

Attachment 1

APPLICATION SOFTWARE LICENSE AGREEMENT FOR VERSATERM LICENSED-PRODUCTS

This License Agreement is made in consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration,

B E T W E E N:

Versaterm Public Safety Inc., a corporation duly incorporated under the laws of the Province of British Columbia having its office located at 2300 Carling Avenue, Ottawa, Ontario, Canada

(hereinafter referred to as “Versaterm”)

A N D:

County of San Mateo, a political subdivision of the State of California having its office located at 400 County Center, Suite PSC100, Redwood City, California, USA

(hereinafter referred to as the “Customer”)

1. Description of Licensed Program Materials

Versaterm owns the collection of computer programs and materials, particularly described in Annex A attached hereto and hereinafter collectively referred to as the “Licensed Program”.

The Licensed Program and the manuals, listings and other documentation and media supplied by Versaterm relating thereto are hereinafter collectively referred to as the “Licensed Program Materials”.

2. LICENSE

Subject to the terms and conditions of this License Agreement and payment of the applicable license fee, Versaterm hereby grants to Customer, and Customer hereby accepts, a non-exclusive license (the “License”) to:

- a. use the Licensed Program Materials in source machine readable form on the server environment designated in Annex B attached hereto and in conjunction therewith to store the Licensed Program Materials in, transmit them through, or display them on units associated with such server environment;
- b. utilize the Licensed Program Materials in print and/or electronic form in support of the use of the Licensed Program; and
- c. copy or translate the Licensed Program Materials in machine readable form into any machine readable or printed form to provide sufficient copies to support Customer's use of the Licensed Program as authorized under this License Agreement.

The License is non-exclusive and extends only to use in conjunction with San Mateo County Public Safety operations. The Licensed Program Materials may only be used on the configuration of machines and at the location designated in Annex B unless Customer obtains Versaterm’s written consent, except as otherwise provided herein. Customer cannot exceed the maximum number of workstations, simultaneous users and/or supported users, as the case may be, designated in Annex A without Versaterm’s written consent, which consent may be subject to payment of additional license fees.

Customer shall not use, print, copy, translate or display the Licensed Program Materials in whole or part unless expressly authorized in this License Agreement.

Apart from the rights enumerated in this License Agreement, the License does not include a grant to Customer of any right to use, nor any ownership right, title or other interest, in or relating to the Licensed Program Materials, nor in any copy of any part of the Licensed Program Materials.

3. TERM AND TERMINATION OF LICENSE

The License shall be perpetual unless terminated as provided herein. Versaterm may terminate the License or this License Agreement upon written notice if Customer fails to comply with any of the terms and conditions of this License Agreement. Upon termination for any reason, Customer shall immediately cease all use of the Licensed Program Materials except as otherwise specifically provided herein.

In the event of termination by either party, the terminating party in its sole discretion may terminate one or more License rights divisibly without terminating other License rights.

4. THIRD PARTY SOFTWARE / FREE SOFTWARE COMPONENTS

Customer acknowledges that the License does not include any right to use nor any interest in third party software (“Third Party Software”) that may include, but is not limited to, operating systems, end-user reporting tools, programming language, radio middleware, database management systems and related software.

Customer also acknowledges that the License does not include any right to use nor any interest in “Free Software Components”, that may include, but is not limited to, software programs, libraries, or distributables (commonly known as “public”, “open source” or “free” software), made publicly available by the copyright holders (collectively, “Free Software Components”).

Notwithstanding anything else in this Agreement, the Third Party Software and the Free Software Components are subject only to those licenses applicable to the particular Third Party Software and/or Free Software Component and any warranties and limitations of liability for such Third Party Software and Free Software Components are contained therein. Customer acknowledges and agrees that Customer is solely responsible and liable to review such licenses. Such licenses may appear within the license, copying, help and/or readme files of the Third Party Software and/or Free Software Components.

5. TEMPORARY LICENSE TRANSFER

Customer is authorized to use the Licensed Program Materials on:

- a. a back-up configuration of machines when the designated configuration of machines is temporarily inoperable until operable status is restored and processing on the back-up configuration of machines is completed; or
- b. another machine for compilation of the Licensed Program Materials if the designated configuration of machines does not provide the configuration required for compilation.

6. PERMISSION TO MODIFY

Customer may modify the Licensed Program Materials provided in source machine readable form, or extend it into other program material to form an up-dated work for Customer's own use; provided that, within one hundred twenty (120) days of the date of termination of the License, the Licensed Program Materials shall be completely removed from the up-dated work and dealt with under this License Agreement as if permission to modify or extend had never been granted. Any portion of the Licensed Program Materials included in such an up-dated work will continue to be subject to all terms and conditions of this License Agreement; and provided further that any such modifications may affect the rights and obligations of Customer and Versaterm under the Application Software Support Agreement (Exhibit G), as provided therein.

7. PROTECTION AND SECURITY OF THE LICENSED PROGRAM MATERIALS

Customer will take appropriate action, by instruction, License Agreement or otherwise, with any persons permitted access to the Licensed Program Materials so as to ensure that Customer satisfies its obligations under this License Agreement.

All copies of the Licensed Program Materials (excluding the Third Party Software and the Free Software Components) provided by Versaterm or made by Customer including translations or compilations or partial copies within modifications, derivative works and up-dated works are the property and information of Versaterm and may not be distributed or disclosed by Customer to any person, including other licensees of the Licensed Program, without Versaterm's prior written consent. Customer will reproduce and include the copyright notice on any such copies made by Customer in accordance with Versaterm's copyright instructions.

Customer will maintain records of the number and location of all copies of the Licensed Program Materials and notify Versaterm in writing if the original or any copy of the Licensed Program Materials will be kept at a location other than that of the configuration of machines designated in this License Agreement.

Customer will ensure, prior to disposing of any media, that any Licensed Program Materials contained thereon have been erased or otherwise destroyed.

Customer will not provide or otherwise make available any Licensed Program Materials in any form without Versaterm's prior written consent except to Customer employees, Versaterm employees, or to other persons during the period such other persons are on Customer's premises, for purposes specifically related to Customer's authorized use of the Licensed Program Materials. It is further agreed that Customer, its employees and agents, will not disclose the information to third parties without Versaterm's prior written consent with the sole exception that Customer is permitted to demonstrate the Licensed Program to other Public Safety personnel who are potential licensees of the Licensed Program.

8. INFRINGEMENT REMEDIES

- 8.1. Subject to Sections 8.3 and 8.4, in the event of a claim that Customer's authorized use of the Licensed Program Materials infringes upon any copyright, patent or other intellectual property right of any third party under the laws of Canada or the United States, Versaterm agrees that it will defend and indemnify Customer from and against all damages and costs awarded in a final judgment (from which no further appeal is taken or possible) against Customer in such proceeding, provided that:
- a. Customer notifies Versaterm in writing within 30 days of the claim;
 - b. Versaterm has sole control of the defense and all related settlement negotiations; and
 - c. Customer provides Versaterm with the assistance, information, and authority necessary to perform Versaterm's obligations under this section.
- 8.2. Subject to Sections 8.3 and 8.4, but without limiting Versaterm's obligations under Section 8.1, in the event of a claim that Customer's authorized use of the Licensed Program Materials infringes upon any copyright, patent or other intellectual property right of any third party under the laws of the United States or Canada, and such claim is sustained in a final judgment from which no further appeal is taken or possible, and such final judgment includes an injunction prohibiting Customer from continued use of the Licensed Program Materials or portions thereof, then Versaterm shall, at its option and expense, either:
- a. procure for Customer the right to continue the use of the Licensed Program Materials; or
 - b. replace or modify the Licensed Program Materials to make its use non-infringing, or
 - c. direct Customer to cease use of the Licensed Program Materials or of the specific portion(s) thereof that resulted in the final judgment.
- 8.3. If Versaterm directs Customer to cease use of the Licensed Program Materials or of specific portion(s) thereof, then Customer, to the exclusion of all other remedies available to Customer (except as set forth in Section 8.1), may terminate the License for that portion of the Licensed Program Materials which Versaterm directed Customer to cease use and Versaterm shall pay Customer (and/or credit against any amounts owed, or becoming owed, to Versaterm by Customer) a declining percentage of the license fee paid by Customer for that portion of the Licensed Program Materials namely, 100% of the license fee during the first year of the term of this License Agreement; 80%, 60%, 40% and 20% of the license fee in the second, third, fourth and fifth years, respectively, of the term of this License Agreement; and 0% thereafter.
- 8.4. Notwithstanding Sections 8.1 and 8.2, Versaterm shall have no obligation for any claim based upon:
- a. use of other than a current unaltered release of the Licensed Program if such infringement would have been avoided by the use of a current unaltered release of the Licensed Program; or

- b. the combination, operation, or use of any Licensed Program Materials furnished hereunder with non-Versaterm programs or data if such infringement would have been avoided by the combination, operation or use of the Licensed Program Materials with other programs or data.

This Section 8 states the entire obligation of Versaterm with respect to any claim that the Licensed Program Materials infringe upon any copyright, patent or other intellectual property right of any third party.

9. DISCLAIMER ON USE

The Automatic Vehicle Routing Recommendation component (“AVRR Component”), if licensed at any time under this Agreement, is intended for use as one factor in determining the best vehicle routing for Customer, but is not intended to be used as the sole source for determining routing and which vehicles to deploy to address any emergency situation. The AVRR Component is heavily dependent on the quality of the source mapping information inputted by or on behalf of Customer and Versaterm will have no responsibility or liability for any routing errors and/or delays and resultant damage or loss arising as a result of the mapping data or for any damages or loss caused by any decision made or action taken in reliance on the AVRR Component.

10. DISCLAIMER OF ALL OTHER WARRANTIES AND REPRESENTATIONS

The express warranties and express representations set forth in this License Agreement are in lieu of, and **VERSATERM DISCLAIMS, ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE LICENSED PROGRAM MATERIALS OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT VERSATERM KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. IN ADDITION, VERSATERM EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN CUSTOMER WITH RESPECT TO THE LICENSED PROGRAM MATERIALS OR ANY PART THEREOF.**

11. EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES

INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER ENFORCEABLE OR UNENFORCEABLE PROVISION OF THIS LICENSE AGREEMENT, NOTWITHSTANDING ANY OTHER PROVISION HEREIN, VERSATERM WILL NOT BE LIABLE TO CUSTOMER (NOR TO ANY PERSON

CLAIMING RIGHTS DERIVED FROM CUSTOMER'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND - INCLUDING LOST PROFITS, LOSS OF BUSINESS OR OTHER ECONOMIC DAMAGE, AND FURTHER INCLUDING INJURY TO PROPERTY (BUT SPECIFICALLY EXCLUDING THE INFRINGEMENT REMEDIES SET FORTH IN SECTION 8) - AS A RESULT OF BREACH OF ANY WARRANTY OR OTHER TERM OF THIS LICENSE AGREEMENT, REGARDLESS IF VERSATERM WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

12. MAXIMUM AGGREGATE LIABILITY

Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this License Agreement, **NOTWITHSTANDING ANY OTHER PROVISION HEREIN, EXCEPT AS DESCRIBED IN SUBSECTION 8.1, IN NO EVENT SHALL VERSATERM'S AGGREGATE LIABILITY TO CUSTOMER (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY CUSTOMER), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM, OR RELATED TO, THE SUBJECT MATTER OF THIS LICENSE AGREEMENT, IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE LICENSE FEE PAID BY CUSTOMER FOR THE SPECIFIC PROGRAM(S). THE THIRD PARTY SOFTWARE AND THE FREE SOFTWARE COMPONENTS ARE PROVIDED SUBJECT TO THE LIMITATION OF LIABILITY PROVISIONS CONTAINED WITHIN THE APPLICABLE LICENSE AGREEMENT AND VERSATERM ASSUMES NO LIABILITY WITH RESPECT THERETO.**

13. GENERAL

- 13.1. This License Agreement shall be binding upon the successors and assigns of both parties, provided, however, that no assignment, delegation or other transfer (except to a third party acquiring all or substantially all of Versaterm's assets or by merger of Versaterm with a third party) shall be made by either party without the prior written approval of the other party, which approval shall not be unreasonably withheld.
- 13.2. Every notice required or contemplated by this License Agreement to be given by either party shall be in writing and delivered to the party for whom it is intended, at the address specified in this License Agreement. Either party may change its address for notice by giving notice to the other party of the change.
- 13.3. No modification or amendment of this License Agreement will be valid or binding unless reduced to writing and duly executed by the party or parties to be bound.

- 13.4. Neither party is responsible for failure to fulfill its obligations under this Agreement due to causes beyond its control. However, this clause does not extend to payment obligations.
- 13.5. No action, regardless of form, arising out of this License Agreement may be brought by either party more than five (5) years after the cause of action has arisen for breach of provisions of the section entitled "PROTECTION AND SECURITY OF THE LICENSED PROGRAM MATERIALS" or more than one (1) year after the cause of action has arisen for a breach of any other provision of this License Agreement.
- 13.6. The License Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California.
- 13.7. Pursuant TO ARTICLE 6 OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS ("UN CONVENTION"), THE PARTIES AGREE THAT THE UN CONVENTION SHALL NOT APPLY TO THIS LICENSE AGREEMENT.
- 13.8. The failure of either party at any time to require performance by the other party of any provision of this License Agreement shall in no way affect the right of such party to require performance of that provision. Any waiver by either party of any breach of any provision of this License Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself or a waiver of any right under this License Agreement.
- 13.9. Any provision of this License Agreement or part thereof found to be illegal or unenforceable shall be deemed severed and the balance of this License Agreement shall remain in full force and effect.
- 13.10. This License Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages, any of which may be executed by less than all of the parties provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photocopy of an executed original will be admissible in evidence for all purposes in any proceeding as between the parties.
- 13.11. This License Agreement including all annexes attached hereto, all documents incorporated by reference herein and all instruments supplemental hereto or in amendment or confirmation hereof or thereof, constitutes the entire agreement between the parties concerning the subject matter hereof. No prior or contemporaneous representations, inducements, promises, proposals, or agreements, oral or otherwise, between the parties, with reference thereto, will be of any force or affect except as may be expressly set forth herein or therein.
- 13.12. The following Annexes attached hereto are incorporated into this License Agreement by reference and deemed to be a part hereof:
 - a. Annex A - List of Licensed Program(s)
 - b. Annex B - Server Environment

Each person signing below represents that he or she has read this License Agreement; understands its terms; is duly authorized to execute this License Agreement on behalf of the party indicated below by his or her name; and agrees on behalf of such party that such party will be bound by those terms.

Executed the dates written below, to be effective as of July 1, 2024.

Customer

Versaterm Public Safety Inc.

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPLICATION SOFTWARE LICENSE AGREEMENT

Annex A – List of Licensed Program(s)

APPLICATION SOFTWARE LICENSE AGREEMENT

Annex A – List of Licensed Program(s)

1. DEFINITIONS

In this Exhibit,

1.1 “Concurrent User(s)” means the unique combination of one login on one display device with no more than five processes running or, in the case of mobile devices, the number of concurrent users running the Application Software at any one time.

1.2 “Site” means it may be used across the entire County site.

1.3 “Install(s)” means the installation of the software on a designated PC, server or device.

2. Licenses

<u>Licensed Program</u>	<u>License Description</u>
CAD	
vCAD Base	Site
Multi-Agency/Jurisdiction Base	Site
Multi-Jurisdictional Agencies	2 EMS, 11 Fire, 4 Police
vBrowser Status Screen (Web Monitor/Dashboard)	Site
RemoveCAD Application	Site
AVL Integration	Site
vCAD AVL Layer	Site
AVRR Base	Site
AVRR Position License	30 installs
CAD to RMS Gateway Base License	Site
CAD to RMS Gateway CAD Positions	30
Versadex Message Controller (VMC)	Site
VGI (Versadex GIS Interface)	1 install
Versadex Data Mart (VDM)	Site
vCAD w/MapViewer	30 concurrent users
RemoteCAD User Licenses	50 concurrent users
Legacy Browser Status Screen	Site
vBrowser Status Screen	50 concurrent users
MDT Offline Transactions (Store and Forward)	Site
Mobile	
VMC RF Integration	Site
MDT CAD Link Base	Site
MDT NCIC I/F Integration	Site
MDT Mapping Base Integration	Site

MDT AVL Integration	Site
Police MDT Client	100 concurrent users
RF Link	100 concurrent users
MDT CAD Link	100 concurrent users
MDT NCIC I/F Link	100 concurrent users
MDT AVL	100 concurrent users
MDT Mapping	100 concurrent users
Fire/EMS MDT Client	46 concurrent users
RF Link	46 concurrent users
MDT CAD Link	46 concurrent users
MDT AVL	46 concurrent users
MDT Mapping	46 concurrent users
Fire vMobile	201 concurrent users

Interfaces

E911 Intrado VIPER	Site
Priority Dispatch ProQA	Site
Police SunRidge Query Interface	Site
Fire Department RMS CAD Call for Service Publish	Site
Radio Paging – M25 Tone Encoder	Site
Station Alerting – Zetron Model 25 (backup)	Site
Station Alerting – Zetron Model 6/26	Site
Station Alerting – FireDispatch.com	Site
Zetron Pating (Model 2200)	Site
SMTP Paging	Site
Motorola MCC7500 PTT, ERTT	Site
Motorola MCC7500 Call Alert	Site
MKM 7000 Consol Alias Manager	Site
MCC7500 Aux I/O	Site
Cimarron Cplus III ANI Decoder (PTT, ERTT)	Site
ReddiNet	Site
ePCR/MEDS	Site
PulsePoint	Site
Table Command	Site
CalCOP	Site
NCRIC / Palentir	Site
sRIMS	Site
County Message Switch	Site
FirstWatch	Site
Omega FireView	Site
FireDispatch.com	Site
ASAP	Site
CryWolf	Site
Axon	Site
ShotSpotter	Site
EventTied	Site
Deccan LiveMum	Site
USDD Station Alerting	Site

AutoReturn	Site
FirstWatch Police CFS Transfer	Site
Fire Personnel Apparatus Assignments API	Site

APPLICATION SOFTWARE LICENSE AGREEMENT

Annex B – Server Environment

The Licensed Program will reside in a virtualized configuration using VMware technology. The VMware appliances will be managed across multiple hardware servers. The hardware configuration includes two clusters of servers at the primary location (test and production) as well as a cluster of servers at a secondary location for disaster recovery purposes.

The County is licensed to install the Licensed Program on any existing or replacement hardware equipment owned, operated or leased by the County, whether at the County's facilities or at a facility within the United States.