

Seattle Police Department Handheld Ticketing System

Attachment 3

Software License Agreement





END USER LICENSE AGREEMENT and TERMS AND CONDITIONS OF SALE

END USER LICENSE AGREEMENT

"IN THE EVENT OF ANY CONFLICTING TERMS AND CONDITIONS WITHIN THIS "END USER AGREEMENT & TERMS AND CONDITIONS OF SALE, AND THOSE WITHIN THE "CONTRACT", THE TERMS AND CONDITIONS OF THE "CONTRACT" SHALL PREVAIL.

IMPORTANT, READ CAREFULLY. THIS **END USER LICENSE AGREEMENT** ("EULA") IS A LEGAL AGREEMENT BETWEEN YOU AND ADVANCED PUBLIC SAFETY, INC. ("APS") and applies to the APS proprietary computer software product(s) provided to you by APS, and includes any accompanying written materials, such as a user's guide or product manual, as well as any "online" or electronic documentation ("Software"). This EULA will also apply to any Software error corrections, updates and upgrades subsequently furnished by APS, unless such are accompanied by different license terms and conditions which will govern their use. BY INSTALLING, COPYING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA. IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, PROMPTLY RETURN THE UNUSED SOFTWARE AND ANY ACCOMPANYING APS PRODUCT TO THE PLACE FROM WHICH YOU OBTAINED THEM FOR A REFUND.

As used herein, the term Software does not include software products of third party manufacturers, nor shall this EULA apply to any such software products, which are furnished to end users pursuant to license by the third-party manufacturer.

This Software is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Software is licensed, not sold.

1 Software product license

1.1 License Grant. Subject to the terms and conditions of this EULA and your pre-payment of the applicable license fee(s), APS grants you a non-exclusive, perpetual license right to use one copy of the Software in machine-readable form on any computer hardware and operating system for which it was intended, but solely for your internal business needs in connection with your use of APS products. You may authorize the personnel associated with your business to use the Software, but only one person at one time, on one computer at one time. You may also store or install a copy of the Software on a storage device, such as a network server, used only to install or run the Software on your other computers over an internal network; but in such case you must acquire and dedicate a seat license for each separate computer on which the Software is installed or run from the storage device. A seat license for the Software may not be shared or used concurrently on different computers/devices. Use of the Software is limited to the total number of installation copies and seat licenses purchased by you.

1.2 Other Rights and Limitations.

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(2) The Software contains valuable trade secrets proprietary to APS and its suppliers. To the extent permitted by relevant law, you shall not, nor allow any third party to copy, decompile, disassemble or otherwise reverse engineer the Software, or attempt to do so, provided, however, that to the extent any applicable mandatory laws give you the right to perform any of the aforementioned activities without APS's consent in order to gain certain information about the Software for purposes specified in the respective statutes (e.g., interoperability), you hereby agree that, before exercising any such rights, you shall first request such information from APS in writing detailing the purpose for which you need the information. Only if and after APS, at its sole discretion, partly or completely denies your request, may you exercise such statutory rights.

(3) The Software is licensed as a single product. You may not separate its component parts for use on more than one computer except as specifically authorized in this EULA.

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(4) You may not rent, lease or lend the Software unless you are a reseller of APS products under separate written agreement with APS and authorized by APS to do so.

(5) No service bureau work, multiple-user license or time-sharing arrangement is permitted. For purposes of this EULA "service bureau work" shall be deemed to include, without limitation, use of the Software to process or to generate output data for the benefit of, or for purposes of rendering services to any third party over the Internet or other communications network.

(6) APS has granted the Software license to you contemplating your personal internal business use. You may not assign or otherwise transfer to any third party, your rights under this EULA or the Software (or any copy), in whole or in part.

(7) You may not use the Software for performance, benchmark or comparison testing or analysis, or disclose to any third party or release any results thereof (all of which information shall be considered APS confidential information) without APS's prior written consent.

(8) You may not directly or indirectly export or re-export, or knowingly permit the export or re-export of the Software (or portions thereof) to any country, or to any person or entity subject to United States or foreign export restrictions in contravention of such laws and without first obtaining appropriate license.

(9) You agree to cooperate with APS to track the number of server computers, computers and other devices with access to the Software at your site(s) to ensure compliance with the license grant and installation restrictions in this EULA. In the event the compliance check reveals that the number of installations at your site exceeds the actual number of licenses obtained by you, you agree to promptly reimburse APS three (3) times the then current applicable list price for the extra licenses that are required to be compliant, but that were not obtained, as liquidated damages and as a reasonable penalty.

1.3 Termination. You may terminate this EULA by ceasing all use of the Software and destroying or returning all copies. Without prejudice as to any other rights, APS may terminate this EULA without notice if you fail to comply with the terms and conditions of this EULA. In such event, you must cease its use destroy all copies of the Software and of its component parts.

1.4 Copyright. All title and copyrights in and to the Software (including but not limited to any images, photographs, animations, video, audio, music, and text incorporated into the Software), the accompanying printed materials, and any copies of the Software are owned by APS and its suppliers. You shall not remove, cover or alter any of APS's patent, copyright or trademark notices placed upon, embedded in or displayed by the Software or on its packaging and related materials. You may, however, either (1) make one copy of the Software solely for backup or archival purposes, or (2) install the Software on a single computer provided you keep the original solely for backup or archival purposes. You may not copy the accompanying printed materials.

1.5 U.S. Government Restricted Rights. The Software is provided with "RESTRICTED RIGHTS." Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in this EULA, and as provided in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013(c)(1)(ii) (OCT 1988), FAR 12.212(a) (1995), FAR 52.227-19, or FAR 52.227-14(ALT III), as applicable.

2 Limited Warranty

Limited Warranty. APS warrants that the Software will perform substantially in accordance with the accompanying written materials (i.e., applicable user's guide or product manual) for a period of one (1) year from the date of purchase. This limited warranty gives you specific legal rights, you may have others, which vary from state/jurisdiction to state/jurisdiction. The above limited warranty does not apply to error corrections, updates or upgrades of the Software after expiration of the limited warranty period, which are provided "AS IS" and without warranty unless otherwise specified in writing by APS. Because the Software is inherently complex and may not be completely free of nonconformities, defects or errors, you are advised to verify your work. APS does not warrant that the Software will operate error free or uninterrupted, will meet your needs or expectations, or that all nonconformities can or will be corrected.

Customer Remedies. APS's and its suppliers' entire liability, and your sole remedy, with respect to the Software shall be either, at APS's option, (a) repair or replacement of the Software, or (b) return of the license fee paid for any Software that does not meet APS's limited warranty. The foregoing limited warranty is void if failure of the Software has resulted from (1) accident, misuse, abuse, or misapplication; (2) alteration or modification of the Software without APS's authorization; (3) interaction with software or hardware not supplied or supported by APS; (4) your improper, inadequate or unauthorized installation, maintenance or storage; or (f) if you violate the terms of this EULA. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

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NO OTHER WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, APS AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, TERMS, AND CONDITIONS, EITHER EXPRESS OR IMPLIED, BY STATUTE, COMMON LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES, TERMS, AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT WITH REGARD TO THE SOFTWARE, ITS SATISFACTORY QUALITY, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. TO THE EXTENT ALLOWED BY APPLICABLE LAW, IMPLIED WARRANTIES, TERMS AND CONDITIONS ON THE SOFTWARE ARE LIMITED TO ONE (1) YEAR. YOU MAY HAVE OTHER LEGAL RIGHTS WHICH VARY FROM STATE/JURISDICTION TO STATE/JURISDICTION.

LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL APS OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS), ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF APS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED IN THIS EULA.

IN NO EVENT SHALL APS'S TOTAL LIABILITY IN CONNECTION WITH THIS EULA OR THE SOFTWARE, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EXCEED THE ACTUAL AMOUNT PAID TO APS FOR USE OF THE SOFTWARE GIVING RISE TO THE CLAIM OR ONE (1) MILLION DOLLARS WHICHEVER IS GREATER. BECAUSE SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

3 General

3.1 Applicable law - Settlement of Disputes: This EULA shall be governed by the laws of the State of Washington and applicable United States Federal law without reference to "conflict of laws" principles or provisions. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this EULA. Jurisdiction and venue for any action or proceeding arising out of or in connection with this EULA or the Software shall lie exclusively in or be transferred to the applicable state or federal court located in King County, Washington., No dispute or legal action arising under this EULA, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

3.2 Severability: These terms and conditions may be severable and the invalidity, illegality or unenforceability in whole or in part of any provision shall not affect the validity of other provisions

3.3 Reservation of Rights: APS reserves all rights not expressly granted by this EULA.

End of Advanced Public Safety, Inc. End User License Agreement

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TERMS AND CONDITIONS OF SALE

These **Terms and Conditions of Sale** establish the basis on which the purchase and sale of products and services described in Customer purchase orders and furnished by Advanced Public Safety, Inc. (“APS”), (hereinafter, “Item(s)” or “item(s)”) is made by and between you (“Customer”) and APS. Every purchase order placed with APS is conditioned on and confirms Customer’s acceptance of these terms and conditions of sale, and APS agrees to furnish the Items described in Customer’s purchase orders only upon these terms and conditions. No waiver, modification, or addition to these terms and conditions, or any assignment of Customer’s rights or obligations hereunder shall be valid or binding on APS unless in writing and signed by an authorized APS representative.

These terms and conditions of sale, together with the Work Order Terms (defined in Section 1.3 below) set forth on a purchase order accepted by APS constitute the entire agreement of Customer and APS for purchase and sale of the Item(s) (hereafter sometimes referred to as the “contract”).

1. General:

1.1 Validity of sales agreement: APS’s quotations are non-binding unless otherwise expressly stipulated in writing. Customer Work Orders are accepted as valid and binding only when confirmed by APS in writing. Orders cannot be canceled for any reason without the prior written consent of APS. In such case, APS may claim compensation under Section 3.2 below.

1.2 Intellectual property ownership of tender materials: APS retains title and full intellectual property ownership of all tender documents and materials, including without limitation, calculations, drawings, models, plans, sets of tools, etc. All such documents and materials are considered confidential and Customer shall not copy such documentation or materials or disclose them to third parties without APS’s prior written consent.

1.3 Work Order Terms - Fixed: All Work Orders for Items shall include the following information: (i) Items and quantities, (ii) prices, (iii) shipping instructions, and (iv) the APS part number, (collectively, “**Work Order Terms**”). All Work Order Terms are fixed and final upon APS’s acceptance of the order. APS’s obligation to Customer is limited to the contract terms.

1.4 Software License: If a Work Order includes software Items, such software is licensed, not sold, and Customer is authorized to use the software solely in accordance with, and subject to the terms and conditions of the end user license accompanying such software (including any differing limited warranty terms exclusions and limitations). Nothing herein shall be construed to grant any rights or license to use any software in any manner or for any purpose not expressly permitted by these terms and conditions or its applicable end user license agreement.

1.5 Customization: Customization or configuration of APS software Items performed by APS at Customer’s request, if any, will be subject to additional charges, except as otherwise provided on Customer’s accepted order or agreed to in writing by APS. APS will retain all copyright and other proprietary rights to the Item and any additional customization or configuration, and shall have the right and authority to use, sell and distribute the Item and utilize the results of the work for any other purpose, in APS’s sole discretion, without requirement of notification or liability to Customer of any kind (including, without limitation, monetary remuneration). The results of any additional customization or configuration will be deemed accepted upon receipt of notification to ship the APS software Items along with the associated hardware Items, if any. In the case of notifications to ship that are not in writing, Customer’s acceptance of such Items will be deemed to occur (5) days after Delivery as defined in 2.2 below.

2. Delivery:

2.1 Delivery time: Delivery times are established when Customer’s order is received and accepted in writing by APS. APS will use commercially reasonable efforts to meet Customer’s requested delivery dates, unless Customer is in default under the contract or APS’s performance is otherwise excused. APS shall not be liable for late or delayed shipment. Late or delayed shipment shall not be a basis for Customer’s cancellation of any order.

2.2 Delivery terms: Delivery of the Items will be made on an FCA (Incoterms 2000) APS’s facility basis. Title and risk of loss or damage to the Items covered by these Terms and Conditions shall pass to Customer upon delivery (except for title to software Items, in which case only title to the media shall pass). Unless otherwise agreed, APS will deliver the Items freight prepaid; provided that Customer will pay or reimburse APS for all costs of carriage, freight,

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insurance (if applicable), taxes, duty and other related shipping charges in connection with shipment hereunder. Customer shall make such payments to APS within thirty (30) days after date of APS's invoice. APS has the right to make partial deliveries.

3. Acceptance, Inspection, Notice of Nonconformance:

3.1 Customer's acceptance of ordered Items shall be deemed to occur at delivery to the FCA point. It is Customer's responsibility to give prompt written notice of identified damage or nonconformance of goods. Upon receipt, Customer shall inspect the condition of the Items. In the event of physical damage to delivered Items or their packaging Customer shall indicate any damage to the carrier on the delivery note, have the carrier's agent sign the document and, within two (2) days of receipt, send all documents by e-mail or fax to the APS facility from which shipment took place, together with the carrier's references. Customer shall notify APS within (5) days of delivery of incorrect or nonconforming Items or materials. Concealed physical loss or damage claims must be made by Customer to the carrier by requesting an inspection and filing a claim with the carrier, with written notice, which shall also be given to APS within (5) days of delivery. If Customer retains the Item without giving notice within the aforesaid designated periods, Customer will be deemed to have waived its right to reject the order.

3.2 If Customer rejects conforming Items under an accepted order, APS shall be entitled to claim reasonable compensation for restocking and other expenses it has actually incurred. The risk of accidental loss/destruction or accidental deterioration of Items sold or distributed hereunder shall pass to the Customer at the time Customer rejects conforming Items.

4. Return of Items: There is no right of return of conforming Items. Return of nonconforming and rejected Items must be made pursuant to APS's return procedures then in effect. Items must be returned, transport prepaid, to the APS facility (no C.O.D. or Collect Freight accepted) in original boxes and packing material, unless otherwise agreed by APS. The Items travel at the risk and responsibility of Customer. If returned Item is claimed to be defective, a complete description of the nature of the defect must be included with the returned Items. All returns are subject to inspection.

5. Pricing, Terms of Payment:

5.1 Unless otherwise agreed in writing, payment terms shall be as follows: 50% of the total purchase price is due on receipt of Customer's purchase order. Thereafter, 25% of the purchase price is due on initial software delivery, 15% of the purchase price is due on hardware delivery and the remaining 10% is due upon the earlier of (i) completion of any additional minor services (e.g., software configuration) or (ii) fifteen (15) days following completed delivery of all hardware and software deliverables. The date of the receipt of payment by APS shall be determinative. No discount will be granted for advance payment. Payment shall be made in United States Dollars (USD\$). APS shall be entitled to offset payments against prior debt balances in Customer's account. Items or services purchased under APS's United States General Services Administration ("GSA") Schedules, if any, will be subject to all of the pricing and other terms, conditions described in the applicable GSA Schedule.

5.2 APS shall have the continuing right to review Customer's credit and change Customer's payment terms and, without limiting the foregoing, may at any time demand advance payment, satisfactory security (such as, but not limited to, a confirmed, irrevocable letter of credit acceptable to APS), or a guarantee of prompt payment, prior to shipment, if APS deems such to be required in view of APS' assessment of Customer's credit worthiness.

5.3 Interest shall be charged on all overdue sums owing to APS under these terms and conditions at the rate of one percent (1%) per month (or the highest legal limit if lower than said amount), and shall be calculated from the date the sums in question were payable to the date on which payment is made in full.

5.4 Customer grants APS a purchase money security interest in each Item shipped to Customer until payment is made in full to APS for such Items. Upon request from APS, Customer will cooperate with APS in perfecting any such security interest.

5.5 Customer shall be liable for any costs incurred by APS in the event of variation or suspension of any order by Customer.

5.6 Stated Item prices do not include any applicable sales, use, personal property or similar taxes, or transportation or insurance charges, ; all of which shall be paid by Customer. Any tax that APS may be required to collect or pay upon the sale or delivery of the Item shall be paid by Customer to APS unless Customer provides direct payment authority or an exemption certificate valid in the state to which the Item will be shipped.

6. APS Software Support and Maintenance Services

6.1 Eligibility for Support. To be eligible to receive the technical support and maintenance services for APS software Items as described in Sections 6.2 through 6.3 below ("Annual Maintenance Services"), the license under which accepts the APS software must be valid and currently in effect, and Customer must have timely paid all

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charges and fees due and payable under the contract and associated purchase order(s), including, without limitation, the Annual Maintenance Services fee (at the rates then currently in effect) for the applicable support Service Term. "Service Term" means each twelve (12)-month period during which APS agrees to furnish the Annual Maintenance Services.

6.2 Scope of Annual Maintenance Services. During Customer's applicable Service Term, APS will use commercially reasonable efforts to correct verifiable and reproducible software errors in the covered APS software Items when reported in accordance with APS's standard reporting procedures, which may be modified from time to time at APS's discretion. A software error shall mean a failure of the software that causes it not to perform substantially in accordance to its APS specifications. If an error exists, Customer must provide APS with information sufficient for APS to duplicate the circumstances under which the error in the APS software Item became apparent. APS will provide such technical support to Customer 24 hours a day, 7 days a week.

6.3 New Releases. APS may from time to time issue fixes or revisions of the APS software Items for release to its customers generally ("New Releases"). As part of the Annual Maintenance Services during the Service Term APS will provide Buyer with one (1) copy of each such New Release at no additional charge, subject to APS' established procedures for delivery to its customers. APS shall provide reasonable assistance to help Customer install and operate each New Release; provided however, that if such assistance is to be furnished at Customer's facility, Customer shall pay supplemental charges set forth in APS' then current rate schedule for such assistance.

7. Warranty:

7.1 Limited Warranty for APS Items: Unless the limited warranty included with any APS manufactured Items covered by these terms and conditions grants different rights to the Customer, APS warrants to Customer, and only to Customer, that such Items furnished under the contract shall be designed and manufactured to conform to APS's specifications and all parts or media are and will be free from defects in material and workmanship for a period of ninety (90) days from date of shipment. During the warranty period, APS's liability is limited to replacing, repairing or issuing credit for any Item that is returned to APS by the original purchaser freight prepaid and which upon inspection is determined by APS to defective in materials or workmanship. APS's repair or replacement of a defective Item as provided in this section is Customer's only and exclusive remedy for a defective Item, and is made subject to the terms of this warranty.

7.2 Warranty Exclusions: The foregoing APS limited warranty shall only apply in the event and to the extent that (a) the APS Item is properly and correctly installed, configured, interfaced, maintained, stored, and operated in accordance with APS's applicable operator's manual and specifications, and; (b) the Item is not modified or misused. This APS limited warranty shall not apply to, and APS shall not be responsible for defects or performance problems resulting from (i) the combination or utilization of the Items with hardware or software Items, information, data, systems, interfaces or devices not made, supplied or specified by APS; (ii) the operation of the APS Item under any specification other than, or in addition to, APS's standard specifications for its products; (iii) the unauthorized, installation, modification, repair or use of the APS Items; (iv) damage caused by accident, electrical discharge or exposure to environmental conditions for which the APS Items are not intended, or normal wear and tear; (v) equipment or software manufactured and produced by third parties; or (vi) change or upgrade of Customer's computer operating system or mobile client devices following Customer's purchase of the Items. APS does not warrant or guarantee the results obtained through the use of the Items. **APS MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO SERVICES, WHICH IF PROVIDED HEREUNDER ARE PROVIDED "AS-IS."**

7.3 Third Party Manufactured Equipment and Software Items Warranty. APS will extend to Customer the manufacturer's warranty, if any, for all third-party manufactured equipment and software Items delivered by APS to Customer under the contract. Customer acknowledges and agrees that APS shall not be responsible for separately warranting or supporting third-party manufactured equipment or software Items.

7.4 WARRANTY DISCLAIMER: THE FOREGOING LIMITED WARRANTY TERMS STATE APS'S ENTIRE LIABILITY, AND YOUR EXCLUSIVE REMEDIES, RELATING TO THE ITEMS FURNISHED BY APS HEREUNDER. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE ITEMS, ACCOMPANYING DOCUMENTATION AND MATERIALS ARE PROVIDED "AS-IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND, BY EITHER APS OR ANYONE WHO HAS BEEN INVOLVED IN ITS CREATION, PRODUCTION, INSTALLATION, OR DISTRIBUTION, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT.

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THE STATED EXPRESS WARRANTIES ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF APS ARISING OUT OF, OR IN CONNECTION WITH, ANY ITEM. SOME STATES AND JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OR THE EXCLUSION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY OR FULLY APPLY TO YOU.

8. LIMITATION OF LIABILITY: WITHOUT LIMITING THE FOREGOING, APS'S ENTIRE LIABILITY TO CUSTOMER UNDER OR FOR BREACH OF THESE TERMS AND CONDITIONS SHALL BE LIMITED TO THE AMOUNTS ACTUALLY PAID BY CUSTOMER TO APS UNDER THE CONTRACT. FURTHER, NEITHER APS NOR ITS SUPPLIERS SHALL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE DAMAGES OR OTHER DAMAGES, OR LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, LOSS OF USE OF THE ITEM OR ANY ASSOCIATED EQUIPMENT, DOWNTIME AND USER TIME OR FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY RELATED TO THE ITEM. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, ANY IMPLIED WARRANTY OF QUALITY OR FITNESS FOR A PARTICULAR PURPOSE ON THIS ITEM IS LIMITED IN DURATION TO THE DURATION OF THE FOREGOING WARRANTY. ADDITIONALLY, SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL OR SPECIFIED OTHER DAMAGES, OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY, OR MAY NOT FULLY APPLY.

9. Intellectual Property Ownership: As between APS and Customer, Customer agrees that APS and its suppliers, as applicable, own all right, title and interest to all intellectual property and other proprietary rights to the technology, software, designs, engineering details, schematics and similar data relating to or incorporated in the Items and any accompanying documentation or information derived from the foregoing. Customer shall take reasonable precautions to prevent unauthorized access and use of the software Items and accompanying documentation by third parties. To the extent permitted by applicable law, Customer shall not, nor allow any third party to copy, decompile, disassemble or otherwise reverse engineer the software Items, or attempt to do so. Customer is prohibited from, and shall prevent any third party from, removing, covering or altering any of APS' or its suppliers patent, copyright or trademark notices placed upon, embedded in or displayed by the Items or their packaging and related materials. APS and its suppliers, as applicable, reserve all rights not specifically granted to Customer hereunder.

10. GOVERNMENT END USERS-RESTRICTED RIGHTS. Use, duplication, or disclosure of software Items by the U.S. Government is subject to restrictions set forth in the applicable license agreement accompanying any such Item and as provided in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013(c)(1)(ii) (OCT 1988), FAR 12.212(a) (1995), FAR 52.227-19, or FAR 52.227-14(ALT III), as applicable.

11. Export procedures: Customer is informed that sale and delivery of Items in an export situation may be subject to export regulations of the United States or other countries. Customer warrants that it will not export or re-export directly or indirectly, any Item in violation of any law or regulation, (including, without limitation, any law or regulation of the United States Government or any agency), or to embargoed or otherwise restricted countries, or sell Items to companies listed on the denied persons list published by the United States Department of Commerce. Customer further warrants that it will not export or re-export, directly

or indirectly, any Item with knowledge that it will be used in the design, development, Production or use of chemical, biological, nuclear or ballistic weapons. Laws and regulations change frequently. It is Customer's responsibility to know the law pertaining to export/import procedures in the country of destination of the Item. Customer will defend, indemnify and hold APS harmless against any liability (including attorneys' fees) arising out of Customer's failure to comply with the terms of this paragraph.

12. Default: APS reserves the right, by written notice of default, to cancel or indefinitely suspend an accepted Item order if: (i) Customer defaults in the performance of its obligations hereunder, or otherwise breaches the contract, or (ii) Customer ceases business operations or enters into any bankruptcy, insolvency, receivership or like proceeding not dismissed within thirty (30) days, or assigns its assets for the benefit of creditors.

13. Applicable law - Settlement of Disputes:

These terms and conditions will be governed by and construed in accordance with the laws of the State of Washington and applicable United States federal law, without reference to "conflicts of laws" provisions or principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. The venue for any action or proceeding arising out of or in connection with these terms and conditions, the Items provided under an order, or the commercial relationship of the parties shall be in the applicable state or federal court located in King County, Washington. No dispute or legal action arising under this Agreement, may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

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14. Severability: These terms and conditions may be severable and the invalidity, illegality or unenforceability in whole or in part of any provision shall not affect the validity of other provisions.

15. Force Majeure: Neither party shall be liable to the other for failure to perform its obligations hereunder (except the payment of sums due) to the extent caused by an event beyond such party's reasonable control, including, without limitation, government regulations or orders, state of emergency, acts of God, war, warlike hostilities, terrorism, riots, epidemics, fire, strikes, lockouts, or similar cause(s), provided that such party promptly notifies the other in writing of such occurrence and makes its best efforts to promptly eliminate the effect thereof.

16. Notices: Any notice or other communication given by either party to the other regarding these terms and conditions will be deemed given and served when personally delivered, delivered by reputable international courier requiring signature for receipt, or five (5) business days after mailing (postage prepaid), addressed to the party at its notice address. Either party may change its notice address by written notice to the other. Customer's notice address shall be its address appearing on the accepted purchase order. APS's notice address shall be: Advanced Public Safety, Inc., Attn : President, 500 Fairway Drive, Suite 204, Deerfield Beach, FL 33441, with copy to Trimble Navigation Limited, Attn: General Counsel, 935 Stewart Drive, Sunnyvale, CA 94085.

End of Advanced Public Safety, Inc. Terms and Conditions of Sale