THIS MASTER SERVICES AGREEMENT ("Agreement"), effective as of March 22, 2018 ("Effective Date"), is entered into by and between the North Central Texas Council of Governments ("NCTCOG"), a Texas political subdivision and non-profit corporation, with offices located at 616 Six Flags Drive, Arlington, TX 76011, and Incident Response Technologies, Inc. ("Contractor"), with offices located at 5445 DTC Parkway P4, Greenwood Village, CO 80111.

ARTICLE I
RETENTION OF THE CONTRACTOR

1.1 This Agreement defines the terms and conditions upon which the Contractor agrees to provide Incident Management and Resource Tracking Software (hereinafter, "Services") to governmental entities participating in the North Texas SHARE program (hereinafter "Participating Entities") through a Master Interlocal Agreement with NCTCOG. The Contractor is being retained to provide services described below to Participating Entities based on the Contractor's demonstrated competence and requisite qualifications to perform the scope of the services described herein and in the Request for Proposals (hereinafter, "RFP"). The Contractor demonstrated they have the resources and qualifications needed to provide Incident Management and Resource Tracking Software, which is of interest to Participating Entities and was procured via RFP. NCTCOG agrees to and hereby does retain the Contractor, as an independent contractor, and the Contractor agrees to provide services to Participating Entities, in accordance with the terms and conditions provided in this Agreement and consistent with Contractor's response to NCTCOG RFP # NCT-2017-36, which are incorporated by reference herein.
ARTICLE II
SCOPES OF SERVICES

2.1 The Contractor will provide Services described in any written Request for Services issued by NCTCOG or any Participating Entity and accepted by Contractor. Any such Request for Services is hereby incorporated by reference and made a part of this Agreement, and shall be subject to the terms and conditions in this Agreement. In the event of a conflict between any term or provision in this Agreement and any term or provision in a Request for Services, the term or provision in this Agreement shall control unless the conflicting term or provision in this Agreement is referenced, and expressly stated not to apply, in such Request for Services.

2.2 Any agreed-upon changes to a Request for Services shall be set forth in a Services Order. Contractor will not implement any changes or any new Services until a Services Order has been duly executed by Participating Entity and by Contractor. For the avoidance of doubt, the Contractor acknowledges that neither Contractor nor Participating Entity is under any obligation to execute a Services Order. Participating Entity shall not be liable for any amounts not included in a Request for Services in the absence of a fully executed Services Order.

2.3 The Contractor shall provide the Services using its proprietary software Rhodium Incident Management Suite (the “Product”), according to Attachment A - Pricing Sheet to the Participating Entities.

2.4 Participating Entity will be responsible for scheduling all dates, times, and locations with the Contractor as it relates to training services associated with the products. Participating Entity will provide publicity for each training session and attendance for each session will be limited to no more than what is listed on the Attachment A - Pricing Sheet.

2.5 Pricing for items found on the Pricing Sheet (Attachment A) represent the maximum cost for each item offered by the Contractor. Pricing may be further negotiated by the Participating Entity and the Contractor, but is not to exceed the cap established in the Pricing Sheet (Attachment A).

2.6 NCTCOG Obligations
2.6.1 NCTCOG agrees to serve as a facilitator with respect to the Services.
2.6.2 NCTCOG shall make available a contract page on its NorthTexasSHARE.org website which will include contact information for the Contractor(s).

2.7 Participating Entity Obligations.
2.7.1 In order to utilize the Services, Participating Entities must have executed a Master Interlocal Agreement for North Texas SHARE with NCTCOG. This agreement with the Participating Entity will define the legal relationship between NCTCOG and the Participating Entity.
2.7.2 In order to utilize the Services, Participating Entities must agree to the terms of use specific to the Product as provided by Contractor.

2.8 Contractor Obligations.
2.8.1 Contractor must be able to conduct, instruct, and/or implement Services consistent with the requirements of RFQ #NCT-2017-36.
2.8.2 Contractor shall provide all necessary resources and personnel required to deliver the Services. The scope of Services shall include, but not be limited to, items listed in Attachment A, Pricing Sheet.
2.8.3 Contractor will be required to track and report to the NCTCOG on purchases and activities relating to the Agreement. The Contractor will be required to provide management reports to NCTCOG on a quarterly basis. Examples of management reports include, but are not limited to: New Engagement Reports (new engagements in reporting period), Billing/Invoice Reports (regular overview of billings for the reporting
period), and quarterly and annual status reports, and such other reports as NCTCOG may reasonably request from time to time.

2.8.4 Contractor agrees to enter into a two (2) year initial contract for services irrespective of published edition of product. At the end of the two year period, NCTCOG reserves the right to renew contract and review/modify additional cost for published editions of product.

2.9 **Invoices.** Contractor shall submit an invoice to each Participating Entity, as provided in the applicable Request for Service, for Services provided. Participating Entities shall pay undisputed amounts in such invoice within thirty (30) days of receipt, pending that all items listed on the invoice have been delivered and/or completed. Invoices for service used by Participating Entities should be submitted to their respective jurisdictions and designees as set forth in each Request for Service.
ARTICLE III
TERM

3.1 Term. This Agreement will commence on the Effective Date and remain in effect for an initial two (2) year period ending on March 23, 2020 (the “Term”), unless earlier terminated as provided herein. This Agreement may be renewed, at NCTCOG’s sole discretion, for up to three (3) additional one (1) year terms. The total term of this Agreement shall not exceed five (5) years.

NCTCOG reserves the right to periodically procure Incident Management and Resource Tracking Software in the future to supplement the pool of Contractor(s), on an as needed basis. Contractor(s) with an existing Master Services Agreement(s) will not be required to respond to any such procurements which may occur during the term of this Agreement.

3.2 Termination. NCTCOG may terminate this Agreement and/or any Request for Service entered into directly by it or to which it is a signatory at any time, with or without cause, upon thirty (30) days’ prior written notice to Contractor. Upon its receipt of notice of termination of this Agreement or Request for Service, Contractor shall follow any instructions of NCTCOG respecting work stoppage. Contractor shall cooperate with NCTCOG and/or Participating Entities to provide for an orderly conclusion of the Services. Contractor shall use its best efforts to minimize the amount of any non-cancelable obligations and shall assign any contracts related thereto to NCTCOG or Participating Entity at its request, to the extent such contracts are necessary to be assigned to meet such obligations. If NCTCOG or Participating Entity elects to continue any activities underlying a terminated Request for Service after termination, Contractor shall cooperate with NCTCOG or Participating Entity to provide for an orderly transfer of Contractor’s responsibilities with respect to such Request(s) for Service to NCTCOG or Participating Entity. Upon the effective date of any such termination, the Contractor shall submit a final invoice for payment in accordance with Article IV, and NCTCOG or Participating Entity shall pay such amounts as are due to Contractor through the effective date of termination. NCTCOG or Participating Entity shall only be liable for payment of services rendered before the effective date of termination. If Agreement is terminated, certain reporting requirements identified in this Agreement may survive termination of this Agreement upon reasonable request of NCTCOG.

Upon any material breach of this Agreement by either party, the non-breaching party may terminate this Agreement upon twenty (20) days written notice to the breaching party. The notice shall become effective at the end of the twenty (20) day period unless the breaching party cures such breach within such period.
ARTICLE IV
COMPENSATION

4.1 Remuneration. NCTCOG intends to make this Agreement available to other governmental entities through its shared services program. NCTCOG will utilize a 2% administrative fee, to be based upon the total contracted value that will apply to this Agreement, and any addendums, Request(s) for Service, etc., between the Contractor and NCTCOG or the Contractor and Participating Entity. The administrative fee will be remitted by the Contractor to NCTCOG on a quarterly basis based on Contractor’s actual receipts for each quarter, along with required quarterly reporting. Payments and reporting should be submitted to:

NCTCOG
ATTN: North Texas SHARE
PO Box 5888
Arlington, TX 76005-5888
Email: NorthTexasSHARE@nctcog.org

Costs incurred prior to execution of this Agreement are not eligible for reimbursement. There shall be no obligation whatsoever to pay for performance of this Agreement from the monies of the NCTCOG or Participating Entities, other than from the monies designated for this Agreement and/or executed Request(s) for Services. Contractor expressly agrees that NCTCOG shall not be liable, financial or otherwise, for Services provided to Participating Entities.

ARTICLE V
RELATIONSHIP BETWEEN THE PARTIES

5.1 Contractual Relationship. It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature and is not to be construed to create a partnership or joint venture or agency relationship between the parties. Neither party shall have the right to act on behalf of the other except as expressly set forth in this Agreement. Contractor will be solely responsible for and will pay all taxes related to the receipt of payments hereunder and shall give reasonable proof and supporting documents, if reasonably requested, to verify the payment of such taxes. No Contractor personnel shall obtain the status of or otherwise be considered an employee of NCTCOG or Participating Entity by virtue of their activities under this Agreement.
ARTICLE VI
REPRESENTATION AND WARRANTIES

6.1 Representations and Warranties. Contractor represents and warrants that:

6.1.1 As of the Effective Date of this Agreement, it is not a party to any oral or written contract or understanding with any third party that is inconsistent with this Agreement and/or would affect the Contractor’s performance under this Agreement; or that will in any way limit or conflict with its ability to fulfill the terms of this Agreement. The Contractor further represents that it will not enter into any such agreement during the Term of this Agreement;

6.1.2 NCTCOG is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from, or ineligible for, participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor and its subcontractors shall include a statement of compliance with Federal and State Debarment and Suspension regulations in all Third-party contracts.

6.1.3 Contractor shall notify NCTCOG if Contractor or any of the Contractor’s sub-contractors becomes debarred or suspended during the performance of this Agreement. Debarment or suspension of the Contractor or any of Contractor’s sub-contractors may result in immediate termination of this Agreement.

6.1.4 Contractor and its employees and sub-contractors have all of the necessary qualifications, licenses, permits, and/or registrations to perform the Services in accordance with the terms and conditions of this Agreement, and at all times during the Term, all such qualifications, licenses, permits, and/or registrations shall be current and in good standing.

6.1.5 Contractor shall, and shall cause its representatives to, comply with all municipal, state, and federal laws, rules, and regulations applicable to the performance of the Contractor’s obligations under this Agreement.
ARTICLE VII
CONFIDENTIAL INFORMATION AND OWNERSHIP

7.1 Confidential Information. Contractor acknowledges that any information it or its employees, agents, or subcontractors obtain regarding the operation of NCTCOG or Participating Entities, its products, services, policies, customer, personnel, and other aspect of its operation (“Confidential Information”) is proprietary and confidential, and shall not be revealed, sold, exchanged, traded, or disclosed to any person, company, or other entity during the period of the Contractor's retention hereunder or at any time thereafter without the express written permission of NCTCOG or Participating Entity.

7.2 Ownership. Contractor acknowledges that NCTCOG or Participating Entities, as governmental entities, are subject to the Texas Public Information Act. All final documents, reports, information, or materials prepared and delivered pursuant to any Request for Services or Services Order, are and shall at all times be and remain, upon payment of Contractor’s invoices therefore, the property of NCTCOG or Participating Entity and shall not be subject to any restriction or limitation on their future use by, or on behalf of, NCTCOG or Participating Entity, except otherwise provided herein. Subject to the foregoing exception, if at any time demand be made by NCTCOG or Participating Entity for any documentation related to Contractor's providing Services under this Agreement, whether after termination of this Agreement or otherwise, the same shall be turned over to NCTCOG without delay, and in no event later than thirty (30) days after such demand is made. Contractor shall have the right to retain copies of documentation and other items for its archives. If for any reason the foregoing Agreement regarding the ownership of documentation is determined to be unenforceable, either in whole or in part, the Contractor hereby assigns and agrees to assign to NCTCOG all rights, title, and interest that the Contractor may have or at any time acquire in said documentation and other materials, provided that the Contractor has been paid the aforesaid.

7.3 Contractor Rights. Contractor retains all rights, title, and interest in all of the Product and all related works, including but not limited to material and curriculum, copyrights, patents, trade secrets, trademarks, and service marks that were or are created by the Contractor or not associated with the performance of this Contract. NCTCOG and its Participating Entities may not, without written permission from the Contractor reproduce, modify, sell, create derivative works from, or otherwise distribute any written or electronic materials that include Contractor’s proprietary or Product information, for any purpose outside the scope of this Agreement.
ARTICLE VIII
GENERAL PROVISIONS

8.1 Notices. All notices from one Party to another Party regarding this Agreement shall be in writing and delivered to the addresses shown below:

If to NCTCOG:
North Central Texas Council of Governments
P.O. Box 5888
Arlington, TX 76005-5888
Phone: (817) 695-2534
Email: northtexasshare@nctcog.org; kkirkpatrick@nctcog.org
Attn: North Texas SHARE

If to Contractor:
Incident Response Technologies, Inc
5445 DTC Parkway, P4, Greenwood Village, CO 80121
jarret@irtsoftware.com

The above contact information may be modified without requiring an amendment to the Agreement.

8.2 Tax. NCTCOG and several participating entities are exempt from Texas limited sales, federal excise and use tax, and does not pay tax on purchase, rental, or lease of tangible personal property for the organization’s use. NCTCOG will issue a tax exemption certificate upon request.

8.3 Indemnification. Contractor shall defend, indemnify, and hold harmless NCTCOG and Participating Entities, NCTCOG’s affiliates, and any of their respective directors, officers, employees, agents, subcontractors, successors, and assigns from any and all suits, actions, claims, demands, judgments, liabilities, losses, damages, costs, and expenses (including reasonable attorneys’ fees and court costs) (collectively, “Losses”) arising out of or relating to: (i) Services performed and carried out by Contractor and/or its employees or subcontractors pursuant to this Agreement; (ii) breach of any obligation, warranty, or representation in this Agreement, (iii) the negligence or willful misconduct of Contractor and/or its employees or subcontractors; or (iv) any infringement, misappropriation, or violation by Contractor and/or its employees or subcontractors of any right of a third party; provided, however, that Contractor shall have no obligation to defend, indemnify, or hold harmless to the extent any Losses are the result of NCTCOG’s or Participating Entities’ negligence or willful misconduct.

8.4 Limitation of Liability. In no event shall either party be liable for special, consequential, incidental, indirect or punitive loss, damages or expenses arising out of or relating to this Agreement, whether arising from a breach of contract or warranty, or arising in tort, strict liability, by statute or otherwise, even if it has been advised of their possible existence or if such loss, damages or expenses were reasonably foreseeable. Notwithstanding any provision hereof to the contrary, neither party’s liability shall be limited by this Article with respect to claims arising from breach of any confidentiality obligation, arising from such party’s infringement of the other party’s intellectual property rights, covered by any express indemnity obligation of such party hereunder, arising from or with respect to injuries to persons or damages to tangible property, or arising out of the negligence or willful misconduct of the party or its employees.

8.5 Conflict of Interest. During the term of this Agreement, and all extensions hereto and for a period of one (1) year thereafter, neither party, shall, without the prior written consent of the other, directly or
indirectly, whether for its own account or with any other persons or entity whatsoever, employ, solicit to
employ or endeavor to entice away any person who is employed by the other party.

8.6 Force Majeure. It is expressly understood and agreed by both parties to this Agreement that, if the
performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil
commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane,
flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the
control of the party obligated or permitted under the terms of this Agreement to do or perform the same,
regardless of whether any such circumstance is similar to any of those enumerated herein, the party so
obligated or permitted shall be excused from doing or performing the same during such period of delay, so
that the period of time applicable to such requirement shall be extended for a period of time equal to the
period of time such party was delayed. Each party must inform the other in writing within a reasonable time
of the existence of such force majeure.

8.7 Ability to Perform. Contractor agrees promptly to inform NCTCOG of any event or change in
circumstances which may reasonably be expected to negatively affect the Contractor’s ability to perform its
obligations under this Agreement in the manner contemplated by the parties.

8.8 Availability of Funding. This Agreement and all claims, suits, or obligations arising under or related to
this Agreement are subject to and limited by the receipt and availability of funds which are received from
the funding agencies by NCTCOG dedicated for the purposes of this Agreement.

8.9 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the
State of Texas, United States of America. The mandatory and exclusive venue for the adjudication or
resolution of any dispute arising out of this Agreement shall be in Tarrant County, Texas.

8.10 Waiver. Failure by either party to insist on strict adherence to any one or more of the terms or
conditions of this Agreement, or on one or more occasions, will not be construed as a waiver, nor deprive
that party of the right to require strict compliance with the same thereafter.

8.11 Entire Agreement. This Agreement and any attachments/addendums, as provided herein, constitutes
the entire agreement of the parties and supersedes all other agreements, discussions, representations or
understandings between the parties with respect to the subject matter hereof. No amendments hereto, or
waivers or releases of obligations hereunder, shall be effective unless agreed to in writing by the parties
hereto.

8.12 Assignment. This Agreement may not be assigned by either Party without the prior written consent of
the other Party.

8.13 Severability. In the event any one or more of the provisions contained in this Agreement shall for any
reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to
cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intents of
the Parties.

8.14 Amendments. This Agreement may be amended only by a written amendment executed by both
Parties, except that any alterations, additions, or deletions to the terms of this Agreement, which are required
by changes in Federal and State law or regulations or required by the funding source, are automatically
incorporated into this Agreement without written amendment hereto and shall become effective on the date
designated by such law or regulation, and prompt notice of such changes shall be provide by NCTCOG to Contractor.

8.15 **Dispute Resolution.** The parties to this Agreement agree to the extent possible and not in contravention of any applicable State or Federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration or any other local dispute mediation process, including but not limited to dispute resolution policies of NCTCOG, before resorting to litigation.

8.18 **Publicity.** Contractor shall not issue any press release or make any statement to the media with respect to this Agreement or the services provided hereunder without the prior written consent of NCTCOG.

8.19 **Survival.** Rights and obligations under this Agreement which by their nature should survive will remain in effect after termination or expiration hereof.

**IT WITNESS WHEREOF,** the parties have executed this Agreement as of the Effective Date.

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**North Central Texas Council of Governments**

Signature: [Signature]

Name: Mike Eastland

Title: Executive Director

Date: 3/23/18

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**Incident Response Technologies, Inc.**

Signature: [Signature]

Name: Jarret Winkelman

Title: President & CEO

Date: 3/23/2018
Attachment A:  
Price Sheet  
Incident Response Technologies

Rhodium Incident Management Suite Base Subscription:

Standard Users

5-24 Standard Users - Annual Per User Fee: $408.00

25-99 Standard Users – Annual Per User Fee: $372.00

100-499 Standard Users – Annual Per User Fee: $336.00

View Only Users

10-200 View Only Users – Annual Fee Per 10-Pack: $600.00

210-500 View Only Users – Annual Fee Per 10-Pack: $540.00

GPS Tracking:

Tracking Credits

5-24 GPS Tracking Credits – Annual Fee Per Tracked Asset: $120.00

25-99 GPS Tracking Credits – Annual Fee Per Tracked Asset: $114.00

100-499 GPS Tracking Credits – Annual Fee Per Tracked Asset: $108.00

Tracking Sources

Sting Mobile Phone GPS Application – Annual Fee Per User: $96.00

Motorola GPS Radio Configuration – One Time Fee: $7,500.00*

*Additional fees may be required by Motorola, inquire for details.

Open Source Intelligence:
*OSI user counts must match Rhodium base user counts. For example, a Rhodium account with 100 Standard Users and 50 View Only users would need 100 OSI Standard Users and 50 OSI View Only Users.

**Standard Users**

1-5 Standard Users – Annual Fee Per User: $900.00

6-10 Standard Users – Annual Fee Per User: $600.00

11-25 Standard Users – Annual Fee Per User: $408.00

26-99 Standard Users – Annual Fee Per User: $252.00

100+ Standard Users – Annual Fee Per User: $150.00

**View Only Users**

View Only Users – Annual Fee Per User: $36.00

**CAD Integration:**

Rhodium CAD Configuration (one-time fee): $7,500.00

*Includes one-way feed of incident and unit data to Rhodium from computer aided dispatch systems. Inquire for technical specifications and requirements. Additional fee may be required by CAD vendor, inquire for details.

Rhodium CAD Subscription: $1,500.00

*Annual fee includes maintenance and routine updates to CAD integration. Required for CAD interface clients.
Account Connections:

Connections: $150.00

*One fee per Rhodium agency. Each account participating in a connection must have connections enabled in their account.

SMS Messaging:

SMS Credits: $50.00

*Fee per 1,000 SMS Credits. One SMS credit is used for each device that an SMS message is sent to.

Training Services:

Onsite Training (one-time fee): $4,000.00

*Two-day session of onsite training at client's facility. Cost includes administrator and end-user training for up to 25 participants. Soft copy materials included. Course configuration determined based on client input. Cost includes travel to greater Dallas Fort Worth area. Inquire for travel fees outside of greater Dallas Fort Worth Area.

Multi-Year Subscription Discounts:

Three Year Subscription Discount: 5%

Discount on subscription fees when total cost is paid in year 1. Discount does not apply to One-Time Fees.

Five Year Subscription Discount: 10%

Discount on subscription fees when total cost is paid in year 1. Discount does not apply to One-Time Fees.

Note: Request for Services for interface configurations and training services are developed based on client’s specific use case and requirements. Samples can be provided upon request.