; (b) software, hardware or other products, facilities, equipment or devices; and (c) accessories, components, parts or features of any of the foregoing.
- 1.35. **"Warranty Period"** has the meaning set forth in Section 10.2 of these Terms.
2. **LICENSE.**
- 2.1. License Grant.** Subject to the terms and conditions of the Agreement (including these Terms) and INdigital's rights under any third-party agreements relating to the Software, and conditioned on Customer's and its Affiliates' and Representatives' compliance therewith, INdigital hereby grants to Customer a non-exclusive, non-sub licensable and non-transferable, limited license and sublicense (to the extent allowed by any third-party agreements) to use the Software and Documentation solely for the

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

Permitted Use in the Territory during the Term.

2.2. Scope of Licensed Access and Use. Customer may use and run one copy of the Software on Customer's network at any of the Designated Site(s). The total number of Designated Site(s) shall not exceed the number set forth under the Agreement (including these Terms), except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the license fees payable under the Agreement.

3. **USE RESTRICTIONS.** Except as the Agreement (including these Terms) expressly permits, Customer shall not, and shall not permit any other Person to:

- (a) copy the Software, in whole or in part;
- (b) modify, correct, adapt, translate, enhance or otherwise prepare derivative works or improvements of any Software;
- (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service;
- (d) reverse engineer, disassemble, decompile, decode or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part;
- (e) bypass or breach any security device or protection used for or contained in the Software or Documentation;
- (f) remove, delete, efface, alter, obscure, translate, combine, supplement or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights, proprietary rights or other symbols, notices, marks or serial numbers on or relating to any copy of the Software or Documentation;
- (g) use the Software in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable Law;
- (h) use the Software for purposes of:
 - (i) benchmarking or competitive analysis of the Software;
 - (ii) developing, using or providing a competing software product or service; or
 - (iii) any other purpose that is to INdigital's detriment or commercial disadvantage;
- (i) use the Software in or in connection with

the design, construction, maintenance, operation or use of any hazardous environments, systems or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Software could lead to personal injury or severe physical or property damage; or

(j) use the Software or Documentation other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by the Agreement (including these Terms).

4. **DELIVERY AND INSTALLATION.** INdigital shall deliver and install one copy of the Software to Customer. Risk of loss of any tangible media on which the Software is delivered shall pass to Customer on delivery.

4.1. Acceptance. Customer will test whether the Software operates in accordance with the Documentation ("**Acceptance Testing**") pursuant to the terms of this Section 4. Upon completion of the Software installation, Customer shall have fourteen (14) days to test the Software and notify INdigital in writing of any defect or deficiency. If the initial Acceptance Testing fails, INdigital shall, within fifteen (15) days of the Acceptance Testing and at its cost, correct the errors so disclosed and Customer may repeat the Acceptance Testing. If the subsequent Acceptance Testing fails, and such failure does not arise from or relate to any failure or defect of Customer's or any third-party's product, service, hardware, software, system or network, INdigital shall, within fifteen (15) days of the subsequent Acceptance Testing, at its cost, correct the errors so disclosed and Customer may again repeat the Acceptance Testing. If the subsequent Acceptance Testing fails two (2) or more times, Customer may terminate the Agreement (including these Terms) on written notice to INdigital. On termination, INdigital shall refund all license fees paid by Customer under the Agreement (including these Terms) within thirty (30) days of receipt of such notice, and such refund shall be Customer's sole and exclusive remedy for any unresolved Acceptance Testing failures. In any event, Customer shall be deemed to have accepted the Software if: (a) the Acceptance Testing is certified by Customer to be successful; or (b) Customer commences operational use of the Software.

1.1. MAINTENANCE AND SUPPORT. During the Term, INdigital: (i) will use commercially reasonable efforts to resolve any Incidents reported by Customer; (ii) may provide training services to Customer on Customer's request, at INdigital's standard hourly

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

rates then in effect, and the terms and conditions of the Agreement (including these Terms) will govern the provision of any training services delivered by INdigital to Customer; and (iii) will provide Customer with all Maintenance Releases under the terms and conditions set forth in the Software License Agreement. INdigital has the sole right to determine, in its discretion: (a) what constitutes an Incident; and (b) when an Incident is deemed to be resolved. An "Incident", as used herein and throughout these Terms, means a support request that begins when Customer contacts INdigital to report a specific Error and ends when INdigital either: (a) resolves the Error; or (b) determines in its sole and absolute discretion that the Error cannot be resolved. INdigital will use commercially reasonable efforts to resolve an Incident, but does not guarantee that any Incident will be resolved.

As set forth above, during the Term, INdigital will provide Customer with all Maintenance Releases (including updated Documentation) that INdigital may, in its sole discretion, make generally available to its licensees at no additional charge. All Maintenance Releases, being provided by INdigital to Customer under the Agreement, are deemed Software subject to all applicable terms and conditions in the Agreement (including these Terms). As part of the support and maintenance to be provided by INdigital to Customer, Customer will install all Maintenance Releases as soon as practicable after receipt. Customer does not have any right under the Agreement to receive any New Versions of the Software that INdigital or any third-party software provider may, in its sole discretion, release from time to time. Customer may license any New Version at INdigital's then-current list price and subject to a separate license agreement, provided that Customer is in compliance with the terms and conditions of the Agreement (including these Terms).

5. CONFIDENTIALITY.

5.1. Confidential Information. In connection with the Agreement each Party (as the "**Disclosing Party**") may disclose or make available to the other Party (as the "**Receiving Party**") Confidential Information. Subject to Section 5.2 of these Terms, "**Confidential Information**" means information in any form or medium (whether oral, written, electronic or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated or otherwise

identified as "confidential". Without limiting the foregoing: (a) the Software and Documentation are the Confidential Information of INdigital; and (b) the financial terms of the Agreement (including these Terms) are the Confidential Information of INdigital.

5.2. Exclusions and Exceptions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with the Agreement (including these Terms); (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with the Agreement (including these Terms); (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

5.3. Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

(a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement (including these Terms);

(b) except as may be permitted under the terms and conditions of Section 6.4 of these Terms, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with the Agreement (including these Terms); (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 5; and (iii) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 5;

(c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

less than a reasonable degree of care;

(d) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and

(e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 5.

Notwithstanding any other provisions of the Agreement (including these Terms), the Receiving Party's obligations under this Section 5 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

5.4. Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 5.3 of these Terms; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 5.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

5.5. Return; Destruction. Confidential Information will remain the property of the Disclosing Party and will, at the Disclosing Party's request and after it is no longer needed for the purposes of the Agreement (including these Terms) or upon expiration or termination of the Agreement (including these Terms) for any reason, whichever occurs first, promptly be returned to the Disclosing Party or be destroyed, together with all copies made by the Receiving Party

and by anyone to whom such Confidential Information has been made available by the Receiving Party in accordance with the provisions of this section.

6. FEES AND PAYMENT.

6.1. License Fees. In consideration of the rights granted to Customer under the Agreement (including these Terms), Customer shall pay to INdigital the license fees set forth in Exhibit D (attached to, and incorporated by reference into, the Agreement) in accordance with that exhibit and the terms of this Section 7. If the Term is renewed for any Renewal Term(s) pursuant to Section 9.2 of these Terms, Customer shall pay the then-current standard license fees that INdigital charges for the Software during the applicable Renewal Term.

6.2. Additional Fees and Expenses. In consideration of INdigital providing installation, support and maintenance, training, and other ancillary services under the Agreement (including these Terms), Customer shall pay to INdigital the fees set forth in Exhibit D attached to, and incorporated by reference into, the Agreement, and shall reimburse INdigital for out-of-pocket expenses incurred by INdigital in connection with performing these services, in accordance with that exhibit and the terms of this Section 6.

6.3. Taxes. All license fees and other amounts payable by Customer under the Agreement (including these Terms) are exclusive of taxes and similar assessments. Without limiting the foregoing, Customer is responsible for all sales, service, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Customer under the Agreement, other than any taxes imposed on INdigital's income.

6.4. Payment. Customer shall pay all amounts due and owing under the Agreement (including these Terms) within thirty 30 days after the date of INdigital's invoice therefor. Customer shall make all payments under the Agreement in US dollars by wire transfer or check to the address or account specified in Exhibit D attached to, and incorporated by reference into, the Agreement or such other address or account as INdigital may specify in writing from time to time.

6.5. Late Payment. If Customer fails to make any payment when due then, in addition to all other remedies that may be available to INdigital:

(a) INdigital may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

Law;

(b) Customer shall reimburse INdigital for all reasonable costs incurred by INdigital in collecting any late payment of amounts due or related interest, including attorneys' fees, court costs and collection agency fees; and

(c) if such failure continues for fifteen (15) days following written notice thereof, INdigital may: (i) disable Customer's use of the Software (including by means of a disabling code, technology or device); (ii) withhold, suspend or revoke its grant of a license and/or sublicense under the Agreement; and/or (iii) terminate the Agreement (including these Terms) under Section 9.3(a) or Section 9.3(b) of these Terms, as applicable.

6.6. No Deductions or Setoffs. All amounts payable to INdigital under the Agreement (including these Terms) shall be paid by Customer to INdigital in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

7. **SECURITY MEASURES.** The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. Customer acknowledges and agrees that: (a) INdigital may use these and other lawful measures to verify Customer's compliance with the terms of the Agreement (including these Terms) and enforce INdigital's rights, including all Intellectual Property Rights, in and to the Software; (b) INdigital may deny any individual access to and/or use of the Software if INdigital, in its sole reasonable discretion, believes that Person's use of the Software would violate any provision of the Agreement (including these Terms); and (c) INdigital and its Representatives may collect, maintain, process and use diagnostic, technical, usage and related information, including information about Customer's computers, systems and software, that INdigital may gather periodically to improve the performance of the Software or develop Maintenance Releases. This information will be treated in accordance with INdigital's privacy policy, as amended from time to time.

8. INTELLECTUAL PROPERTY RIGHTS.

8.1. Intellectual Property Ownership. Customer acknowledges and agrees that:

(a) the Software and Documentation are licensed or sublicensed and not sold to Customer by INdigital and Customer does not and will not have or acquire under or in connection with the

Agreement (including these Terms) any ownership interest in the Software or Documentation, or in any related Intellectual Property Rights;

(b) INdigital and its licensor(s) are and will remain the sole and exclusive owners of all right, title and interest in and to the Software and Documentation, including all Intellectual Property Rights relating thereto, subject only to the limited license granted to Customer under the Agreement; and

(c) Customer hereby unconditionally and irrevocably assigns to INdigital or INdigital's designee, Customer's entire right, title and interest in and to any Intellectual Property Rights that Customer may now or hereafter have in or relating to the Software or Documentation (including any rights in derivative works or patent improvements relating to either of them), whether held or acquired by operation of law, contract, assignment or otherwise.

8.2. Customer Cooperation and Notice of Infringement. Customer shall, during the Term:

(a) take all reasonable measures to safeguard the Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse or unauthorized access;

(b) at INdigital's expense, take all such steps as INdigital may reasonably require to assist INdigital in maintaining the validity, enforceability and INdigital's ownership of the Intellectual Property Rights in the Software and Documentation;

(c) promptly notify INdigital in writing if Customer becomes aware of:

(i). any actual or suspected infringement, misappropriation or other violation of INdigital's Intellectual Property Rights in or relating to the Software or Documentation; or

(ii). any claim that the Software or Documentation, including any production, use, marketing, sale or other disposition of the Software or Documentation, in whole or in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any Person; and

(d) fully cooperate with and assist INdigital in all reasonable ways in the conduct of any claim, suit, action or proceeding (each, an "Action") by

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

INDigital to prevent or abate any actual or threatened infringement, misappropriation or violation of INDigital's rights in, and to attempt to resolve any claims relating to, the Software or Documentation.

8.3. No Implied Rights. Except for the limited rights and licenses expressly granted under the Agreement, nothing in the Agreement (including these Terms) grants, by implication, waiver, estoppel or otherwise, to Customer or any third party any Intellectual Property Rights or other right, title, or interest in or to any of the Software or Documentation.

9. TERM AND TERMINATION.

9.1. Initial Term. The initial term of the Agreement commences as of the Effective Date and will continue in effect until such time as specified in Section 10 of the Agreement, unless terminated earlier pursuant to any of the Agreement's express provisions (the "Initial Term").

9.2. Renewal Term. The Agreement will automatically renew for additional successive terms specified in Section 10 of the Agreement unless earlier terminated pursuant to any of the Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term (each, a "Renewal Term" and, collectively, together with the Initial Term, the "Term").

9.3. Termination. The Agreement may be terminated at any time:

(a) by INDigital, effective on written notice to Customer, if Customer fails to pay any amount when due under the Agreement (including these Terms), where such failure continues more than fifteen (15) days after INDigital's delivery of written notice thereof ("Payment Failure");

(b) by INDigital, immediately on written notice to Customer if any two or more Payment Failures occur in any 12-month period;

(c) by either Party, effective on written notice to the other Party, if the other Party materially breaches the Agreement (including these Terms) and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach (except in the case of a Payment Failure, which shall be governed by Section 9.3(a) of these Terms);

(d) by INDigital, effective immediately, if the Customer: (i) is dissolved or liquidated or

takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property;

(e) by INDigital, upon notice to Customer, if Customer is in breach of any other agreement between the Parties and such breach is not cured pursuant to the terms of such agreement.

9.4. Effect of Termination or Expiration. On the expiration or earlier termination of the Agreement:

(a) all rights, licenses and authorizations granted to Customer under the Agreement will immediately terminate and Customer shall:

(i) immediately cease all use of and other activities with respect to the Software and Documentation other than those described in Section 9.4(a)(ii) of these Terms;

(ii) within sixty (60) days deliver to INDigital, or at INDigital's written request destroy, and permanently erase from all devices and systems Customer directly or indirectly controls, the Software, the Documentation and INDigital's Confidential Information, including all documents, files and tangible materials (and any partial and complete copies) containing, reflecting, incorporating or based on any of the foregoing, whether or not modified or merged into other materials;

(iii) certify to INDigital in a signed written instrument that it has complied with the requirements of this Section 9.4; and

(b) all amounts payable by Customer to INDigital of any kind under the Agreement (including these Terms) are immediately payable and due no later than thirty (30) days after the effective date of the expiration or INDigital's termination of the Agreement.

9.5. Surviving Terms. The provisions set forth in the following sections, and any other right, obligation or provision under the Agreement (including these Terms) that, by its nature, should survive termination or expiration of the Agreement (including these Terms), will survive any expiration or termination of

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

the Agreement: this Section 9.5 of these Terms, Section 1 of these Terms (Definitions), Section 5 of these Terms (Confidentiality), Section 8 of these Terms (Intellectual Property Rights), Section 10 of these Terms (Representations and Warranties), for clarity, including Section 10.7 of these Terms (Disclaimer), Section 11 of these Terms (Indemnification), Section 12 of these Terms (Limitations of Liability), and Section 15 of these Terms (Miscellaneous).

10. REPRESENTATIONS AND WARRANTIES.

10.1. Mutual Representations and Warranties. Each Party represents, warrants and covenants to the other Party that:

- (a) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under the Agreement (including these Terms);
- (b) the execution of the Agreement by its representative whose signature is set forth at the end of the Agreement has been duly authorized by all necessary action of such Party; and
- (c) when executed and delivered by both Parties, the Agreement (including these Terms) will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

10.2. Limited Warranty. Subject to the limitations and conditions set forth in Section 10.3 of these Terms and Section 10.4 of these Terms, INdigital warrants to Customer that for a period of 90 days from the **Effective Date** (the "**Warranty Period**"), the Software will substantially conform in all material respects to the specifications set forth in the Documentation, when installed, operated and used as recommended in the Documentation and in accordance with the Agreement (including these Terms).

10.3. Customer Requirements. The limited warranty set forth in Section 10.2 of these Terms applies only if Customer: (a) notifies INdigital in writing of the warranty breach before the expiration of the Warranty Period; (b) has promptly installed all Maintenance Releases to the Software that INdigital previously made available to Customer; and (c) as of the date of notification, is in compliance with all terms and conditions of the Agreement (including these Terms) (including the payment of all license fees then due and owing).

10.4. Exceptions. Notwithstanding any

provisions to the contrary in the Agreement (including these Terms), the limited warranty set forth in Section 10.2 of these Terms does not apply to problems arising out of or relating to:

- (a) Software, or the media on which it is provided, that is modified or damaged by Customer or its Representatives;
- (b) any operation or use of, or other activity relating to, the Software other than as specified in the Documentation, including any incorporation in the Software of, or combination, operation or use of the Software in or with, any technology (including any software, hardware, firmware, system or network) or service not specified for Customer's use in the Documentation, unless otherwise expressly permitted by INdigital in writing;
- (c) Customer's or any third party's negligence, abuse, misapplication or misuse of the Software, including any use of the Software other than as specified in the Documentation or expressly authorized by INdigital in writing;
- (d) Customer's failure to promptly install all Maintenance Releases that INdigital has previously made available to Customer;
- (e) the operation of, or access to, Customer's or a third party's system or network;
- (f) any beta software, software that INdigital makes available for testing or demonstration purposes, temporary software modules or software for which INdigital does not receive a license fee;
- (g) Customer's material breach of any provision of the Agreement (including these Terms);
- (h) any other circumstances or causes outside of the reasonable control of INdigital (including abnormal physical or electrical stress); or
- (i) any failure or interruption of any electrical power, or any accident or cause external to the Software, including, but not limited to, problems or malfunctions related to Customer's network, database, third party software products, workstation configurations, Customer's hardware, operator error, or Customer's negligence or willful misconduct.

10.5. Remedial Efforts. If INdigital breaches, or is alleged to have breached, the limited warranty set forth in Section 10.2 of these Terms, INdigital may, at

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

its sole option and expense, take any of the following steps to remedy such breach:

- (a) replace any damaged or defective media on which INdigital supplied the Software;
- (b) amend, supplement or replace any incomplete or inaccurate Documentation;
- (c) repair the Software;
- (d) replace the Software with functionally equivalent software (which software will, on its replacement of the Software, constitute Software); and/or
- (e) terminate the Agreement and, provided that Customer fully complies with all of its post-termination obligations as set forth in Section 9.4 of these Terms, promptly refund to Customer, on a *pro rata* basis, the share of any license fees prepaid by Customer for the future portion of the Term that would have remained but for such termination.

10.6. Sole Remedy. If INdigital does not cure a warranty breach or terminate the Agreement as provided in Section 10.5 of these Terms within a reasonable period of time after INdigital's receipt of written notice of such breach, Customer shall have the right to terminate the Agreement as provided in Section 9.3(c) of these Terms. Provided that Customer fully complies with its post-termination obligations as set forth in Section 9.4 of these Terms, INdigital shall promptly refund to Customer, on a *pro rata* basis, the share of any license fees prepaid by Customer for the future portion of the Term that would have remained but for such termination. **THIS SECTION 10.6 SETS FORTH THE CUSTOMER'S SOLE REMEDY AND INDIGITAL'S ENTIRE OBLIGATION AND LIABILITY FOR ANY BREACH OF ANY INDIGITAL WARRANTY OF THE SOFTWARE SET FORTH IN THE AGREEMENT.**

10.7. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN SECTION 10.2 OF THESE TERMS, ALL SOFTWARE, DOCUMENTATION AND OTHER PRODUCTS, INFORMATION, MATERIALS AND SERVICES PROVIDED BY INDIGITAL ARE PROVIDED "AS IS." INDIGITAL HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE

AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, INDIGITAL MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE OR DOCUMENTATION, OR ANY OTHER INDIGITAL OR THIRD-PARTY GOODS, SERVICES, TECHNOLOGIES OR MATERIALS (INCLUDING ANY SOFTWARE OR HARDWARE), OR ANY PRODUCTS OR RESULTS OF THE USE OF ANY OF THEM, WILL MEET CUSTOMER'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES OR MATERIALS (INCLUDING ANY SOFTWARE, HARDWARE, SYSTEM OR NETWORK), OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN- THIRD-PARTY MATERIALS.

11. INDEMNIFICATION.

11.1. INdigital Indemnification. INdigital shall indemnify, defend and hold harmless Customer from and against any and all Losses incurred by Customer arising out of or relating to any Action by a third party (other than an Affiliate) to the extent that such Losses arise from any allegation in such Action that the Software, or any use of the Software, in the Territory in accordance with the Agreement (including these Terms) (including the Documentation) infringes any U.S. Intellectual Property Right in the U.S. The foregoing obligation does not apply to the extent that such Action or Losses arise from any allegation of or relating to any:

- (a) Third-Party Materials;
- (b) patent issued on a patent application published after the Effective Date;
- (c) incorporation by the Software of, or combination, operation or use of the Software in or with, any technology (including any software, hardware, firmware, system or network) or service not provided by INdigital or specified for Customer's use in the Documentation, unless otherwise expressly permitted by INdigital in writing;
- (d) modification of the Software other than:
 - (i) by INdigital or its authorized contractor in

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

connection with the Agreement (including these Terms); or (ii) with INdigital's express written authorization and in strict accordance with INdigital's written directions and specifications;

(e) failure to timely implement any Maintenance Release, modification, update or replacement of the Software made available to Customer by INdigital;

(f) use of the Software after INdigital's notice to Customer of such activity's alleged or actual infringement, misappropriation or other violation of a third party's rights;

(g) negligence, abuse, misapplication or misuse of the Software or Documentation by or on behalf of Customer, Customer's Representatives or a third party;

(h) use of the Software or Documentation by or on behalf of Customer that is outside the purpose, scope or manner of use authorized by the Agreement (including these Terms) or in any manner contrary to INdigital's instructions;

(i) events or circumstances outside of INdigital's commercially reasonable control (including any third-party hardware, software or system bugs, defects or malfunctions); or

(j) Action or Losses for which Customer is obligated to indemnify INdigital pursuant to Section 11.2 of these Terms.

11.2. Customer Indemnification. Customer shall indemnify, defend and hold harmless INdigital and its Affiliates, officers, directors, employees, agents, subcontractors, successors and assigns (each, including INdigital, an "**INdigital Indemnatee**") from and against any and all Losses incurred by the INdigital Indemnatee in connection with any Action by a third party (other than an Affiliate of a INdigital Indemnatee) to the extent that such Losses arise out of or relate to any allegation:

(a) that any Intellectual Property Right or other right of any Person, or any Law, is or will be infringed, misappropriated or otherwise violated by any:

(i). use or combination of the Software by or on behalf of Customer or any of its Representatives with any hardware, software, system, network, service or other matter whatsoever that is neither provided by INdigital nor authorized by INdigital in the Agreement (including these Terms) and the Documentation or otherwise in writing; and

(ii). information, materials or technology or other matter whatsoever directly or indirectly provided by Customer or directed by Customer to be installed, combined, integrated or used with, as part of, or in connection with the Software or Documentation;

(b) of or relating to facts that, if true, would constitute a breach by Customer of any representation, warranty, covenant or obligation under the Agreement (including these Terms);

(c) of or relating to negligence, abuse, misapplication, misuse or more culpable act or omission (including recklessness or willful misconduct) by or on behalf of Customer or any of its Representatives with respect to the Software or Documentation or otherwise in connection with the Agreement (including these Terms); or

(d) of or relating to use of the Software or Documentation by or on behalf of Customer or any of its Representatives that is outside the purpose, scope or manner of use authorized by the Agreement (including these Terms) or the Documentation, or in any manner contrary to INdigital's instructions.

11.3. Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 11.1 or Section 11.2 of these Terms. The Party seeking indemnification (the "**Indemnatee**") shall cooperate with the other Party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall immediately take control of the defense and investigation of such Action and shall employ counsel reasonably acceptable to the Indemnatee to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnatee's failure to perform any obligations under this Section 11 will not relieve the Indemnitor of its obligations under this Section 11 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnatee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

11.4. Mitigation. If the Software, or any part of the Software, is, or in INdigital's opinion is likely to be, claimed to infringe, misappropriate or otherwise violate any third-party Intellectual Property Right, or if Customer's use of the Software is enjoined or threatened to be enjoined, INdigital may, at its option and sole cost and expense:

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

(a) obtain the right for Customer to continue to use the Software materially as contemplated by the Agreement (including these Terms);

(b) modify or replace the Software, in whole or in part, to seek to make the Software non-infringing, while providing materially equivalent features and functionality, and such modified or replacement software will constitute Software under the Agreement (including these Terms); or

(c) if none of the remedies set forth in the above Section 11.4(a) or Section 11.4(b) of these Terms is reasonably available to INdigital, terminate the Agreement, in its entirety or with respect to the affected part or feature of the Software, effective immediately on written notice to Customer, in which event:

(i). Customer shall cease all use of the Software and Documentation immediately on receipt of Customer's notice; and

(ii). provided that Customer fully complies with its post-termination obligations set forth in Section 9.4 of these Terms, INdigital shall promptly refund to Customer, on a *pro rata* basis, the share of any license fees prepaid by Customer for the future portion of the Term that would have remained but for such termination.

11.5. Sole Remedy. THIS SECTION 11 SETS FORTH CUSTOMER'S SOLE REMEDIES AND INDIGITAL'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THE AGREEMENT (INCLUDING THESE TERMS) OR ANY SUBJECT MATTER OF THE AGREEMENT (INCLUDING THE SOFTWARE AND DOCUMENTATION) INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

12. LIMITATION OF LIABILITY.

12.1. EXCLUSION OF DAMAGES. IN NO EVENT WILL INDIGITAL OR ANY OF ITS LICENSORS, SERVICE PROVIDERS OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THE AGREEMENT (INCLUDING THESE TERMS) OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, FOR ANY (a) INCREASED COSTS, DIMINUTION IN VALUE

OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (b) LOSS OF GOODWILL OR REPUTATION, (c) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY SOFTWARE OR THIRD-PARTY MATERIALS, (d) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (e) COST OF REPLACEMENT GOODS OR SERVICES, OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

12.2. CAP ON MONETARY LIABILITY.

IN NO EVENT WILL THE AGGREGATE LIABILITY OF INDIGITAL AND ITS LICENSORS, SUPPLIERS AND SERVICE PROVIDERS ARISING OUT OF OR RELATED TO THE AGREEMENT (INCLUDING THESE TERMS), WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO INDIGITAL UNDER THE AGREEMENT IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

13. EXPORT REGULATION. Customer shall not itself, or permit any other Person to, export, re-export or release, directly or indirectly any Controlled Technology to any country, jurisdiction or Person to which the export, re-export or release of Controlled Technology (a) is prohibited by applicable Law or (b) without first completing all required undertakings (including obtaining any necessary export license).

14. FORCE MAJEURE.

14.1. No Breach or Default. In no event will INdigital be liable or responsible to Customer, or be deemed to have defaulted under or breached the Agreement (including these Terms), for any failure or delay in fulfilling or performing any term of the Agreement (including these Terms), when and to the extent such failure or delay is caused by any circumstances beyond INdigital's reasonable control

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

(a “**Force Majeure Event**”), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either Party may terminate the Agreement if a Force Majeure Event continues substantially uninterrupted for a period of 90 days or more.

14.2. Obligations. In the event of any failure or delay caused by a Force Majeure Event, INdigital shall give prompt written notice to Customer stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

15. MISCELLANEOUS.

15.1. Further Assurances. On a Party’s reasonable request, the other Party shall, at the requesting Party’s sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to the Agreement.

15.2. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement (including these Terms) shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

15.3. Notices. Except as otherwise expressly set forth in the Agreement, any notice, request, consent, claim, demand, waiver or other communication under the Agreement will have legal effect only if in writing and addressed to a Party at its address or e-mail designated in the Agreement. Notices sent in accordance with this Section 14.3 will be deemed effectively given: (i) when received, if delivered by hand, with signed confirmation of receipt; (ii) when received, if sent by a nationally recognized overnight courier, signature required; (iii) when sent, if by facsimile or e-mail, (in each case, with confirmation of transmission), if sent during the addressee’s normal business hours, and on the next

business day, if sent after the addressee’s normal business hours; and (iv) on the third business day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

15.4. Interpretation. For purposes of the Agreement (including these Terms): (i) the words “include,” “includes” and “including” are deemed to be followed by the words “without limitation”; (ii) the word “or” is not exclusive; (iii) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to the Agreement as a whole (including these Terms); (iv) words denoting the singular have a comparable meaning when used in the plural, and vice versa; and (v) words denoting any gender include all genders. Unless the context otherwise requires, references in the Agreement (including these Terms): (x) to exhibits, exhibits, attachments and appendices mean the exhibits, exhibits, attachments and appendices attached to, the Agreement (including these Terms); (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend the Agreement (including these Terms) to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, exhibits, attachments and appendices referred to in the Agreement (including these Terms) are an integral part of the Agreement to the same extent as if they were set forth verbatim in the Agreement.

15.5. Headings. The headings in the Agreement (including these Terms) are for reference only and do not affect the interpretation of the Agreement (including these Terms).

15.6. Entire Agreement. The Agreement, together with these Terms and any other documents incorporated by reference into the Agreement (and, if applicable, together with the Software Support and Maintenance Agreement), constitute the sole and entire agreement of the Parties with respect to the subject matter of the Agreement and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

15.7. Assignment. Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under the Agreement (including these Terms) without INdigital’s prior written consent. Any

EXHIBIT A
GENERAL TERMS AND CONDITIONS
(9-1-1 SERVICES AND SOFTWARE LICENSE)

purported assignment, delegation or transfer in violation of this Section 14.7 is void. The Agreement (including these Terms) inures to the benefit of, and is binding on and enforceable against, the Parties and their respective permitted successors and assigns.

15.8. No Third-Party Beneficiaries. The Agreement (including these Terms) are for the sole benefit of the Parties and their respective permitted successors and permitted assigns and nothing in the Agreement (including these Terms), express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Agreement (including these Terms).

15.9. Amendment and Modification: Waiver. No amendment to, modification of, or rescission, termination or discharge of the Agreement (including these Terms) is effective unless it is in writing, identified as an amendment to or rescission, termination or discharge of the Agreement (including these Terms) and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions of the Agreement (including these Terms) shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in the Agreement (including these Terms), no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement (including these Terms) shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under the Agreement (including these Terms) preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15.10. Severability. If any provision of the Agreement (including these Terms) is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement (including these Terms) or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify the Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by the Agreement (including these Terms) be consummated as originally contemplated to the greatest extent possible.

15.11. Governing Law; Submission to Jurisdiction. The Agreement (including these Terms) is governed by and construed in accordance with the internal laws of the State of Indiana without giving

effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Indiana. Any legal suit, action or proceeding arising out of or related to the Agreement will be instituted exclusively in the federal courts of the United States District Court of the Northern District of Indiana or the courts of the State of Indiana in each case located in the city of Fort Wayne and County of Allen, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in Section 2 of the Agreement will be effective service of process for any suit, action or other proceeding brought in any such court.

15.12. Waiver of Jury Trial. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement or the transactions contemplated by the Agreement (including these Terms).

15.13. Equitable Remedies. Customer acknowledges and agrees that a breach or threatened breach by Customer of any of its obligations under Section 3 of these Terms (Use Restrictions), Section 5 of these Terms (Confidentiality), Section 8 of these Terms (Intellectual Property Rights) or Section 11 of these Terms (Indemnification) would cause INdigital irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, INdigital will be entitled to equitable relief, including in a restraining order, an injunction, specific performance and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

15.14. Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of or related to the Agreement (including these Terms), the prevailing Party shall be entitled to recover its reasonable attorneys, expert witness and accountants' fees and court costs from the non-prevailing Party.

EXHIBIT B
Designated Sites

Norwood Communications Center
4645 Montgomery Road
Norwood, OH 45212

EXHIBIT C
Software / Services Description

1. Text Services –

INdigital Text to 9-1-1 services is a text control services that enables SMS text to the 9-1-1 PSAP that subscribe to the service. The Customer will receive the SMS messages from the major carriers.

Norwood Communications Center has selected INdigital's TEXTY solution to receive both inbound and outbound texts to 9-1-1 into their PSAP through this over-the-top software solution.

This service is considered best effort service and is not regulated.

INdigital will notify the wireless carriers of the readiness of Norwood Police Dept 911 to receive text to 9-1-1, and work with the carriers to perform installation, testing and turning up duties.

Norwood Communications Center has agreed to arrange for their own internet connection and static IP address into INdigital's VPN.

EXHIBIT D
Payments and Fees

Texty - Text to/from 911, CAD/Map interface and MIS report platform		5 Yr. Totals	Year 6	Year 7
Monthly per Workstation	\$108		\$108	\$108
Number of Workstations	1		1	1
Monthly Total	\$ x 60 Months =	\$6,480	\$1,296	\$1,296
Total Investment			\$9,072.00	



SUPPORT AND MAINTENANCE AGREEMENT

This Support and Maintenance Agreement (this "**Agreement**"), together with any other documents incorporated into this Agreement by reference (including all Exhibits and Schedules to this Agreement, including the General Terms and Conditions of Support and Maintenance Services, which are attached to this Agreement as Exhibit A), constitute the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

The exhibits, schedules, attachments and appendices referred to in this Agreement are incorporated into this Agreement by reference and are an integral part of this Agreement to the same extent as if they were set forth verbatim in this Agreement, and the Parties have read, understand, and agree to all terms and conditions of all such exhibits, schedules, attachments, and appendices.

Any capitalized terms used, but not defined, below will have the meanings ascribed to them in the General Terms and Conditions of Support and Maintenance Services attached to this Agreement as Exhibit A and incorporated into this Agreement by reference in their entirety.

1. Purpose

INdigital to provide to Customer certain support and maintenance services (see below in *Scope of Services*) for the Equipment and Software described in Exhibit C attached to, and incorporated by reference into, this Agreement.

Type of Agreement/Document

- ☒ Original Agreement
☐ Amendment

2. Parties / Notices:

INdigital:

Communications Venture Corporation (d/b/a INdigital)
("INdigital")
1616 Directors Row
Fort Wayne, IN 46808
Fax: (260) 469-4329
E-mail: contracts@indigital.net
Attention: Larry Stidham

Customer:

Norwood Communications Center
("Customer" and together with INdigital, the "**Parties**", and, each, individually, a "**Party**")
Address: 4645 Montgomery Road
Norwood, OH 45212
Phone: (513) 458-4545
E-mail: admin@norwoodpolice.org
Contact Person: Lt. Mark Rankin
Technical Contact:
Phone:
E-mail:

3. Execution Date

October 18, 2018 (the "**Execution Date**")

4. Scope of Services

- ☒ **24/7 Support and Maintenance:** Telephone, website, and e-mail-based support through INdigital's Quality Resolution Center ("**QRC**") in connection with the identification, diagnosis, and correction of Errors, and as necessary on-site technical support at Customer's Designated Site(s).

Maintenance services shall also include any Maintenance Releases to be provided pursuant to the terms and conditions of the Software License Agreement, and shall include inspection of any Equipment at the Designated Sites on a regular basis as prescribed in the owner's maintenance documentation provided by the Equipment manufacturer with respect to each piece of Equipment or as may otherwise be agreed upon by the Parties in writing (the "Support and Maintenance Services").

- ☐ **Training:** Up to _____ hours of training to Customer's employees on using the Equipment and Software. Training to be conducted:

- ☐ remotely
☐ at a Designated Site.

5. Subcontractors

INdigital may, in its sole discretion, perform any of the Services by or through third parties selected by INdigital in its sole and absolute discretion.

6. Service Fees

- ☒ **24/7 Support and Maintenance** – Annual Fee as set forth on Exhibit D attached to, and incorporated by reference into, this Agreement.

- ☐ **Training** – INdigital's standard hourly rates then in effect.*

In any event, Customer shall pay for any materials and parts used and/or provided by INdigital, which are not otherwise covered by a manufacturer's warranty, in the performance of the Services at the then current list price for such materials/plus, plus any freight, transportation and taxes, F.O.B. Customer's Designated Site.

*Standard hourly rates as of the date of the Agreement are set forth in Exhibit D attached to, and incorporated by reference into, this Agreement.

7. Fee Increases

INdigital may increase any Annual Fee for any renewal year and its standard hourly rates at any time.

8. Expense Reimbursement

Customer shall reimburse INdigital for all out-of-pocket expenses incurred by INdigital in connection with performing Services upon determination that an issue was caused by the actions of Customer or another third party and not INdigital or its Subcontractors.

9. Payment Terms

- ☒ **Annual Fee for Support and Maintenance Services:**
- Annual Fee for Support and Maintenance Services during Initial Term: shall be paid by Customer within thirty (30) days after the Execution Date.
 - Annual Fee for Support and Maintenance Services during Renewal Terms: shall be paid by Customer within thirty (30) days after the commencement of each applicable Renewal Term.

☐ **Other Services (including, as applicable, Training)** – Shall be paid by Customer within thirty (30) days after the invoice date therefor.

10. Term

- **Initial Term:** 7 Years from the Execution Date.
- **Renewal Terms:** This Agreement will automatically renew for additional successive 12-month terms unless earlier terminated pursuant to any of the Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term.

11. Exhibits

- ☒ **Exhibit A** – General Terms and Conditions of Support and Maintenance Services (attached to, made part of, and incorporated in its entirety by reference into, this Agreement).
- ☒ **Exhibit B** – Designated Sites
- ☒ **Exhibit C** – Equipment and Software
- ☒ **Exhibit D** – Fees

12. Other Agreements between Parties

- ☒ Equipment Purchase and Sale Agreement
- ☒ Enhanced 9-1-1 Services Software License Agreement

This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

CUSTOMER:

INDIGITAL:

**COMMUNICATION VENTURE CORPORATION (D/B/A
INDIGITAL)**

Name:
Title:

Name: Jon Whirledge
Title: CFO

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

These General Terms and Conditions for INdigital's Support and Maintenance Services (the "**Terms**") supplement the related specific Support and Maintenance Agreement (together with the Terms, the "**Agreement**") between you ("**you**" or "**Customer**") and Communications Venture Corporation (d/b/a INdigital), an Indiana corporation ("**INdigital**"), for the provision by INdigital to you of certain support and maintenance services specified in the Agreement. These Terms will be deemed to be a part of and are hereby incorporated by reference into the Agreement.

These Terms prevail over any of Customer's general terms and conditions regardless of whether or when Customer has submitted its request for proposal, order, or such terms. Provision of services, equipment or other products or goods to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.

INdigital and you may each individually be referred to as a "**Party**" and collectively as the "**Parties**".

Capitalized terms used, but not defined, in these Terms shall have the meanings ascribed to them in the Agreement.

1. SERVICES.

1.1. Scope of Services. Subject to the terms and conditions of the Agreement (including these Terms) and conditioned on compliance by Customer and its employees, officers, directors, consultants, agents, independent contractors, and other representatives (collectively, the "**Representatives**") with the Agreement (including these Terms) and, provided, that all Equipment and Software installations must have been completed by a designated INdigital installer, or deemed to be correctly installed, in INdigital's sole discretion, during the Term, INdigital will provide services to Customer as set forth in Section 2 of the Agreement (the "**Services**"). During the Term, INdigital: (i) will use commercially reasonable efforts to resolve any Incidents reported by Customer; (ii) may provide training services to Customer on Customer's request, at INdigital's standard hourly rates then in effect, and the terms and conditions of the Agreement (including these Terms) will govern the provision of any training services delivered by INdigital to Customer; (iii) will provide Customer with all Maintenance Releases under the terms and conditions set forth in the

Software License Agreement; and (iv) may, in its sole discretion, change any aspect of the Services or their performance on written notice to Customer, provided that no such change materially reduces or otherwise has a material adverse effect on INdigital's obligation to provide the Services under the Agreement (including these Terms) or Customer's rights under the Agreement (including these Terms). "**Maintenance Release**" means any update, upgrade, release, or other adaptation or modification of the Software, including any updated Software Documentation, which INdigital may provide to Customer from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Software, but does not include any new version. Customer acknowledges that Customer does not have any right under or in connection with the Agreement (including these Terms) to receive any new versions of the Software that INdigital, in its sole discretion, may release from time to time.

INdigital has the sole right to determine, in its discretion: (a) what constitutes an Incident; and (b) when an Incident is deemed to be resolved. An "**Incident**", as used herein and throughout these Terms, means a support request that begins when Customer contacts INdigital to report a specific Error and ends when INdigital either: (a) resolves the Error; or (b) determines in its sole and absolute discretion that the Error cannot be resolved. INdigital will use commercially reasonable efforts to resolve an Incident, but does not guarantee that any Incident will be resolved.

1.2. Subcontractors. INdigital may, in its sole discretion, perform any of the Services by or through third parties (each, a "**Subcontractor**") or any other employees, agents, or independent contractors of INdigital or any Subcontractor ("**Services Personnel**").

1.3. Effect of Customer Failure or Delay. INdigital is not responsible or liable for any delay or failure of performance caused in whole or in part by any delay or failure to perform any of Customer's obligations under the Agreement (including these Terms) or, if applicable, the Equipment Purchase Agreement or the Software

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

License Agreement (each, a “**Customer Failure**”).

1.4. Service Exceptions. INdigital has no obligation to provide Services relating to a reproducible failure of the Software to perform in substantial conformity with the specifications set forth in the Software Documentation, whose origin can be isolated to a single cause (each, an “**Error**”) or any failure of the Equipment to perform in accordance with the manufacturer’s specifications that, in whole or in part, arise out of or result from any of the following (each a “**Service Exception**”):

- (a) Equipment or any components or parts thereof are modified or damaged by Customer or any third party;
- (b) Software, or the media on which it is provided, that is modified or damaged by Customer or any third party;
- (c) any operation or use of, or other activity relating to: (i) the Equipment other than as specified in the manuals, instructions, specifications, and other documents and materials issued by the manufacturer of the Equipment describing the functionality, components, features, or requirements of the Equipment (“**Equipment Documentation**”), including any operation or use of the Equipment with any technology (including any software, hardware, firmware, system, or network) or service not specified for Customer’s use in the Equipment Documentation; or (ii) the Software other than as specified in the manuals, instructions, specifications, and other documents and materials that INdigital provides or makes available to Customer in any medium and which describe the functionality, components, features, or requirements of the Software (“**Software Documentation**”), including any incorporation in the Software of, or combination, operation or use of the Software in or with, any technology (including any software, hardware, firmware, system or network) or service not specified for Customer’s use in the Software Documentation,

unless otherwise expressly permitted in writing by INdigital;

- (d) any materials and information, in any form or medium, that are not proprietary to INdigital, including any third-party: (a) documents, data, content, or specifications; (b) software, hardware, system, network, or other product, facility, equipment or device; and (c) accessories, components, parts, or features of any of the foregoing (“**Third-Party Materials**”);
- (e) any negligence, abuse, misapplication, or misuse of the Equipment and/or the Software other than by Services Personnel, including any Customer use of the Equipment other than as specified in the Equipment Documentation or any Customer use of the Software other than as specified in the Software Documentation;
- (f) any Customer Failure;
- (g) the operation of, or access to, Customer’s or a third party’s system or network;
- (h) any relocation, installation or integration of the Software other than by Services Personnel;
- (i) any beta software, software that INdigital makes available for testing or demonstration purposes, temporary software modules, or software for which INdigital does not receive a license fee;
- (j) any material breach of or noncompliance with any provision of the Agreement (including these Terms) or, if applicable, the Equipment Purchase Agreement or the Software License Agreement by Customer or any of its Representatives;
- (k) any Force Majeure Event (including abnormal physical or electrical stress); or
- (l) any failure or interruption of any electrical power, or any accident or cause external to the Equipment or Software, including, but not limited to, problems or malfunctions related to

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

Customer's network, database, third party products, workstation configurations, Customer's hardware, operator error, or Customer's negligence or willful misconduct.

conditions of the Agreement (including these Terms), including:

- (a) reasonable, uninterrupted access to the Equipment, Software and Customer's premises, systems, networks, and facilities;
- (b) a safe working environment;
- (c) reasonable access to the appropriate Customer personnel; and
- (d) all necessary authorizations and consents, whether from third parties or otherwise, in connection with any of the foregoing.

2. CUSTOMER RESPONSIBILITIES.

2.1. Notification. Customer shall immediately notify INdigital of any failure of the Equipment or Error with the Software and provide INdigital with reasonable detail of the nature and circumstances of such failure or Error.

2.2. Compliance. Customer shall comply with all terms and conditions of the Agreement (including these Terms) and, as applicable, any other agreements between INdigital and Customer, including, without limitation, those agreements identified in Section 12 of the Agreement.

2.3. Use. Customer shall use the Equipment and Software solely in accordance with the terms and conditions set forth in the Equipment Documentation and the Software Documentation.

2.4. Environment. Unless otherwise agreed by the Parties in writing, Customer shall set up, maintain, and operate all environmental conditions and components, strictly in accordance with the Software Documentation, the Equipment Documentation and any manufacturer specifications. In furtherance and not in limitation of the foregoing, Customer shall provide at all times during the Term climate controlled facilities at the Designated Sites for the proper operation of the Equipment and Software in accordance with the Equipment Documentation, the Software Documentation and manufacturer's specifications. Customer shall provide all necessary heat, a/c, and electricity where the Equipment is located within the Designated Sites for proper operation of the Equipment.

2.5. Access. In connection with the performance of the Services, Customer shall provide Services Personnel with all such cooperation and assistance as they may reasonably request, or otherwise may reasonably be required, to enable INdigital to perform its obligations (including the provision of the Services), and exercise its rights, under and in accordance with the terms and

2.6. Data Back-up. Customer agrees to back up all data, files, and information prior to the performance of any Services and hereby assumes sole responsibility for any lost or altered data, files, or information.

2.7. Technical Contact. Customer shall designate and maintain throughout the Term one or more individuals to serve as its primary point of contact for day-to-day communications, consultation, and decision-making regarding the Services (each, a "**Technical Contact**"). The Technical Contact(s) shall be the sole contact(s) between Customer and INdigital in connection with day-to-day matters relating to the provision of Services and be responsible for reporting any Incidents, providing day-to-day consents and approvals on behalf of Customer, and communicating with and providing timely and accurate information and feedback to INdigital in connection with the Services. Customer shall ensure its Technical Contact(s) has the requisite organizational authority, skill, experience, and other qualifications to perform these duties. Customer shall use commercially reasonable efforts to maintain the same Technical Contact(s) in place throughout the Term and provide at least thirty (30) days' prior written notice to INdigital of any replacement or change in the name or contact information of any Technical Contact.

2.8. Information. Customer shall provide INdigital with all information reasonably requested by INdigital from time to time relating to Customer's use of the Equipment, Software or Services, including information on Customer's

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

hardware, network, systems, and any related Third-Party Materials.

2.9. Current Release. Except as otherwise specified in the Agreement (including these Terms), Customer must run only the current release level of the Software that INdigital has made available to its customers.

2.10. Parts and Materials. Customer agrees that INdigital may purchase on Customer's behalf such parts, supplies, and other materials required to make necessary repairs to the Equipment and Software, and Customer will be responsible for reimbursing INdigital for the cost of parts, supplies, and other materials required to make necessary repairs resulting from issues caused by Customer or any other third-party, excepting INdigital and its Subcontractors.

2.11. Non-Solicitation. Without the prior written consent of INdigital, which consent may be withheld in INdigital's sole discretion, during the Term and for Three (3) years after the termination or expiration thereof, Customer shall not, and shall not assist any other person or entity to, directly or indirectly recruit or solicit (other than by general advertisement not directed specifically to any individual) for employment or engagement as an independent contractor any Services Personnel then or within the prior 12 months employed or engaged by INdigital or any Subcontractor, including those involved in any respect with the Services or the performance of the Agreement. In the event of a violation of this Section 2.9, INdigital will be entitled to liquidated damages equal to the compensation paid by INdigital to the applicable employee or contractor during the prior 12 months.

2.12. Responsibility for Representatives. Customer shall remain responsible and liable for: (a) the supervision, coordination, and performance of Customer's Representatives in connection with the Agreement (including these Terms); and (b) all acts and omissions of Customer's Representatives, each of which shall be ascribed to the Customer to the same extent as if such acts or omissions were by Customer itself. Any noncompliance by any Customer Representative with the provisions of the Agreement (including these Terms) will constitute Customer's breach of the Agreement (including these Terms)

3. TERM AND TERMINATION.

3.1. Initial Term. The initial term is as set forth in Section 10 of the Agreement, unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").

3.2. Renewal Term. The Agreement will automatically renew for additional successive 12-month terms unless earlier terminated pursuant to any of the express provisions of the Agreement (including these Terms) or either Party gives the other Party written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term (each, a "**Renewal Term**" and, collectively, together with the Initial Term, the "**Term**").

3.3. Termination. The Agreement may be terminated at any time:

- (a) by INdigital, effective on written notice to Customer, if Customer fails to pay any amount when due under the Agreement ("**Payment Failure**"), where such failure continues more than fifteen (15) days after INdigital's delivery of written notice thereof;
- (b) by INdigital, immediately on written notice to Customer if any two or more Payment Failures occur in any 12-month period;
- (c) by either Party, effective on written notice to the other Party, if the other Party materially breaches the Agreement (including these Terms) and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach (except in the case of a Payment Failure which shall be governed by Section 3.3(a) of these Terms);
- (d) by INdigital, effective immediately, on the expiration or earlier termination of the Software License Agreement (provided, however, that the expiration or termination of the Agreement shall not terminate or otherwise affect the Software License Agreement, except

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

as otherwise expressly provided therein);

- (e) by INdigital, effective immediately, if the Customer: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property;
- (f) by INdigital, upon thirty (30) days' notice to Customer, if INdigital decides to no longer offer Services to its customers in general, subject to the Refund;
- (g) by INdigital, upon notice to Customer, if Customer is in breach of any other agreement between the Parties and such breach is not cured pursuant to the terms of such agreement; or
- (h) by Customer, at any time during the Initial Term or a Renewal Term for any reason by providing INdigital with thirty (30) days prior written notice, but in such event Customer shall not be entitled to any Refunds.

3.4. Effect of Termination or Expiration. On the expiration or earlier termination of the Agreement:

- (a) all rights, licenses, and authorizations granted to Customer under the Agreement (including these Terms) will immediately terminate and Customer shall: (i) immediately cease all use of and other activities with respect to the Confidential Information of INdigital relating to the Services; and (ii) within thirty (30) days deliver to INdigital, or at INdigital's written request destroy, and permanently erase from all devices and systems Customer

directly or indirectly controls, INdigital's Confidential Information, including all documents, files, and tangible materials (and any partial and complete copies) containing, reflecting, incorporating, or based on any of the foregoing, whether or not modified or merged into other materials; and (iii) certify to INdigital in a signed written instrument that Customer has complied with the requirements of this Section 3.4.

- (b) Subject to Section 3.4(c) of these Terms, all amounts payable by Customer to INdigital of any kind under the Agreement (including these Terms) are immediately payable and due no later than thirty (30) days after the effective date of the expiration or termination of the Agreement; and
- (c) If the Agreement is terminated by Customer pursuant to Section 3.3(c) of these Terms, Customer's sole and exclusive remedy shall be to receive a refund in an amount equal to the most recent Annual Fee paid by Customer to INdigital times a fraction, the numerator of which is the number of months remaining in the current term and the denominator of which is twelve (12) (a "**Refund**"). Customer shall not be entitled to receive any Refunds for any termination of the Agreement pursuant to Sections 3.3(a), (b), (c) (if the Agreement is terminated by INdigital), (d), (e), (f), (g) or (h) of these Terms.

3.5. Surviving Terms. The provisions set forth in the following sections, and any other right, obligation, or provision under the Agreement (including these Terms) that, by its nature, should survive termination or expiration of the Agreement, will survive any expiration or termination of the Agreement: this Section 3.5, Section 3.4 of these Terms (Effect of Termination or Expiration), Section 5 of these Terms (Confidentiality), Section 6.1 (Mutual Representations and Warranties), Section 6.3 of these Terms (Disclaimer), Section 7 of these Terms (Limitation of Liability), Section 8 of these

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

Terms (Indemnification) and Section 10
(Miscellaneous).

4. FEES AND PAYMENT TERMS.

4.1. Fees. In consideration of the Services and the rights granted by INdigital to Customer under the Agreement (including these Terms), during the Term, Customer shall pay to INdigital an annual fee (an “**Annual Fee**”) in the amount set forth in Exhibit D attached to, and incorporated by reference into, the Agreement. For all other services, including, without limitation, training (if any), Customer shall pay for such Services at INdigital’s standard hourly rates then in effect.

In addition to the compensation for the Services, INdigital will charge, and Customer agrees to pay, for materials and parts as required pursuant to Section 2.10 of these Terms. Prices for materials and parts for the Equipment shall be as specified in Section 6 of the Agreement. Title to parts shall pass to Customer when the parts are installed by INdigital in the Equipment. Any cost or expense for any special or expedited delivery or shipping requested by Customer shall be borne solely by Customer.

4.2. Fee Increases. INdigital may increase any Annual Fee for any contract year and its standard hourly rates at any time, and Exhibit D to the Agreement will be deemed to be amended accordingly. In furtherance and not in limitation of the foregoing, should Customer remove the Software and/or Equipment from the Designated Sites to another location, INdigital reserves the right to increase its rates and fees for continued Services under the Agreement, based upon the distance and any costs associated with providing the Services at Customer’s new location.

4.3. Reimbursable Expenses. In addition to paying applicable fees as specified in the Agreement (including these Terms), Customer shall reimburse INdigital for out-of-pocket expenses incurred by INdigital in connection with performing any Services to resolve issues determined to be caused by Customer or any other third party, and not by INdigital or its Subcontractors (“**Reimbursable Expenses**”), so long as INdigital and Customer mutually agree, in a separate writing and prior to the performance of such Services, that Customer shall be responsible for such Reimbursable Expenses.

4.4. Taxes. All Annual Fees and other fees and amounts payable by Customer under the Agreement (including these Terms) are exclusive of taxes and similar assessments. Without limiting the foregoing, Customer is responsible for all sales, service, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer under the Agreement (including these Terms), other than any taxes imposed on INdigital’s income.

4.5. Payment. Customer shall pay the full amount of each Annual Fee as set forth in Section 9 of the Agreement and all other fees and amounts payable by Customer under the Agreement within thirty (30) days after the date of the invoice therefor (unless otherwise agreed to by the Parties in writing). Customer shall make all payments under the Agreement in US dollars by wire transfer or check to the address or account specified by INdigital.

4.6. Late Payment. If Customer fails to make any payment when due then, in addition to all other remedies that may be available to INdigital:

- (a) INdigital may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law;
- (b) Customer shall reimburse INdigital for all reasonable costs incurred by INdigital in collecting any late payment of amounts due or related interest, including attorneys’ fees, court costs, and collection agency fees; and
- (c) if such failure continues for fifteen (15) days following written notice thereof, INdigital may suspend performance of the Services until all past due amounts, including interest, have been paid, without incurring any obligation or liability to Customer or any other person or entity by reason of such suspension.

4.7. No Deductions or Setoffs. All amounts payable to INdigital under the Agreement

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

(including these Terms) shall be paid by Customer to INdigital in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable law).

5. CONFIDENTIALITY.

5.1. Confidential Information. In connection with the Agreement (including these Terms), each Party (as the “**Disclosing Party**”) may disclose or make available Confidential Information to the other Party (as the “**Receiving Party**”). Subject to Section 5.2 of these Terms, “**Confidential Information**” means information in any form or medium (whether oral, written, electronic or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party’s technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated, or otherwise identified as “confidential”. Without limiting the foregoing: (a) the Software and Deliverables are the Confidential Information of INdigital; and (b) the financial terms of the Agreement (including these Terms) are the Confidential Information of INdigital. The term “**Deliverables**” means the Maintenance Releases, Software Documentation, and any other work product that INdigital provides or makes available to Customer in connection with the Services.

5.2. Exclusions and Exceptions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information’s being disclosed or made available to the Receiving Party in connection with the Agreement (including these Terms); (b) was or becomes generally known by the public other than by the Receiving Party’s

or any of its Representatives’ noncompliance with the Agreement (including these Terms); (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

5.3. Protection of Confidential Information. The Receiving Party shall:

- (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement (including these Terms);
- (b) except as may be permitted under the terms and conditions of Section 5.4 of these Terms, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party’s exercise of its rights or performance of its obligations under and in accordance with the Agreement (including these Terms); (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party’s obligations under this Section 5; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 5;
- (c) safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; and
- (d) ensure its Representatives’ compliance with, and be responsible and liable for any of its Representatives’ non-

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

compliance with, the terms of this Section 5.

Notwithstanding any other provisions of the Agreement (including these Terms), the Receiving Party's obligations under this Section 5 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

5.4. Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 5.3 of these Terms; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 5.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

5.5. Return; Destruction. Confidential Information will remain the property of the Disclosing Party and will, at the Disclosing Party's request and after it is no longer needed for the purposes of the Agreement (including these Terms) or upon expiration or termination of the

Agreement for any reason, whichever occurs first, promptly be returned to the Disclosing Party or be destroyed, together with all copies made by the Receiving Party and by anyone to whom such Confidential Information has been made available by the Receiving Party in accordance with the provisions of this section.

5.6. Proprietary Rights. INdigital retains at all times all right, title and interest in and to the Software (except for the limited license granted to Customer under the Software License Agreement) and any products, tools, techniques, and other materials used in connection with providing Services under the Agreement.

6. REPRESENTATIONS AND WARRANTIES; WARRANTY DISCLAIMER

6.1. Mutual Representations and Warranties.

Each Party represents, warrants, and covenants to the other Party that:

- (a) it has the full right, power, and authority to enter into and perform its obligations under the Agreement (including these Terms);
- (b) the execution of the Agreement by its representative whose signature is set forth at the end of the Agreement has been duly authorized by all necessary action of such Party; and
- (c) when executed and delivered by both Parties, the Agreement (including these Terms) will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

6.2. Additional INdigital Representations and Warranties. INdigital represents, warrants, and covenants to Customer that, during the Term, INdigital will perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under the Agreement.

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

6.3. DISCLAIMER. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY ANCILLARY AGREEMENTS, INCLUDING WITHOUT LIMITATION THE EQUIPMENT PURCHASE AGREEMENT OR SOFTWARE LICENSE AGREEMENT (AS APPLICABLE), THE EQUIPMENT AND THE SERVICES ARE PROVIDED "AS IS." INDIGITAL HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, INDIGITAL MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE, THE SERVICES, THE DELIVERABLES, OR ANY OTHER GOODS, SERVICES, TECHNOLOGIES, INFORMATION, OR MATERIAL, OR ANY PRODUCTS OR RESULTS OF THE USE OF ANY OF THEM, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES, INFORMATION OR MATERIALS, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. FURTHER, INDIGITAL HAS NOT MADE AND DOES NOT MAKE, TO CUSTOMER OR OTHERS ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, NOR WITH RESPECT TO THE EQUIPMENT'S MANUFACTURE, DESIGN, CONDITION, DURABILITY, SUITABILITY, FITNESS FOR USE, OR MERCHANTABILITY, AND INDIGITAL SHALL NOT BE RESPONSIBLE IN ANY MANNER FOR ANY PATENT OR LATENT DEFECTS IN THE EQUIPMENT OR ANY DAMAGES ARISING THEREFROM. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-

PARTY OWNER OR DISTRIBUTOR OF SUCH THIRD-PARTY MATERIALS.

7. LIMITATION OF LIABILITY.

7.1. EXCLUSION OF DAMAGES. IN NO EVENT WILL INDIGITAL OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THE AGREEMENT (INCLUDING THESE TERMS) OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, FOR ANY (a) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (b) LOSS OF USE, DATA, BUSINESS REVENUE, PROFIT, GOODWILL OR REPUTATION, (c) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY EQUIPMENT, (d) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (e) COST OF REPLACEMENT GOODS OR SERVICES, OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

7.2. CAP ON MONETARY LIABILITY. IN NO EVENT WILL THE COLLECTIVE AGGREGATE LIABILITY OF INDIGITAL AND ITS SERVICE PROVIDERS, LICENSORS, CONTRACTORS, SUBCONTRACTORS, OR SUPPLIERS ARISING OUT OF OR RELATED TO THE AGREEMENT (INCLUDING THESE TERMS),

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS AND FEES PAID TO INDIGITAL UNDER THE AGREEMENT IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE CUSTOMER'S REMEDIES UNDER THE AGREEMENT (INCLUDING THESE TERMS) FAIL OF THEIR ESSENTIAL PURPOSE.

8. INDEMNIFICATION.

8.1. INdigital Indemnification. INdigital shall indemnify, defend, and hold harmless Customer from and against any and all Losses incurred by Customer arising out of or relating to any claim, suit, action, or proceeding (each, an "**Action**") by a third party (other than an affiliate of Customer) to the extent that such Losses arise from any allegation in such Action that any of the Services or Deliverables infringes any U.S. Intellectual Property Right in the U.S. The foregoing obligation does not apply to the extent that such Action or Losses arise from any allegation of or relating to any:

- (a) Third-Party Materials;
- (b) patent issued on a patent application published in the US after the Execution Date;
- (c) negligence, abuse, misapplication, or misuse of the Software or any Deliverables other than by Services Personnel;
- (d) events or circumstances outside of INdigital's commercially reasonable control (including any bugs, defects, or malfunctions of any third-party software, hardware, firmware, system, or network); or
- (e) act, omission, or other fact referred to in any of Sections 8.2(a) through Section 8.2(d) of these Terms, irrespective of whether Customer is obligated to indemnify INdigital as a result thereof.

"**Loss**" means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification under the Agreement and the cost of pursuing any insurance providers.

8.2. Customer Indemnification. Customer shall indemnify, defend, and hold harmless INdigital and its affiliates, officers, directors, employees, agents, subcontractors, successors, and assigns (each, including INdigital, an "**INdigital Indemnatee**") from and against any and all Losses incurred by the INdigital Indemnatee in connection with any Action by a third party (other than an affiliate of an INdigital Indemnatee) to the extent that such Losses arise from any allegation in such Action:

- (a) that any Intellectual Property Right or other right of any person, or any Law, is or will be infringed, misappropriated, or otherwise violated by any;
- (i) modification of the Software or any Deliverables by Customer other than: (A) by Services Personnel in connection with the Agreement (including these Terms); or (B) with INdigital's express written authorization and in strict accordance with INdigital's written directions and specifications;
- (ii) incorporation, combination, operation, or use of the Software, Services, or any Deliverables by Customer with any good, service, technology, or other matter whatsoever (including any software, hardware, firmware, system, or network) that is neither provided by Services Personnel nor expressly authorized by INdigital in any of the Software License Agreement, the Agreement (including these Terms) or the Equipment Documentation or Software Documentation;
- (iii) good, service, technology, or other matter whatsoever (including any

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

software, hardware, firmware, system, or network) directly or indirectly provided by Customer or directed by Customer to be installed, combined, integrated, or used with, as part of, or in connection with the Software or any Deliverables;

- (iv) use of the Software or any Deliverables by Customer after INdigital's notice to Customer of such activity's alleged or actual infringement, misappropriation, or other violation of a third party's rights; or
- (v) failure by Customer to timely implement any Maintenance Release, modification, update, or replacement of the Software or any Deliverables made available to Customer by or on behalf of INdigital;

The term "**Intellectual Property Right**" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

- (b) of or relating to facts that, if true, would constitute a breach by Customer of any representation, warranty, covenant, or obligation under the Equipment Purchase Agreement, the Software License Agreement or the Agreement (including these Terms);
- (c) of or relating to negligence, abuse, misapplication, misuse, or more culpable act or omission (including recklessness or willful misconduct) by or on behalf of Customer or any of its Representatives with respect to the Equipment, the Software, the Services, the Deliverables, or otherwise in connection with the Agreement (including these Terms); or
- (d) of or relating to use of or other act

relating to the Equipment, the Software, the Services, or the Deliverables by or on behalf of Customer that is: (i) outside the scope of Customer's license under the Software License Agreement or the purpose, scope, or manner of use authorized by the Software License Agreement, the Agreement (including these Terms), the Equipment Documentation or the Software Documentation; or (ii) in any manner contrary to INdigital's instructions.

8.3. Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 8.1 or Section 8.2 of these Terms. The Party seeking indemnification (the "**Indemnitee**") shall cooperate with the other Party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall immediately take control of the defense and investigation of such Action and shall employ counsel reasonably acceptable to the Indemnitee to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee's failure to perform any obligations under this Section 8.3 will not relieve the Indemnitor of its obligations under this Section 8 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

8.4. Mitigation. If the Services or Deliverables, or any part of thereof, are, or in INdigital's opinion are likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if Customer's use of any of the Services or Deliverables is enjoined or threatened to be enjoined, INdigital may, at its option and sole cost and expense:

- (a) obtain the right for Customer to continue to use such Services and/or Deliverables, as applicable, materially

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

as contemplated by the Agreement;

- (b) modify or replace such Services and/or Deliverables, as applicable, in whole or in part, to seek to make these non-infringing, while providing materially equivalent features and functionality, and such Services and Deliverables as so modified or replaced will constitute Services and Deliverables under the Agreement; or
- (c) by written notice to Customer, terminate the Agreement with respect to all or part of the Services and/or Deliverables, as applicable, and require Customer to immediately cease any use of the Services and/or Deliverables or any specified part or feature thereof, provided that, subject to Customer's compliance with its post-termination obligations set forth in these Terms, Customer will be entitled to a Refund.

THIS SECTION 8 SETS FORTH CUSTOMER'S SOLE REMEDIES AND INDIGITAL'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE AGREEMENT (INCLUDING THESE TERMS) OR ANY SUBJECT MATTER OF THE AGREEMENT, INCLUDING THESE TERMS (INCLUDING THE SERVICES AND DELIVERABLES) INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.

9. FORCE MAJEURE.

9.1. No Breach or Default. In no event will Indigital be liable or responsible to Customer, or be deemed to have defaulted under or breached the Agreement (including these Terms), for any failure or delay in fulfilling or performing any term of the Agreement (including these Terms), when and to the extent such failure or delay is caused by any circumstances beyond Indigital's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of the Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of law or any action taken by a

governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or shortage of adequate power, telecommunications, or transportation. Either Party may terminate the Agreement if a Force Majeure Event affecting the other Party continues substantially uninterrupted for a period of ninety (90) days or more.

9.2. Indigital's Obligations. In the event of any failure or delay caused by a Force Majeure Event, Indigital shall give prompt written notice to Customer stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

10. MISCELLANEOUS.

10.1. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement (including these Terms) shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

10.2. Notices. Except as otherwise expressly set forth in the Agreement, any notice, request, consent, claim, demand, waiver or other communication under the Agreement will have legal effect only if in writing and addressed to a Party at its address or e-mail designated in the Agreement. Notices sent in accordance with this Section 10.2 will be deemed effectively given: (i) when received, if delivered by hand, with signed confirmation of receipt; (ii) when received, if sent by a nationally recognized overnight courier, signature required; (iii) when sent, if by facsimile or e-mail, (in each case, with confirmation of transmission), if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours; and (iv) on the third business day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

10.3. Interpretation. For purposes of the Agreement (including these Terms): (i) the words

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

"include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to the Agreement as a whole (including these Terms); (iv) words denoting the singular have a comparable meaning when used in the plural, and vice versa; and (v) words denoting any gender include all genders. Unless the context otherwise requires, references in the Agreement (including these Terms): (x) to exhibits, schedules, attachments and appendices mean the exhibits, schedules, attachments and appendices attached to, the Agreement (including these Terms); (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend the Agreement (including these Terms) to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to in the Agreement (including these Terms) are an integral part of the Agreement to the same extent as if they were set forth verbatim in the Agreement.

10.4. Headings. The headings in the Agreement (including these Terms) are for reference only and do not affect the interpretation of the Agreement (including these Terms).

10.5. Entire Agreement. The Agreement, together with these Terms, the Equipment Purchase Agreement and the Software License Agreement (to the extent the Parties have entered into any of the foregoing agreements and such agreements are in force and effect on the Execution Date), and any other documents incorporated into the Agreement by reference, constitute the sole and entire agreement of the Parties with respect to the subject matter of the Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

10.6. Assignment. Customer shall not

assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under the Agreement (including these Terms) without INdigital's prior written consent. Any purported assignment, delegation or transfer in violation of this Section 10.6 is void. The Agreement (including these Terms) inures to the benefit of, and is binding on and enforceable against, the Parties and their respective permitted successors and assigns.

10.7. No Third-Party Beneficiaries. The Agreement (including these Terms) are for the sole benefit of the Parties and their respective permitted successors and permitted assigns and nothing in the Agreement (including these Terms), express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Agreement (including these Terms).

10.8. Amendment and Modification; Waiver. No amendment to, modification of, or rescission, termination or discharge of the Agreement (including these Terms) is effective unless it is in writing, identified as an amendment to or rescission, termination or discharge of the Agreement (including these Terms) and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions of the Agreement (including these Terms) shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in the Agreement (including these Terms), no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from the Agreement (including these Terms) shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege under the Agreement (including these Terms) preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

10.9. Severability. If any provision of the Agreement (including these Terms) is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement (including these Terms) or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good

EXHIBIT A

GENERAL TERMS AND CONDITIONS (SUPPORT AND MAINTENANCE SERVICES)

faith to modify the Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by the Agreement (including these Terms) be consummated as originally contemplated to the greatest extent possible.

10.10. Governing Law; Submission to Jurisdiction. The Agreement (including these Terms) is governed by and construed in accordance with the internal laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Indiana. Any legal suit, action or proceeding arising out of or related to the Agreement will be instituted exclusively in the federal courts of the United States District of Northern Indiana or the courts of the State of Indiana in each case located in the city of Fort Wayne and County of Allen, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth in Section 2 of the Agreement will be effective service of process for any suit, action or other proceeding brought in any such court.

10.11. Waiver of Jury Trial. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement or the transactions contemplated by the Agreement (including these Terms).

10.12. Equitable Remedies. Customer acknowledges and agrees that a breach or threatened breach by Customer or its Representatives of any of its obligations under Section 2 of these Terms (Customer Responsibilities) or Section 5 of these Terms (Confidentiality) or Section 8 of these terms (Indemnification) would cause INdigital irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, INdigital will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages

or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

10.13. Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of or related to the Agreement (including these Terms), the prevailing Party shall be entitled to recover its reasonable attorneys, expert witness and accountants' fees and court costs from the non-prevailing Party.

EXHIBIT B
Designated Sites

Norwood Communications Center
4645 Montgomery Road
Norwood, OH 45212

EXHIBIT C
Equipment and Software

Line		Description	QTY
		HOSTED Solacom Guardian	
		Solacom Software Licenses	
1	P-IRR	Dual IRR Recording Software License	3
2	SL-GUARDPOS LIC	Guardian Call Taker Position License	3
3	SL-MIS G/C_POS_GEO	MIS Position License	3
4		Total:	
		Solacom Provided Station Hardware	
5	P-PAC II	Position Audio Controller II w/ Jack Box	3
6		Custom Genovation Keypad Key Set	3
7	P-KYPADU6	Genovation Keypad - 24 Button 6' Cable	3
8		Total:	
		Solacom provided Support	
13	MT-SSGUARD-05	Position Software Support - Years 1 to 7	3
10		Total:	
		INDigital Supplied Hardware Components	
11	1026 - Planar Touchscreen Monitor	Planar Touchscreen Monitors 22"	3
12	1036 - Dell 3420 Precision Work Station	Dell 3420 Precision Workstation	3
13	Logitech Z130	Logitech Z130 5Watt Speakers	3
14		INDigital Misc. Hardware Bundle	3
15	1090 - Xonar D-1 Soundcard	Xonar D-1 Soundcard	3
16		Total:	
		Primary CPE Subtotals:	
17		Supplemental Hardware and Services	
18		INDigital Telephony Integration Gateway	1
19	1110 - Audiocodes MP-114	Audiocodes MP-114 FXS	2
20		Total:	
		Miscellaneous	
21	1200 - Perle ioLAN DS1	Perle ioLAN DS1	3
22	1300 - Cisco 2960 Series Switch	Cisco 2960 Series Switch	2
23		Total:	
		INDigital Labor & Services	
24		INDigital Installation Per Hosted Controller	1
25		INDigital Installation Per Workstation	3
26		Call taker Training per Day	2
27		Administrative Training per day	1
		Optional Call Taker Mapping solution (three seats)	
36	SL-MAPSTDPOS	Guardian Map Software License - Per Pos	3
37	SL-MAPSYNCPOS	Guardian Map Sync Software Lic - Per Pos	3
38	SV-SGIS-DA	GIS Data Assessment	1
39	MT-MAPSTDPOS	Map Software Support / Position - 7 Year	3
40	MT-MAPSYNCPOS	Map Sync Software Support / Position - 7 Years	3
42	1026 - Planar Touchscreen Monitor	Planar Touchscreen Monitors 22"	3
43		Mapping Installation Services	3

EXHIBIT D**Fees**

Hosting and Maintenance Fee		5 Yr. Total	Year 6	Year 7
Monthly per Workstation	\$205		\$205	\$205
Number of Workstations	3		3	3
Monthly Total	\$615.00	x 60 months =	\$7,380	\$7,380
Maintenance Fee				
Monthly per Workstation	\$36		\$36	\$36
Number of Workstations	3		3	3
Monthly Total	\$108.00	x 60 months =	\$1,296	\$1,296

Total Investment	\$60,612.00
-------------------------	--------------------