



TriTech Software Systems
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SYSTEM PURCHASE AGREEMENT

BETWEEN

TRITECH SOFTWARE SYSTEMS

AND

ALLENSTOWN POLICE DEPARTMENT

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SYSTEM PURCHASE AGREEMENT

Client: Allenstown Police Department
Address: 40 Allenstown Road
City, State, Zip: Allenstown, NH 03275
Phone, Fax: (603) 485-9500
Contact Name: Lieutenant Michael Stark

1.0 INTRODUCTION

1.1. This System Purchase Agreement (this “Agreement”), is made by and between TriTech Software Systems, with offices at 9477 Waples Street, Suite 100, San Diego, CA 92121, and the entity named above, referred to herein as “Client” (who together are referred to as the “Parties”, or individually as “Party” herein), with reference to the following facts:

1.2. This Agreement is for the purchase of an integrated computer system (the “System”) consisting of a Computer Aided Dispatch (“CAD”) System, and Perform Law Records System, including applicable software, and services (the “Project”) as more fully described in this Agreement and the Addenda hereto.

1.3. In consideration of the terms, promises, mutual covenants and conditions contained in this Agreement, Client and TriTech agree as follows:

2.0 ADDENDA

2.1 The following documents are attached as Addenda to this Agreement and incorporated by reference as though set forth in full:

Addendum A Price and Payment Terms

3.0 DEFINITIONS

3.1. “Acceptance” or “Accept” means the processes described in the ACCEPTANCE section of this Agreement.

3.2. “Contract Price” means the total of the purchase price of the items as specified in Addendum A, including as applicable, software licenses, services, fees, expenses, and other items acquired under this Agreement, and if included as a line item in Addendum A, any applicable sales use, value added or other such governmental charges.

3.3. “Deliverable” means an item of, software, services and other items acquired under this Agreement as listed in the addenda hereto.

3.4. “Designated Location(s)” means the physical site(s) at which the System is Installed.

3.5. “Documentation” means any standard user manuals or other related instructional and/or reference materials, provided by TriTech or other Software Vendors, including on-line help information and Release Notes issued in connection with Updates. In case of a conflict between written documentation (user manuals or Release Notes in printed or CD-ROM format) and on-line help information, the printed and CD ROM documentation will control.

3.6. “Equipment” means the computer system equipment on which the System operates. Unless otherwise specified in Addendum A, Client will be providing the Equipment which shall meet TriTech’s minimum recommended specifications as provided to Client.

3.7. “Help Desk” means the TriTech function consisting of receiving calls from Client concerning System problems and assisting Client with correction from the manufacturers of third party items acquired under this Agreement under the applicable warranties and/or maintenance support agreements.

3.8. “Installation” with respect to the System means the process of running the System under a procedure to demonstrate basic interoperability of the applicable System components at the Designated Location. “Installation”, with respect to the Interfaces, means the process of running each Interface under a procedure to demonstrate basic interoperability of the Interface with the System and the hardware and/or software with which it is interfaced at its Designated Location(s).

3.9. “Interface”, collectively or individually, means the applicable interface software described in Addendum A.

3.10. “Go Live” means the event that occurs when the Client first uses any TriTech Software for live operations (use of the TriTech Software as the primary means of performing its functions).

3.11. “Object Code” means any instruction or set of instructions of a computer program in machine-readable form.

3.12. “Primary Computer System” means the live operations production system.

3.13. “Project Schedule” means the schedule developed in conjunction with the Client that provides the schedule for tasks to be completed by TriTech and the Client, and all Deliverable items to be provided by TriTech hereunder.

3.14. “Server” means a computer in a local area network that runs administrative software which controls access to all or part of the network and its resources and makes such resources available to computers acting as workstations on the network.

3.15. “Software Error” means an error in coding or logic that causes a program not to substantially function as described in the applicable Specifications. .

3.16. “Software Support” means Telephone Support, Software Error Correction, and Software Update services provided by TriTech for the Software, either under warranty or under an annual Software Support Agreement, as more fully described in the Software Support Agreement.

3.17. “Software Support Agreement” means collectively or individually agreements of that name (or a similar name) for the rendering of Software Support services entered into between the Parties coincident with this Agreement and renewed from time to time thereafter.

3.18. “Source Code” means the original mnemonic or high-level statement version of Software.

3.19. “Specifications” means the functional requirements with respect to the TriTech Software provided in the TriTech Documentation, which documents are incorporated by reference herein as though set forth in full.

3.20. “System Software” means the software which includes, without limitation, operating system software, database management software, and communications software. Unless otherwise specified in Addendum A, the Client is responsible for providing System Software which meets the requirements provided by TriTech.

3.21. “Task Completion Report” or “TCR” means the document presented by TriTech’s Project Manager to the Client for signature upon completion of a Deliverable.

3.22. “Telephone Support” means the service provided by TriTech for access to the TriTech Technical Services Department by telephone or over the Internet, on a twenty-four (24) hour a day, seven (7) day per week basis, or as applicable on a Business Hour basis.

3.23. “Third Party Items” means any software, equipment or other products not owned by TriTech.

3.24. “TriTech Software” means collectively the object code version of the software specified in Addendum A.

3.25. “TriTech Documentation” means any standard user manuals or other related instructional and/or reference materials provided by TriTech, including on-line help information and release notes issued in connection with Updates.

3.26. “Update” means revisions or additions to the TriTech Software. The term “Update” does not include separate modules or functions that are separately licensed and priced, or new products that are developed and marketed as separate products by TriTech.

3.27. “Use” means copying any portion of the TriTech Software from a storage unit or media into a computer or server and execution of the software thereon. This term shall not be

construed to refer to a grant of reproduction rights under 17 U.S.C. (106(1), and shall not be construed to grant other rights held by the copyright owner, including without limitation on the right to prepare derivative works.

3.28. “Warranty Period” means the period starting at Delivery for any TriTech Software and ending one-hundred eighty (180) days thereafter.

4.0 PRICES AND PAYMENT

4.1 Unless otherwise stated herein, all dollar amounts contained in this Agreement are in U.S. dollars. The Contract Price for the purchased and/or licensed items hereunder is \$29,098.75, as more completely specified in Addendum A. Client shall pay the Contract Price without deduction or offset on the terms specified in Addendum A, pursuant to invoices issued by TriTech which shall be due upon receipt unless otherwise stated in the invoice.

4.2 All amounts due and payable to TriTech hereunder shall, if not paid when due, bear a late charge equal to one and one-half percent (1-1/2%) per month, or the highest rate permitted by law, whichever is less, from fifteen (15) days after their due date until paid. The remittance address for payments only is:

TriTech Software Systems
P.O. Box 203223
Dallas, TX 75320-3223

4.3 In the event that Client is in arrears on payments due to TriTech of more than sixty (60) days from the due date, TriTech in its sole discretion may elect to stop work on the Project for non-payment until Client becomes current on payments due. In such event the Project Schedule will be adjusted accordingly, and TriTech shall not be considered to be in default for delays caused by Client’s non-payment.

5.0 SOFTWARE LICENSES

5.1 In consideration for, and subject to, the payment of the license fee(s) specified in Addendum A of this Agreement, and the other promises, covenants and conditions herein, Client is granted the following license to use TriTech Software:

5.1.1 A non-exclusive, non-transferable, paid-up royalty-free right and license to use the TriTech Software in object code format for Client’s own internal use, on either a single or multi-user system, based on the type of license identified in Addendum A; and a license to use the associated TriTech Documentation. Client shall have the right to make a single back up copy of the TriTech Software for the purpose of archival and back up purposes. Title to the TriTech Software and Documentation shall remain with TriTech.

5.1.1.1 Each copy of the TriTech Software provided under this license may be used on only one Primary Computer System at any one time.

5.2 Each Workstation and Server that is configured to utilize the functionality of the TriTech Software must have a full-user license under this Agreement.

5.3 The TriTech Software may not be used to operate a service bureau or time-sharing service, outsourcing service, application service provider service or other services or businesses that provide computer-aided vehicle dispatching to third parties. Notwithstanding the above, Client shall be entitled to Use the TriTech Software at the applicable Designated Location for the purpose of the application(s) described in Exhibit A for itself and other agencies/entities in the area within Merrimack County, New Hampshire, provided that the TriTech Software is installed and operated at only one physical location. The TriTech Software shall not be used for other than the application(s) described in Addendum A.

5.4 Client shall not Use, copy, rent, lease, sell, sublicense, create derivative works from/of, reverse engineer, or transfer the TriTech Software or Documentation, or permit others to do said acts. Any such unauthorized Use shall be void and may result in immediate and automatic termination of the applicable license, at the option of TriTech. In such event, Client shall not be entitled to a refund of the license fees paid hereunder.

5.5 The TriTech Software licenses granted in this Agreement or in connection with it are for Object Code only and do not include a license or any rights to Source Code. Client is specifically prohibited from accessing, copying, using, modifying, distributing or otherwise exercising any rights to such Source Code, even if such Source Code is loaded on the Equipment. The loading and/or using of Source Code to any TriTech Software by TriTech or its employees, agents or subcontractors on any computer system equipment at the Designated Location or any other location not specifically authorized under this agreement shall not constitute a waiver of this provision, or any express or implied license or other permission to copy, use or exercise other rights to the Source Code.

5.6 Client may not export any TriTech Software or Documentation outside the United States without further written agreement of TriTech. In the event of such agreed export, Client agrees to comply with the requirements of the United States Export Administration Act of 1979 and any amendments thereto, and with all relevant regulations of the Office of Export Administration, U.S. Department of Commerce.

5.7 These licenses are effective until surrendered or terminated hereunder.

5.8 Client may surrender any software licenses provided in connection with this Agreement at any time by performing the actions described in paragraph 18.2 of this Agreement. Such surrender shall not affect TriTech's right to receive and retain the Contract Price and other fees, charges and expenses earned hereunder.

6.0 DELIVERY, INSTALLATION, TITLE AND RISK OF LOSS

6.1 TriTech will deliver the items purchased and/or licensed hereunder and provide the services listed in Addendum A, subject to the provisions of the FORCE MAJEURE/EXCUSABLE

DELAY section 16 of this Agreement, and further subject to delays caused by the actions or omissions of Client, including, but not limited to, delays in training, or other Client responsibilities with respect to the Project.

6.2 TriTech resources are allocated for each project based upon the mutually agreed upon Project Schedule. Client requested changes to the Project Schedule, including but not limited to training dates, or the Go Live date, or additional on-site meetings requested by Client will require TriTech to reallocate resources to accommodate the schedule change. Such changes to the Project Schedule must be mutually agreed upon in writing, and may result in additional fees for reallocation of resources, including applicable travel expenses.

6.3 Risk of loss of any deliverable hereunder shall be borne by TriTech until delivery of the deliverable to Client. Thereafter, risk of loss shall be borne by Client.

6.4 The TriTech Software is licensed, not sold; all right and title to the TriTech Software and Documentation shall remain with TriTech. Nothing herein shall be construed as granting title to the TriTech Software or Documentation to Client.

7.0 SITE PREPARATION

7.1 Client agrees to provide, at its own expense, those required facilities and equipment specified in in the applicable TriTech Documentation or otherwise specified by TriTech in writing, to meet the hardware/software configuration requirements and the requirements for proper electrical power quality and other computer facility resources. Client shall also provide and maintain during the term of this Agreement, remote connectivity as specified in the TriTech Documentation, for maintenance and software support purposes in each physical area where a Server or interface equipment is located. Such facilities and equipment shall be in place and operational prior to Delivery of the items purchased and/or licensed under this Agreement.

7.2 TriTech shall assist Client in meeting its obligations under this section by providing the necessary guidelines and specifications for site preparation.

8.0 SERVICES

8.1 TriTech will provide those services specified in Addendum A hereto. Any services desired by Client in addition to those specified in this Agreement will be subject to the availability and scheduling of TriTech personnel and to TriTech's then-current rates, plus expenses. Prior to performing any of the aforementioned additional services, TriTech will provide a written quotation detailing the associated price to be paid for such services.

8.2 TriTech shall appoint a competent TriTech Project Manager to act as its representative and single point of contact.

8.3 Except as otherwise specified at Addendum A, travel costs incurred by TriTech in connection with services rendered under this Agreement shall be paid by upon receipt of TriTech's invoice for such costs.

9.0 ACCEPTANCE

9.1 Final Acceptance of the TriTech Software shall occur upon the earlier of Delivery of the System to Client's Designated location, or Go Live. TriTech shall provide Client with a Task Completion Report for signature acknowledging Delivery and Final Acceptance.

10.0 CONFIDENTIALITY AND PROPRIETARY RIGHTS

10.1 Client acknowledges that the TriTech Software and its associated documentation (the "Confidential Information") constitute the trade secrets and proprietary information of TriTech. Client shall hold the Confidential Information, including but not limited to the Source Code, Object Code, the software design, structure and organization, software screens, the user interface and the engineering know-how implemented in the TriTech Software, user and technical documentation, in confidence and shall not disclose it to third parties except as necessary to exercise the licenses granted herein, provided that such third parties are made aware of the confidentiality provisions herein and agree in writing to be bound by such provisions. Without limiting the generality of the foregoing, Client shall use reasonable means, not less than those used to protect its own trade secret and proprietary information, to safeguard the Confidential Information. Client shall not attempt, or authorize or permit others to attempt, to imitate the TriTech Software using the Confidential Information or any part thereof, or to reverse engineer the TriTech Software by any method, now known or later discovered.

10.2 Provided that Client's confidential business information and confidential data is marked with the legend "CONFIDENTIAL INFORMATION", "PROPRIETARY INFORMATION", or a substantially similar legend, TriTech agrees to maintain Client's confidential business information and confidential data, including patient identifying data, to which TriTech gains access in confidence and to not disclose such information except as required to perform hereunder or as required by law. If such confidential or proprietary information is disclosed to TriTech orally, Client shall, within five (5) business days of the disclosure, document the disclosure in writing, which writing shall be marked with the above-described legend. Notwithstanding the above, TriTech shall own the copyrights, trade secrets, patent rights and other proprietary rights in and may use without restriction knowledge, information, ideas, methods, know-how, and copyrightable expression learned or acquired as a result of or in connection with this Agreement to make modifications and enhancements to the TriTech Software or Documentation. Client shall acquire no intellectual property ownership rights to TriTech Software or Documentation as a result of such use, whether as author, joint author, or otherwise.

10.2.1 The material presented in TriTech's training courses represents the confidential and proprietary information of TriTech, not intended for public disclosure or disclosure to third parties. Clients may record training sessions provided on-site at the Client's facilities or over the Internet by TriTech staff for the Client's own internal use only; provided, however, that the TriTech training staff have consented in writing to such videotaping. The Client is responsible for managing access to and copying of any TriTech provided training materials or Client-made videotapes of TriTech training sessions.

10.2.2 In the event Source Code is loaded on the Equipment, or other computer system equipment at any Designated Location or any other location in connection with TriTech's performance under this Agreement, or for any other purpose, Client shall keep such Source Code strictly confidential and shall not, without the written authorization of TriTech, access, use, copy, modify, distribute, disclose or otherwise exercise or permit the exercise of any rights to such Source Code by any person, including but not limited to Client's employees, agents or contractors. This provision is intended by the Parties to prohibit, among other things, Client access to Source Code by any person and for any reason.

10.2.3 TriTech maintains a security program for security managing access to client data – particularly HIPAA and CJIS information (“Security Approved Personnel”). This includes 1) a pre-employment background check; 2) security training required by Federal CJIS regulations; and 3) criminal background checks/fingerprints required by Federal or State regulations. TriTech will work with the Client to provide required documentation (such as the CJIS Security Addendum Certification form and VPN documents).

10.2.3.1 If required by the Client, TriTech will provide paper fingerprint cards for such Security Approved personnel with the fingerprinting performed in the state of the TriTech staff's job assignment. If the Client requires fingerprints submitted in a form other than paper prints (such as Live Scan) or that such fingerprints be performed at the Client's site, the Client will reimburse TriTech for the cost of TriTech Security Approved Personnel traveling to the Client's site or for a vendor (such as Live Scan) to travel to the applicable TriTech office location. This provision will apply during the installation of the Project and for the duration of the Client's Software Support Agreement.

10.3 Client shall not attempt or authorize others to attempt to learn the trade secrets, technology, ideas, processes, methods of operation, know-how and/or confidential information contained in the Software by duplication, decompilation, disassembly, other forms of reverse engineering, or other methods now known or later developed.

10.4 Client shall inform TriTech promptly in writing of any actual or suspected unauthorized Use, copying, or disclosure of the Vendor Proprietary Information.

10.5 If any TriTech Confidential Information is subject to any Federal or State statutes(s) providing for public access or disclosure of public records, documents or other material, Client shall (i) provide to TriTech, written notice of any request or other action by a third party under said statute(s) for release, access, or other disclosure thereof, (ii) provide to TriTech a reasonable opportunity to respond to and/or oppose such action in the appropriate forum and (iii) take such steps as are permitted under said statutes to assert in response to such action any exemptions or other protections available thereunder to prevent, restrict and/or control the public release, access and/or disclosure of the TriTech Confidential Information.

10.6 The obligations specified under this Section 10 shall survive the termination or rescission of this Agreement.

11.0 LIMITED WARRANTY

11.1 TriTech warrants that, during the Warranty Period, the TriTech Software will perform in substantial conformity with the Specifications. If, during the Warranty Period, Client determines that a warranty defect exists in the TriTech Software, Client shall notify TriTech in accordance with the Software Support Agreement, and TriTech shall, at its option, correct the defect, or replace the TriTech Software.

11.1.1 TriTech further warrants and represents that the TriTech Software does not contain any “back door”, “time bomb”, “Trojan horse”, “worm”, “drop dead device” or other program routine or hardware device inserted and intended by TriTech to provide a means of unauthorized access to, or a means of disabling or erasing any computer program or data, or otherwise disabling the TriTech Software. (Nothing herein shall be deemed to constitute a warranty against viruses. The provisions of paragraph 11.1.2.5, below, shall constitute the agreement of the Parties with respect to viruses.) Client’s sole remedy with respect to the foregoing warranty shall be to receive an Update to the TriTech Software that does not contain any of the above-described routines or devices.

11.1.2 If the TriTech Software is unable to function as warranted due to any one or more of the following factors, additional charges may be imposed by TriTech for actions necessary to correct or work around such factors:

11.1.2.1 Modification of the TriTech Software, System Software or Equipment by Client or a third party whether or not permitted hereunder.

11.1.2.2 Misuse or neglect, including without limitation failure to use the TriTech Software as described in the Documentation, or other instructions provided by TriTech.

11.1.2.3 Software not provided by TriTech, not specified as compatible in the Documentation, or Client not following the procedures for loading third party software on a Workstation or Server as set forth in the Software Support Agreement.

11.1.2.4 Equipment which does not meet TriTech’s minimum recommended specifications.

11.1.2.5 Computer viruses that have not been introduced into Client’s System by TriTech. Client shall maintain up-to-date virus checking software and shall check all software received from TriTech or any other person or entity for viruses before introducing that software into any part of the System including, but not limited to, Workstations or Servers. If desired by Client, TriTech will provide Updates on media rather than direct downloading to facilitate this virus checking. If, despite such check, a virus is introduced by TriTech, TriTech will provide a virus-free copy of the TriTech Software, and will, at its expense, reload said software (but not Client’s data) on Client’s Equipment. Client shall be responsible for reloading its data and, to that end, shall practice reasonable back-up procedures for the System to mitigate the consequences of any virus.

11.1.2.6 Equipment or software provided by Client or third parties with which the TriTech Software interfaces or operates (including but not limited to System Software), including but not limited to problems caused by changes in such equipment or software. If such changes occur which require modifications or other actions with respect to the TriTech Software, such modifications or actions shall (unless identified in Addendum A as a line item in this Agreement) be subject to the mutual written agreement of the Parties, including but not limited to, additional charges by TriTech at its then current rates for engineering and technical support.

11.1.2.7 After the Warranty Period, TriTech's obligations with respect to operation of the items purchased and/or licensed hereunder shall be as specified in the Software Support Agreement.

11.1.2.8 If mapping information is supplied with the TriTech Software, TriTech makes no representation or warranty as to the completeness or accuracy of the mapping data provided with the TriTech Software. The completeness or accuracy of such data is solely dependent on the information supplied by the Client or the mapping database vendor to TriTech.

11.2 Client is responsible for maintaining the required certifications for access to Client's CJIS system(s), NCIC and/or other local, state, federal and/or applicable systems.

11.3 Problems in the TriTech Software or transmission of data caused by wireless services are not warranted by TriTech, or covered under the terms of this Agreement. Client's use of services provided by wireless service providers or carriers, and the security, privacy, or accuracy of any data provided via such services is at Client's sole risk.

11.4 TRITECH MAKES AND CLIENT RECEIVES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12.0 MAINTENANCE AND SUPPORT

12.1 Annual software support for the TriTech Software shall be provided in accordance with the Software Support Agreement to be entered into concurrent with this Agreement. The initial term of annual software support for the TriTech Software shall begin upon the earlier of Go Live or thirty (30) days from the date of Delivery of the TriTech Software and end twelve (12) months thereafter.

12.1.1 Third Party Items, including System Software and Equipment are supported in accordance with the applicable vendor's support terms.

13.0 LIABILITY

13.1 TriTech shall indemnify, defend, save, and hold Client harmless from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in

connection with, or incident to any loss, damage or injury to persons or property or arising from a wrongful or negligent act, error or omission of TriTech, its employees, agents, contractors, or any subcontractor as a result of TriTech's or any subcontractor's performance pursuant to this contract; however, TriTech shall not be required to indemnify Client for any claims or actions caused to the extent of the negligence or wrongful act of Client, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a claim, lawsuit or liability results from or is contributed to by the actions or omissions of Client, or its employees, agents or contractors, TriTech's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

13.2 Notwithstanding the foregoing, the total liability of TriTech for any claim or damage arising from or otherwise related to this Agreement, whether in contract, tort, by way of indemnification or under statute shall be limited to direct damages which shall not exceed (i) the Contract Price paid hereunder or (ii) in the case of bodily injury, personal injury or property damage for which defense and indemnity coverage is provided by TriTech's insurance carrier, the coverage limits of such insurance.

13.3 Except for actions for copyright, trade secret, or trademark infringement, no arbitration, action or proceeding arising out of any claimed breach of this Agreement or transaction may be brought by either Party more than four (4) years after the cause of action has accrued.

13.4 Client shall indemnify and hold TriTech harmless from any and all claims, lawsuits or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising from a wrongful or negligent act, error or omission of Client's or, its employees, agents, contractors, or any subcontractor's as a result of the use or misuse of the TriTech Software.

13.5 IN NO EVENT SHALL EITHER PARTY OR ITS SUBCONTRACTORS OR SUPPLIERS BE LIABLE WHETHER IN CONTRACT OR IN TORT FOR LOST PROFITS, LOST SAVINGS, LOST DATA, LOST OR DAMAGED SOFTWARE, OR ANY OTHER CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF, OR OTHERWISE RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER A PARTY HAS NOTICE OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

14.0 INSURANCE

14.1 Beginning at the start of TriTech's performance under this Agreement, and ending when TriTech is no longer providing to Client annual software support, TriTech shall maintain in force a policy of General Liability Insurance with coverage limits of \$1,000,000 per occurrence, \$2,000,000 aggregate.

14.2 Upon the written request of Client, TriTech shall cause Client to be added as an additional insured to the above-described policy.

15.0 COPYRIGHT & PATENT INFRINGEMENT

15.1 TriTech represents and warrants that, to its actual, current knowledge, the TriTech Software does not infringe the copyrights, patents, trade secrets or trademarks (collectively “Intellectual Property Rights”) of any third party. In the event of a claim, action or proceeding (collectively “Claim”), brought against Client for infringement by the TriTech Software of the Intellectual Property Rights of a third party, TriTech will at its expense, defend against such Claim, provided that Client immediately notifies TriTech of such Claim and cooperates fully with TriTech and its legal counsel in the defense thereof. TriTech may in its discretion (i) contest, (ii) settle, (iii) procure for Client the right to continue using the TriTech Software, or (iv) modify or replace the TriTech Software so that it no longer infringes (while maintaining substantially equivalent functionality and performance to that described in the applicable TriTech documentation). Client may participate in the defense of such Claim at its own expense. If TriTech concludes in its sole judgment that none of the foregoing options are commercially reasonable, and Client’s use of the TriTech Software is permanently enjoined as a result of a judgment of a court of competent jurisdiction in respect of such Claim, then TriTech will return to Client the TriTech Software license fee(s) paid by Client under this Agreement less a portion of said fee(s) for Client’s use of the TriTech Software, prorated over a period of three (3) years, and the licenses granted in this Agreement shall terminate. In addition, in the event such Claim results in a final money judgment against Client which does not arise, wholly or in part, from the actions or omissions of Client, its officers, directors, employees, contractors, agents, or elected officials, or a third party, TriTech will, subject to Section 13 herein, indemnify Client therefrom to the extent indemnification for such judgment is not provided under Client’s insurance policies (unless Client is self-insured in which case the preceding clause shall not apply). This Section 15 states the entire obligation of TriTech regarding infringement of intellectual property rights, and it will survive the termination of this Agreement.

15.2 Notwithstanding the above, TriTech shall have no duty under this Section 15 with respect to, and Client shall not bring an action against TriTech for indemnification or other causes of action with respect to any Claim arising from or related to infringements (i) by the equipment or operating system software upon or with which the TriTech Software runs, (ii) arising out of modifications to the TriTech Software not made by or under the direction of TriTech, (iii) resulting from use of the TriTech Software to practice any method or process which does not occur wholly within the TriTech Software, or (iv) resulting from modifications to the TriTech Software prepared pursuant to specifications or other material furnished by or on behalf of Client.

16.0 FORCE MAJEURE

16.1 Neither Party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in Delivery or performance as a result of war, acts of terrorism, fire, strike, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of equipment or software from suppliers, default of a subcontractor or vendor (if such default arises out of causes beyond its reasonable control), the actions or omissions of the other Party or its officers, directors, employees, agents, contractors or elected officials and/or other similar occurrences beyond the Party’s reasonable control (“Excusable Delay” herein). In the event of any such Excusable Delay,

Delivery or performance shall be extended for a period of time as may be reasonably necessary to compensate for such delay. The Party affected by an Excusable Delay hereunder, shall provide written notice to the other Party of such delay as soon as reasonably possible.

17.0 SALES, USE AND PROPERTY TAX

17.1 Unless exempt from such taxes, Client shall be solely responsible for payment or reimbursement to TriTech of all sales, use, value added or similar taxes imposed upon this Agreement by any level of government, whether due at the time of sale or asserted later as a result of audit of the financial records of either Client or TriTech. If exempt, Client shall provide to TriTech written evidence of such exemption. Client shall also pay any personal property taxes levied by government agencies based upon Client's use or possession of the items acquired or licensed in this Agreement.

18.0 DEFAULT AND TERMINATION

18.1 Either Party may terminate this Agreement if the other Party is in material breach of any term or provision of this Agreement by providing thirty (30) days written notice to the Party alleged to be in breach; provided that such breach has not been cured within such thirty (30) days. The thirty (30) day cure period may be extended for a breach not susceptible to cure within such thirty (30) day period only at the mutual written agreement of the Parties, and provided that the Party in breach has commenced action to cure said breach.

18.2 Upon termination, Client shall permanently remove and destroy all copies of the TriTech Software from its computer system, media, or other locations, destroy all copies of the TriTech Documentation and associated materials and certify to TriTech in writing that Client has performed said actions and has not retained or permitted others to retain any such copies whether on a computer system or Server, hard copy or CD-ROM, magnetic or other media, backup or archival copies, or otherwise.

19.0 DISPUTE RESOLUTION

19.1 The Parties desire to resolve certain disputes, controversies and claims arising out of this Agreement without litigation. Accordingly, the Parties agree to use the following alternative procedure as their sole remedy with respect to any dispute, controversy or claim arising from or relating to this Agreement or its breach. "Arbitrable Dispute" shall mean any dispute resolved in accordance with the provisions of this Section 19.

19.2 At the written request of a Party, each Party shall appoint a business representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. Upon their mutual agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence between the representatives shall be treated as confidential information.

19.3 If the negotiations described above do not resolve the Arbitrable Dispute within sixty (60) days of the initial written request, the Arbitrable Dispute shall be submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association (the “Association”). If the Arbitrable Dispute is not completely resolved in such mediation, any remaining issues shall be submitted to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the Association. A Party may demand such arbitration in accordance with the procedures set out in those rules. The arbitration hearing shall (unless otherwise agreed by the Parties) be held in the county of the principal place of business of the Party against whom the demand for arbitration is filed. The arbitrator shall control the scheduling so as to process the matter expeditiously. The arbitrator shall rule on the Arbitrable Dispute by issuing a reasoned decision. In no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. Notwithstanding anything to the contrary herein, the arbitrator shall have the power, concurrent with a court of competent jurisdiction, to award provisional relief such as a temporary restraining order or a preliminary injunction. The times specified in this Section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause.

19.4 The mediator and/or arbitrator shall be selected from the national panel of arbitrators of the American Arbitration Association with expertise in computer law and technology. Any court having jurisdiction over the matter may enter a judgment upon the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by United States Mail, postage prepaid, or by any regularly conducted commercial express mail service, to the attorney for the Party or, if not so represented, to the Party at the address set forth herein, or to the Party’s last-known business address.

19.5 The arbitrator shall have the power at the arbitrator’s discretion to appoint a Special Master or consultant for the purpose of analyzing technical issues and preparing a report to the arbitrator of such analysis, and performing such other tasks as the arbitrator(s) may deem necessary for a fair and proper determination of the issues submitted to arbitration. The costs of the services of such Special Master or consultant shall be shared equally by the Parties.

19.6 Each Party shall bear its own costs of these procedures. A Party seeking discovery permitted by the arbitrator shall reimburse the responding Party the reasonable out-of-pocket cost of production of documents (to include search time and reproduction time costs). The Parties shall initially equally share the administrative fees of the arbitration and the arbitrator’s fees. The prevailing Party shall be entitled to reimbursement of its share of said fees actually paid, as well as to an award of reasonable attorney fees.

20.0 CONSTRUCTION AND HEADINGS

20.1 The division of this Agreement into sections and the use of headings of sections and subsections are for convenient reference only and shall not be deemed to limit, construe, affect, modify, or alter the meaning of such sections or subsections.

21.0 SEVERABILITY

21.1 If any term, clause, sentence, paragraph, article, subsection, section, provision, condition or covenant of this Agreement is held to be invalid or unenforceable, for any reason, it shall not affect, impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the term, clause, sentence, paragraph, article, subsection, section, provision, condition or covenant of this Agreement so adjudged to be invalid or unenforceable.

22.0 WAIVER

22.1 The failure or delay of either Party to enforce at any time or any period of time any of the provisions of this Agreement shall not constitute a present or future waiver of such provisions nor the right of either Party to enforce each and every provision.

22.2 No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by either Party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other, different or subsequent breach.

23.0 ENTIRE AGREEMENT

23.1 This Agreement and its Appendices or Amendment(s) represent the entire agreement between the Parties hereto and a final expression of their agreements with respect to the subject matter of this Agreement and supersedes all prior written agreements, oral agreements, representations, understandings or negotiations with respect to the matters covered by this Agreement.

24.0 APPLICABLE LAW

24.1 Except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of California. The sole and exclusive jurisdiction for any claim related to this Agreement shall be brought in the appropriate State or Federal Court located within the State of California.

25.0 ASSIGNMENT

25.1 Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by Client without the prior written consent of TriTech, which consent will not be unreasonably withheld. For purposes of this Agreement, it is agreed, but not by way of limitation, that TriTech's withholding of consent is not unreasonable if the proposed assignee is a person, company or other entity which competes with TriTech directly or indirectly, whether itself or through a parent, subsidiary, or entity which is owned or controlled by a competitor of TriTech. Further, TriTech may require the proposed assignee to execute and agree to be bound by this Agreement. TriTech may assign this Agreement to an entity ready, willing and able to perform TriTech's executory obligations hereunder, upon the express written assumption of the obligations hereunder by the assignee.

26.0 NOTICES

26.1 All notices required to be given under this Agreement shall be made in writing by (i) first-class mail, postage prepaid, certified, return receipt, (ii) by regularly scheduled overnight delivery, (iii) by facsimile or e-mail followed immediately by first-class mail, or (iv) by personal delivery, to the address set forth herein, or such other address as provided in writing. Such notices shall be deemed given three (3) days after mailing a notice or one (1) day after overnight delivery thereof.

27.0 ORDER OF PRECEDENCE

27.1 The following documents shall comprise the Agreement between the Parties concerning the subject matter of this Agreement, and in the event of any dispute arising from or related to this Agreement, shall have the following order of precedence:

A. This Agreement and all Addenda and other documents attached to or incorporated by reference herein. In the event of a conflict between this Agreement and an Addendum, this body of this Agreement shall take precedence;

B. The TriTech Specifications.

28.0 GENERAL TERMS

28.1 This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties hereto, but nothing in this paragraph shall be construed as consent to any assignment of this Agreement by either Party except as provided in the ASSIGNMENT section of this Agreement.

28.2 This Agreement shall not become a binding contract until signed by an authorized officer of each Party, and it is effective as of the date so signed.

28.3 This Agreement may be executed in any number of identical counterparts, and each such counterpart shall be deemed a duplicate original thereof.

28.4 The provisions contained herein shall not be construed in favor of or against either Party because that Party or its counsel drafted this Agreement, but shall be construed as if all parties prepared this Agreement.

28.5 Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the use of any gender, be it masculine, feminine or neuter, shall include all of the genders.

28.6 A facsimile of this Agreement, its exhibits and amendments, and notices and documents prepared under this Agreement, generated by a facsimile machine (as well as a photocopy thereof) shall be treated as an original.

EACH PARTY'S ACCEPTANCE HEREOF IS EXPRESSLY LIMITED TO THE TERMS OF THIS AGREEMENT AND NO DIFFERENT OR ADDITIONAL TERMS CONTAINED IN ANY PURCHASE ORDER, CONFIRMATION OR OTHER WRITING SHALL HAVE ANY FORCE OR EFFECT UNLESS EXPRESSLY AGREED TO IN WRITING BY THE PARTIES.

ALLENSTOWN POLICE DEPT.

TRITECH SOFTWARE SYSTEMS

Accepted By (Signature)

Accepted By (Signature)

Printed Name

Printed Name

Title

Title

Date

Date

ADDENDUM A

PROPRIETARY INFORMATION¹

PRICING AND PAYMENT TERMS

Perform CAD System

Perform CAD Software License Fee(s)	Unit Price	Qty	Total Price
CAD Call Taking/Dispatching Client	\$2,000.00	1	\$2,000.00
CAD Query and Reporting	\$500.00	2	\$1,000.00
CAD Server Police 1-5 Users	\$2,500.00	1	\$2,500.00
<i>Perform CAD Software License Fee(s) Subtotal:</i>			\$5,500.00

Perform Law Records Software License Fee(s)	Unit Price	Qty	Total Price
Law Imaging and Photo Lineup 1-10 Users	\$1,250.00	1	\$1,250.00
Law Records Client	\$1,000.00	3	\$3,000.00
Law Records Forms Package 1-10 Users	\$1,250.00	1	\$1,250.00
Law Records Server 1-10 Users	\$2,500.00	1	\$2,500.00
<i>Perform Law Records Software License Fee(s) Subtotal:</i>			\$8,000.00

TriTech Software License Fees Total: \$13,500.00

Perform CAD Services/Training

Perform CAD Service Fee(s)	Unit Price	Qty	Total Price
CAD-Police Database Train-the-Trainer Up to 12	\$1,200.00	1	\$1,200.00
CAD-Police Dispatch Train-the-Trainer Up to 12	\$1,200.00	2	\$2,400.00
Police Records Train-the-Trainer Up to 12	\$1,200.00	4	\$4,800.00
½ Day Training in Marlborough	\$600.00	1	\$600.00
Installation-Remote	\$300.00	1	\$300.00
Project Management	\$2,000.00	1	\$2,000.00

Perform CAD Services Total: \$11,300.00

¹ THESE ADDENDA CONTAIN TRADE SECRET AND OTHER PROPRIETARY INFORMATION OF TRITECH SOFTWARE SYSTEMS. THE INFORMATION CONTAINED HEREIN SHALL NOT BE COPIED OR DISCLOSED TO THIRD PARTIES OR USED FOR ANY PURPOSE NOT DIRECTLY RELATED TO PERFORMANCE OF THIS AGREEMENT WITHOUT THE WRITTEN CONSENT OF AN OFFICER OF TRITECH SOFTWARE SYSTEMS.

ADDENDUM A

PROPRIETARY INFORMATION¹

PRICING AND PAYMENT TERMS, CONTINUED

Third Party Products and/or Services

Product Name	Unit Price	Qty	Total Price
Pervasive 6 Concurrent User Database	\$1,495.00	1	\$1,495.00

Third Party Products and/or Services Total: \$1,495.00

Annual Maintenance Fee(s) (Year 1)

Product Name	Support Level	Total Price
CAD Call Taking/Dispatching Client	Perform	\$360.00
CAD Query and Reporting	Perform	\$180.00
CAD Server Police 1-5 Users	Perform	\$450.00
Law Imaging and Photo Lineup 1-10 Users	Perform	\$225.00
Law Records Client	Perform	\$540.00
Law Records Forms Package 1-10 Users	Perform	\$225.00
Law Records Server 1-10 Users	Perform	\$450.00
Pervasive 6 Concurrent User Database – Support		\$373.75
<i>Inform RMS Software License Fee(s) Subtotal:</i>		<i>\$2,803.75</i>

Project Total: \$29,098.75

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