

This ESO Subscription Agreement (this “**Agreement**”) is entered into as of the date of the signing (“**Effective Date**”), by and between ESO Solutions, Inc., a Texas corporation having its principal place of business at 11500 Alterra Parkway, Suite 100 Austin, TX 78758, including its controlled subsidiaries, (collectively, “**ESO**”) and Waller County, Texas, having its principal place of business at 425 FM 1488, Suite 106, Hempstead, Texas 77445 (“**Customer**”). This Agreement consists of these terms and conditions (the “**General Terms & Conditions**”) below, the Business Associate Agreement, and any Order (as defined below) executed by the parties, including any attachments to such Order.

The parties have agreed that ESO will provide Customer certain technology products and/or services and that Customer will pay ESO certain fees. Therefore, in consideration of the covenants, agreements and promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows.

GENERAL TERMS AND CONDITIONS

1. **DEFINITIONS.** Capitalized terms not otherwise defined in this Agreement have the meanings below:

“**Add-On Software**” means any complementary software components or reporting service(s) that ESO makes available to customer through its Software.

“**Customer Data**” means information, data and other content in electronic form that is submitted, posted, or otherwise transmitted by or on behalf of Customer through the Software.

“**De-identified Data**” means Customer Data which (i) if PHI, has been deidentified in accordance with HIPAA, or (ii) if not PHI, which has had all personally identifiable information removed, as well as the names and addresses of Customer and any of its Users and/or Customer’s clients, and in each case as a consequence is neither PHI nor identifiable to or by Customer.

“**Deliverable**” means software, report, or other work product created pursuant to a Statement of Work.

“**Documentation**” means the Software’s user guides and operating manuals.

“**Feedback**” refers to any suggestion or idea for improving or otherwise modifying ESO’s products or services.

“**Integrated Service**” means a third-party hardware, software, service, website, or data that is integrated with (or interoperates) with a Service. Nonexclusive examples of Integrated Services include computer-aided dispatch (CAD), cardiac monitors and billing software.

“**Intellectual Property**” means trade secrets, copyrightable subject matter, patents and patent applications, and other proprietary information, activities, and any ideas, concepts, innovations, inventions and designs.

“**Licensed Software**” means the executable, object code version of software that ESO provides to Customer for its use and installation on Customer’s own equipment. For the avoidance of doubt, Licensed Software does not include Add-on Software or SaaS.

“**New Version**” means any new version of Licensed Software (excluding SaaS Software) that ESO may from time to time introduce and market generally as a distinct licensed product, as may be indicated by ESO’s designation of a new version number, brand or product.

“**Order**” means a document addressing the order of a specific set of products or services which is executed by authorized representatives of each party. An Order may be (a) an ESO sales form or “Quote”, (b) a Statement of Work, or (c) an addendum or other writing which is attached or which the parties intend to be incorporated by reference into this Agreement. For the avoidance of doubt, unilateral purchase orders and other similar documents do not constitute an Ordering Document.

“**Outage**” means Customer is unable to access SaaS, or such access is materially delayed, impaired or disrupted, in each case as caused or controlled by ESO.

“**Professional Services**” means professional services provided by ESO under a Statement of Work.

“**Protected Health Information**” or “**PHI**” has the meaning set forth in HIPAA. All references herein to PHI shall be construed to include electronic PHI, or ePHI, as that term is defined by HIPAA.

“**Reporting Services**” means, collectively, the different tools or features in the Software allowing Customer to generate compilations of data, including but not limited to ad-hoc reports, analytics, benchmarking or any other reporting tool provided through the Software.

“**SaaS**” means software-as-a-service that ESO hosts (directly or indirectly) for Customer’s use on a periodic subscription basis. For the avoidance of doubt, SaaS does not include Licensed Software.

“**Scheduled Downtime**” means periods when ESO intentionally interrupts SaaS to perform system maintenance or otherwise correct service errors during non-peak hours (except for critical circumstances), typically between midnight and 6 a.m. Central Time on a fortnightly basis.

“Software” means any ESO computer program, programming or modules specified in the Agreement or any Order. For the avoidance of doubt, Add-on Software, SaaS, and Licensed Software are collectively referred to as Software.

“Support Services” means those services described in Exhibit B.

“Third-Party Data” means data not owned by ESO but which is (or access to which is) provided by ESO under an Order (such as fire codes or AAAM AIS codes).

“Third-Party Service” means a service not provided by ESO but which is made available by ESO in connection with its Software under an Order.

“Third-Party Software” means software not owned by ESO but which is (or access to which is) provided by ESO under an Order.

“Use Restrictions” means the restrictions imposed on Customer’s use of Software as described in Section 3.3.

“User” means any individual who uses the Software on Customer’s behalf through Customer’s account or passwords.

2. SOFTWARE ORDERS. During the Term, Customer may order Software from ESO by its governing body approving the Order, and an authorized representative signing an appropriate Order. Customer’s license to Licensed Software and its subscription to SaaS are set forth below. Each such Order is incorporated herein by reference.

3. LICENSE/SUBSCRIPTION TO SOFTWARE

3.1. Grant of Subscription: SaaS. For SaaS, during the Term Customer may access and use the SaaS and Reporting Services, with the access and volume limitations set forth on the applicable Order, subject to Customer’s compliance with the Use Restrictions and other limitations contained in this Agreement.

3.2. Grant of License: Licensed Software. For Licensed Software, during the Term ESO hereby grants Customer a limited, non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable license to copy and use the Licensed Software, in such quantities as are set forth on the applicable Order and as necessary for Customer’s internal business purposes, in each case subject to Customer’s compliance with the Use Restrictions and other limitations and obligations contained in this Agreement.

3.3. Use Restrictions. Except as provided in this Agreement or as otherwise authorized by ESO, Customer has no right to, and shall not: (a) decompile, reverse engineer, disassemble, print, copy or display the Software or otherwise reduce the Software to a human-perceivable form in whole or in part; (b) publish, release, rent, lease, loan, sell, distribute or transfer the Software to another person or entity; (c) reproduce the Software for the use or benefit of anyone other than Customer; (d) alter, modify or create derivative works based upon the Software either in whole or in part; or (e) use or permit the use of the Software for commercial time-sharing arrangements or providing service bureau, data processing, rental, or other services to any third party (including any affiliate not specifically listed in the applicable Order).

3.4. Ownership. The rights granted under the provisions of this Agreement do not constitute a sale of the Software. ESO retains all right, title, and interest in and to the Software, including without limitation all software used to provide the Software and all graphics, user interfaces, logos and trademarks reproduced through the Software, and Feedback, except to the limited extent set forth in this Agreement. This Agreement does not grant Customer any intellectual property rights in the Software or any of its components, except to the limited extent that this Agreement specifically sets forth Customer’s rights to access, use, or copy the Software during the Term. Customer acknowledges that the Software and its components are protected by copyright and other laws.

3.5. Third-Party Software and Services. This Section 3.5 applies to Third-Party Software and Services offered by ESO. Refer to the product table following the Agreement for applicability.

3.5.1. ESO neither accepts liability for, nor warrants the functionality, utility, availability, reliability or accuracy of, Third-Party Software or Third-Party Services.

3.5.2. Third-Party Data. If Customer (as indicated on an Order) elects to license Third-Party Data (e.g., fire codes), then subject to the terms hereof, ESO hereby grants Customer a non-exclusive, non-sublicensable, and non-transferable license during the Term to use such Third-Party Data via the Software solely for Customer’s internal purposes. Customer will not (i) allow greater access than that set forth in the applicable Order, (ii) disclose, release, distribute, or deliver Third-Party Data, or any portion thereof, to any third party (iii) copy, modify, or create derivative works of Third-Party Data, (iv) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available Third-Party Data, (v) attempt to output in any form more than 10% of the Third-Party Data or otherwise circumvent the usage limitations included in the Software, (vi) remove any proprietary notices included within Third-Party Data or Software, or (vii) use Third-Party Data in any manner or for any purpose that infringes or otherwise violates any proprietary right of a person, or that violates applicable law. ESO does not warrant the functionality, reliability, accuracy, completeness or utility of, Third-Party Data, or accept any liability therefor. Additional terms and limitations applicable to Third-Party Data may be provided on the applicable Order.

3.6. Integrated Services. Customer is responsible for securing the right for ESO to receive, transmit, process, display, and store all data (“Integrated Data”) from and to any Integrated Service to the extent required for ESO to perform its obligations and exercise its rights under this Agreement. ESO’s obligation to support Integrated Services is contingent upon Customer securing such

rights. Customer's failure to secure such rights does not terminate or suspend Customer's obligation to pay Fees. Customer bears (and shall hold ESO harmless from) all risks associated with access to and use of Integrated Services and Integrated Data. Any Integrated Data made accessible by ESO in or through the Integrated Service is provided on an "as-is" and "as available" basis without any warranty of any kind. Customer acknowledges that ESO is not responsible for and under no obligation to control, monitor or correct Integrated Data; provided, however, ESO reserves the right to take remedial action if any such data violates applicable law or this Agreement, including without limitation, the removal of, or disablement of access to, such data and the Integrated Service. Customer acknowledges that ESO's ability to deliver each Service is contingent upon Customer or User's compliance with this Agreement and any applicable third party's terms of use. Accordingly, if ESO's performance under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, or third-party vendors (other than ESO) ("Customer Delay"), ESO shall not be deemed in breach of its obligations under this Agreement or otherwise be liable for any costs or losses of Customer (in each case, to the extent arising directly or indirectly from Customer Delay).

- 3.7. Third Party APIs. Customer acknowledges that: (i) the nature, type, quality and availability of Integrated Data and Integrated Services may change at any time during the Term, and (ii) features of the Integrated Service that integrate or interoperate with third parties and Integrated Data depend on the continuing availability of such third parties' respective application programming interfaces ("APIs") for use with the Integrated Service. ESO may update, change or modify the Integrated Services under this Agreement because of a change in, or unavailability of, such Integrated Data or APIs. If any third-party ceases to make its Integrated Data or APIs available on reasonable terms for the Integrated Services, as determined by ESO in its sole discretion, ESO may cease providing access to or support for the affected Integrated Data or Integrated Service without any liability to Customer. If any changes to Integrated Data or APIs occur with no fault of Customer, including their availability or unavailability, during the Term, Customer's obligations under this Agreement or the applicable Order will be prorated accordingly. Customer will not be responsible for fees related to a service or benefit under this Agreement that it does not receive.

4. HOSTING, SLA & SUPPORT SERVICES

- 4.1. Hosting & Management. Customer shall be responsible for hosting and managing any Licensed Software on systems meeting the requirements specified by ESO. ESO shall be responsible for hosting and managing any SaaS.
- 4.2. Service Level Agreement. If an Outage, excluding Scheduled Downtime (as defined below), results in the service level uptime falling below 99% for any three-month period (the "**Uptime Commitment**"), then Customer may immediately terminate this Agreement, in which case ESO will refund any prepaid, unearned Fees to Customer. This is Customer's sole remedy for ESO's breach of the Uptime Commitment.
- 4.3. Scheduled Downtime. ESO will endeavor to provide reasonable (72 hour) notice of Scheduled Downtime to Customer's Users. Notice of Scheduled Downtime may be provided from within the Software or via email. Scheduled Downtime shall never constitute a failure of performance or Outage by ESO. Notification timelines and the frequency of Scheduled Downtime are subject to the emergence of security concerns outside of ESO's control.
- 4.4. Support and Updates. During the Term, ESO shall provide to Customer the Support Services, in accordance with Exhibit B, which is incorporated herein by reference. ESO may update and revise its Software, providing reasonable notice in the case of any material diminishment.

5. FEES

- 5.1. Fees. In consideration of the rights granted hereunder, Customer agrees to pay ESO the fees for the Software and Professional Services as set forth in the Order(s) (collectively, "**Fees**"). The Fees are non-cancelable and non-refundable, except as expressly provided herein. Customer (or Third-Party Payer, if applicable) shall pay all invoices within 30 days of receipt.
- 5.2. Third-Party Payer. If Customer desires to use a third-party to pay some or all of the Fees on behalf of Customer (a "**Third-Party Payer**"), then (i) each applicable Order will identify such arrangement, (ii) the Third-Party Payer will enter into a written agreement with ESO regarding such arrangement, (iii) Customer may replace the Third-Party Payer by written notice to ESO (provided that no such change shall be made until the then-current Term's renewal), (iv) references within this Section 5 to Customer's responsibility for Fees shall be understood to refer to the Third-Party Payer when applicable, and (v) Customer shall remain responsible for payment if the Third-Party Payer does not pay the Fees.
- 5.3. Uplift on Renewal. Fees for Software, which recur annually, shall increase by 8.75% each year this Agreement is in effect.
- 5.4. Taxes and Fees. The Fees are exclusive of all taxes and credit card processing fees, if applicable. ESO understands that Customer is a governmental entity, and is exempt from paying taxes. Customer will provide tax-exempt documentation to ESO upon execution of this Agreement.
- 5.5. Appropriation of Funds. Customer may terminate the Agreement at the end of the Customer's fiscal term if its governing body did not appropriate sufficient funds for the next fiscal year. Notwithstanding the foregoing, this provision shall not excuse Customer from past payment obligations or other Fees earned and unpaid.
- 5.6. Usage Monitoring. Customer is solely responsible for its own adherence to volume and use limitations indicated on the applicable Order. ESO may monitor Customer's use of the Software, and if Customer's usage exceeds the level indicated in the

applicable Order (an “**Overage**”), Customer shall owe ESO the Fee corresponding to such usage level at a rate no higher than ESO’s then-standard pricing for new customers at an equivalent usage level. ESO may invoice for Overages immediately.

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6. TERM AND TERMINATION

- 6.1. Term. The term of this Agreement (the “**Term**”) commences on the Effective Date and continues for a period of one year (or any longer period provided in an Order). Thereafter, the Term will renew for successive one-year periods unless written notice is provided at least 60 days prior to the anniversary of the Effective Date.
- 6.2. Termination for Cause. Either party may terminate this Agreement or any individual Order for the other party’s uncured material breach by providing written notice. The breaching party shall have 30 days from receipt to cure such breach to the reasonable satisfaction of the non-breaching party.
- 6.3. Termination for Convenience. Either party may terminate this Agreement without cause upon 30 days’ written notice by the terminating party provided that in no event shall ESO provide Customer a refund for pre-paid Fees in the event of a Termination under this Section.
- 6.4. Effect of Termination. If Customer terminates this Agreement or any Order as a result of ESO’s material breach, then to the extent Customer prepaid any Fees, ESO shall refund to Customer those prepaid Fees on a pro-rata basis from the date Customer actually ceases use of the Software. Upon termination of this Agreement or any Order, Customer shall cease all use of the Software and delete, destroy or return all copies of the Documentation and Licensed Software in its possession or control, except as required by law. Customer shall remain obligated to pay appropriate Fees at ESO’s then-current rates if Customer continues to use or access Software after the termination or expiration of this Agreement. Termination of this Agreement is without prejudice to any other right or remedy and shall not release a party from any liability.
- 6.5. Delivery of Data. ESO will provide Customer its Customer Data in a searchable .pdf format upon request made within 60 days of the expiration or termination of this Agreement. Customer acknowledges that ESO has no obligation to retain Customer Data more than 60 days after expiration or termination of this Agreement.

7. REPRESENTATIONS AND WARRANTIES

- 7.1. Material Performance of Software. After it is fully implemented (and subject to Customer’s adherence to Sections 3.3, 4.1 and 13.4), ESO warrants that the Software will reliably collect, transmit, store and/or permit access to data in compliance with applicable law and industry standards.
 - 7.2. Due Authority. Each party’s execution, delivery and performance of this Agreement and each agreement or instrument contemplated by this Agreement is duly authorized by all necessary corporate or government action.
 - 7.3. Customer Cooperation. Customer agrees to use current operating systems and reasonably and timely cooperate with ESO, including providing ESO reasonable access to its equipment, software and data as necessary for the implementation and operation of the Software.
8. **DISCLAIMER OF WARRANTIES**. EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, ESO DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, TITLE, NON-INFRINGEMENT, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 7, CUSTOMER ACCEPTS THE SOFTWARE “AS-IS” AND “AS AVAILABLE.”

9. CONFIDENTIALITY

- 9.1. “**Confidential Information**”. ESO understands that Customer is a governmental entity subject to Texas Government Code Chapter 552 (the Texas Public Information Act), including Sections 552.371 and 552.372. ESO will limit or avoid, if possible, disclosing to Customer proprietary trade secret information. If ESO discloses to Customer any information that is confidential under the Texas Public Information Act, it shall clearly identify in writing that the information is proprietary or confidential. Customer will treat such information as confidential only to the extent allowable under the Texas Public Information Act or similar applicable disclosure law. Customer will, to the extent allowed by law, endeavor to protect from public disclosure the information that has been identified and marked as proprietary. In the event Customer seeks to withhold information under the Texas Public Information Act, ESO understands the confidential information will be sent to the Texas Attorney General, and ESO agrees to reasonably cooperate with Customer should the need arise. The final decision as to what information must be disclosed pursuant to the Texas Public Information Act, however, lies with the Texas Attorney General. It is understood that the Customer, its officers, and employees shall have the right to rely on the advice, decisions, and opinions of the Texas Attorney General, and that the Customer, its officers, and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to the Customer by ESO, in reliance on any advice, decision, or opinion of the Texas Attorney General. If ESO fails to properly identify the information, Customer shall have no obligation to seek protection of such information from public disclosure. Customer and its representatives and/or employees will not be responsible for ESO’s failure to clearly identify information ESO considers confidential or proprietary. ESO considers the following items to be Confidential Information: (a) any document marked “Confidential”; (b) any information designated in writing as “Confidential” at the time of disclosure; (c) the Software and Documentation; (d) ESO’s security controls, policies, procedures,

audits, or other information concerning ESO's internal security posture; (e) any other nonpublic, sensitive information reasonably treated as trade secret or otherwise confidential that is clearly identified in writing as such; and (f) Customer Data which does not comprise PHI. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in the other party's possession at the time of disclosure free of duty of non-disclosure; (ii) is independently developed without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of the receiving party's improper action or inaction; (iv) is approved for release in writing by the disclosing party; (v) as to ESO, Customer's Feedback; or (vi) is PHI (*which shall be governed by the Business Associate Agreement rather than this Section*).

9.2. Nondisclosure. Each party shall use Confidential Information of the other party solely to fulfill the terms of this Agreement (the "**Purpose**"), and in accordance with applicable law, including but not limited to the Texas Public Information Act. Each party shall (a) ensure that its employees or contractors are bound by confidentiality obligations no less restrictive than those contained herein, and (b) not disclose Confidential Information to any other third party without prior written notice to the disclosing party. Without limiting the generality of the foregoing, the receiving party shall protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. A receiving party shall promptly notify the disclosing party of any misuse or misappropriation of Confidential Information of which it is aware.

9.3. Termination & Return. With respect to each item of Confidential Information, the obligations of nondisclosure will terminate upon the termination of this Agreement. ESO understands that Customer is a governmental body, and must comply with laws related to governmental records. To the extent possible and consistent with applicable law, upon termination of this Agreement, a party shall return all copies of Confidential Information to the other or certify the destruction thereof.

9.4. Retention of Rights. This Agreement does not transfer ownership of Confidential Information or grant a license thereto.

9.5. Open Records and Other Laws. Notwithstanding anything in this Section to the contrary, the parties expressly acknowledge that Confidential Information may be disclosed if such Confidential Information is required to be disclosed by law, a lawful public records request, or judicial order, provided that prior to such disclosure, written notice of such required disclosure shall be given promptly and without unreasonable delay by the receiving party in order to give the disclosing party the opportunity to object to the disclosure and/or to seek a protective order. The receiving party shall reasonably cooperate in this effort.

10. **INSURANCE**. Throughout the Term (and for a period of at least three years thereafter for any insurance written on a claims-made form) ESO shall maintain in effect the insurance coverage described below:

10.1. Commercial general liability insurance with a minimum of \$1 million per occurrence and \$1 million aggregate;

10.2. Commercial automobile liability insurance covering use of all non-owned and hired automobiles with a minimum limit of \$1 million for bodily injury and property damage liability;

10.3. Worker's compensation insurance and employer's liability insurance or any alternative plan or coverage as permitted or required by applicable law, with a minimum employer's liability limit of \$1 million each accident or disease; and

10.4. Computer processor/computer professional liability insurance (a/k/a technology errors and omissions) covering the liability for financial loss due to error, omission or negligence of ESO, and privacy and network security insurance ("cyber coverage") covering losses arising from a disclosure of confidential information (including PHI) with a combined aggregate amount of \$1 million.

11. INDEMNIFICATION

11.1. IP Infringement. Subject to the limitations in Section 12, ESO shall hold harmless, defend and indemnify Customer AND/OR ITS EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third-party claims, including but not limited to damages, costs, liabilities, and expenses (including reasonable attorney's fees) ("**Damages**") as to any and all third-party claim or action alleging that the Software delivered pursuant to this Agreement infringe or misappropriate any third party's patent, copyright, trade secret, or other intellectual or intangible property rights in connection with the PERFORMANCE OR ACTIONS OF ESO PURSUANT TO THIS CONTRACT (each, an "**Indemnified Claim**"). ESO AND CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. ESO SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEY'S FEES. THE DEFENSE SHALL BE COORDINATED BY CUSTOMER'S LEGAL COUNSEL. If Customer makes an Indemnified Claim under this Section or if ESO determines that an Indemnified Claim may occur, ESO may at its option: (a) obtain a right for Customer to continue using such Software; (b) modify such Software to make it a non-infringing equivalent or (c) replace such Software with a non-infringing equivalent. If (a), (b), or (c) above are not reasonably practicable, either party may, at its option, terminate the relevant Order, in which case ESO will refund any pre-paid Fees on a pro-rata basis for such Order. Notwithstanding the foregoing, ESO shall have no obligation hereunder for any claim resulting or arising from (x) Customer's breach of this Agreement; (y) modifications made to the Software not performed or provided by or on behalf of ESO or (z) the combination, operation or use by Customer (and/or anyone acting on Customer's behalf) of the Software in connection with any other product or service (the combination or joint use of which causes the alleged infringement). This Section 11 states ESO's sole obligation and liability, and Customer's sole remedy, for potential or actual intellectual property infringement by the Software.

- 11.2. Indemnification Procedures. Upon becoming aware of any matter which is subject to the provisions of Sections 11.1 (a) Customer must give prompt written notice of such Claim to ESO, accompanied by copies of any written documentation regarding the Claim received by the Customer. ESO shall compromise or defend, at its own expense and with its own counsel, any such Claim. Customer will have the right, at its option, to participate in the settlement or defense of any such Claim, with its own counsel and at its own expense; provided, however, that ESO will have the right to control such settlement or defense. ESO will not enter into any settlement that imposes any liability or obligation on Customer without the Customer's prior written consent. The parties will cooperate in any such settlement or defense and give each other full access to all relevant information, at ESO's expense.
- 11.3. Acts or Omissions. Subject to the limitations in Section 12, ESO shall indemnify and hold harmless Customer, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM AN AGAINST ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of ESO or its agents, employees, subcontractors, third-party providers, or suppliers in the execution or performance of this Agreement, and any Orders issued under this Agreement. ESO SHALL PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS FEES. THE DEFENSE SHALL BE COORDINATED BY CUSTOMER'S LEGAL COUNSEL.

12. LIMITATION OF LIABILITY

- 12.1. LIMITATION OF DAMAGES. NEITHER ESO NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES, INCLUDING CLAIMS FOR DAMAGES FOR LOST PROFITS, GOODWILL, USE OF MONEY, INTERRUPTED OR IMPAIRED USE OF THE SOFTWARE, AVAILABILITY OF DATA, STOPPAGE OF WORK OR IMPAIRMENT OF OTHER ASSETS RELATING TO THIS AGREEMENT.
- 12.2. SPECIFIC LIABILITY. LIABILITY SHALL BE LIMITED AS FOLLOWS:
- (a) ESO'S OBLIGATIONS UNDER SECTION 11 SHALL BE LIMITED TO \$500,000.
 - (b) DAMAGES ARISING FROM A PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS (INCLUDING A BREACH OF OBLIGATIONS REGARDING PROTECTED HEALTH INFORMATION), SHALL BE LIMITED TO \$1,000,000.
 - (c) DAMAGES ARISING FROM A PARTY'S WILLFUL MISCONDUCT OR CRIMINAL CONDUCT SHALL NOT BE LIMITED.
- 12.3. GENERAL LIABILITY. EXCEPT AS EXPRESSLY PROVIDED "SPECIFIC LIABILITY," ESO'S MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS OF LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY (OR ON BEHALF OF) CUSTOMER WITHIN THE PRECEDING 12-MONTH PERIOD UNDER THE APPLICABLE ORDER OR EXHIBIT GIVING RISE TO THE CLAIM.
- 12.4. THE FOREGOING LIMITATIONS, EXCLUSIONS, DISCLAIMERS SHALL APPLY REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT OR OTHERWISE. INSOFAR AS APPLICABLE LAW PROHIBITS ANY LIMITATION HEREIN, THE PARTIES AGREE THAT SUCH LIMITATION SHALL BE AUTOMATICALLY MODIFIED, BUT ONLY TO THE EXTENT SO AS TO MAKE THE LIMITATION PERMITTED TO THE FULLEST EXTENT POSSIBLE UNDER SUCH LAW. THE PARTIES AGREE THAT THE LIMITATIONS SET FORTH HEREIN ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR ESO'S SOFTWARE AND SERVICES TO CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSES OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES.
- 12.5. THIS SECTION 12 SHALL SURVIVE EXPIRATION OR TERMINATION OF THE AGREEMENT.

13. CUSTOMER DATA & PRIVACY

- 13.1. Ownership of Data. As between ESO and Customer, all Customer Data shall be owned by Customer.
- 13.2. Use of Customer Data. Unless it receives Customer's prior written consent, ESO shall not grant any third-party access to Customer Data, except (a) subcontractors that are subject to a reasonable nondisclosure agreement or (b) authorized participants in the case of Software designed to permit Customer to transmit Customer Data. ESO may only use and disclose Customer Data to fulfill its obligations under this Agreement or as required by applicable law or legal or governmental authority. ESO shall give Customer prompt notice of any such legal or governmental demand and reasonably cooperate with Customer in any effort to seek a protective order or otherwise contest such required disclosure, at Customer's expense.
- 13.3. De-identified Data. CUSTOMER ACKNOWLEDGES AND AGREES THAT, NOTWITHSTANDING ANY OTHER PROVISION HEREIN, ESO MAY USE DE-IDENTIFIED DATA FOR INTERNAL AND EXTERNAL PURPOSES (INCLUDING BENCHMARKING AND RESEARCH), PROVIDED THAT ESO WILL NOT SELL DE-IDENTIFIED DATA TO THIRD PARTIES FOR COMMERCIAL USE. Without limiting the foregoing, ESO will own all right, title and interest in all Intellectual Property of any aggregated and de-identified reports, summaries, compilations, analysis, statistics or other information derived therefrom.

- 13.4. Internet Access. Customer is solely responsible for obtaining, maintaining, and securing its network connections, and acknowledges such connections are essential to the effective operation of the Software. ESO makes no representations to Customer regarding the reliability, performance or security of any network or service provider not provided or managed by ESO.

14. WORK PRODUCT

- 14.1. Work Product Ownership. In the event Customer hires ESO to perform Professional Services, ESO alone shall hold all right, title, and interest to all proprietary and intellectual property rights of the Deliverables (including, without limitation, patents, trade secrets, copyrights, and trademarks), as well as title to any copy of software made by or for Customer (if applicable). Customer hereby explicitly acknowledges and agrees that nothing in this Agreement or a separate Order gives the Customer any right, title, or interest to the intellectual property or proprietary know-how of the Deliverables.

15. GOVERNMENT PROVISIONS

- 15.1. Compliance with Laws. Both parties shall comply with and give all notices required by all applicable federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on use of the Software and the performance of this Agreement (provided that Customer shall be solely responsible for any such notice required to be given to its employees, agents or patients). Customer acknowledges and agrees that it must fully and accurately report discounts or other incentives under this Agreement on any cost reports or other applicable claims for payment submitted under any federal health care program, including but not limited to Medicare and Medicaid, as required by federal law.
- 15.2. Equal Opportunity. The parties shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a), and the posting requirements of 29 CFR Part 471, appendix A to subpart A, if applicable (prohibiting discrimination on the basis of protected veteran status, disability, race, color, religion, sex, sexual orientation, gender identity or national origin).
- 15.3. Excluded Parties List. ESO agrees to report to Customer if an employee or contractor is listed by a federal agency as debarred, excluded or otherwise ineligible for participation in federally funded programs.

16. ACCURACY & COMPLETENESS

- 16.1. Customer Responsibilities. The Software allows Customer and its Users to enter, document, and disclose Customer Data, and as such, ESO gives no representations or guarantees about the accuracy or completeness of Customer Data (including PHI) entered, uploaded or disclosed through the Software.

17. MISCELLANEOUS

- 17.1. Independent Contractors. The parties are independent contractors. Neither party is the agent of the other, and neither may make commitments on the other's behalf. The parties agree that no ESO employee or contractor is or will be considered an employee of Customer.
- 17.2. Notices. Notices provided under this Agreement must be in writing and delivered by (a) certified mail, return receipt requested to a party's principal place of business as set forth in the recitals on page 1 of this Agreement, (b) hand delivered, (c) facsimile with receipt of a "Transmission Confirmed" acknowledgment, (d) e-mailed to a person designated in writing by the receiving party, or (e) delivered by a reputable overnight carrier service. In the case of delivery by facsimile or e-mail, the notice must be followed by a copy of the notice being delivered by a means provided in (a), (b) or (e). The notice will be deemed given on the day the notice is received.
- 17.3. Merger Clause. In entering into this Agreement, neither party is relying upon any representations or statements of the other that are not fully expressed in this Agreement; rather, each party is relying on its own judgment and due diligence and expressly disclaims reliance upon any representations or statement not expressly set forth in this Agreement. In the event the Customer issues a purchase order, letter or any other document addressing the Software or Services to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such writing is for the Customer's internal purposes only, and that any terms, provisions, and conditions contained therein shall in no way modify this Agreement.
- 17.4. Severability. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. If a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.
- 17.5. Subcontracting. Except for Support Services, and training and implementation services related to the Software, neither party may subcontract or delegate its obligations to each other hereunder, nor may it contract with third parties to perform any of its obligations hereunder except as contemplated in this Agreement, without the other party's prior written consent.
- 17.6. Modifications and Amendments. This Agreement may not be amended except through a written agreement signed by authorized representatives of each party, provided that the Customer agrees that ESO may rely on informal writings (including emails) of Customer's authorized representatives to terminate Software products and services. Any rate or tier increases for Software products and services in use by Customer must be approved by Customer's governing body.
- 17.7. Force Majeure. No delay, failure, or default will constitute a breach of this Agreement to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes or other labor disputes, riots or other acts of civil

disorder, embargoes, or other causes beyond the performing party's reasonable control (collectively, "Force Majeure"). In event, however, the delayed party must promptly provide the other party notice of the Force Majeure. The delayed party's time for performance will be excused for the duration of the Force Majeure, but if the event lasts longer than 30 days, the other party may immediately terminate the applicable Order.

- 17.8. Marketing. If requested by ESO, Customer agrees to reasonably cooperate with ESO's preparation and issuance of a public announcement regarding the relationship of the parties.
- 17.9. Waiver & Breach. Neither party will be deemed to waive any rights under this Agreement except through an explicit written waiver made by an authorized representative of ESO, or the governing body of Customer. No waiver of a breach of this Agreement will constitute a waiver of any other breach hereof.
- 17.10. Survival of Terms. Unless otherwise stated, all of ESO's and Customer's respective obligations, representations and warranties under this Agreement which are not, by the expressed terms of this Agreement, fully to be performed while this Agreement is in effect shall survive the termination of this Agreement.
- 17.11. Ambiguous Terms. This Agreement will not be construed against any party by reason of its preparation.
- 17.12. Governing Law. This Agreement, any claim dispute or controversy hereunder (a "**Dispute**") will be governed by (i) the laws of the State of Texas. The UN Convention for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply. In any Dispute, each party will bear its own attorneys' fees and costs and expressly waives any statutory right to attorneys' fees. Venue for any dispute related to this Agreement shall be in Waller County, Texas.
- 17.13. New Versions & Sunset. If ESO releases a New Version of Licensed Software (i.e., not SaaS), Customer may elect to receive such New Version, subject to a relicense fee of 75% of the standard price for such new version. All New Versions provided under this Agreement will constitute Licensed Software and be subject to the terms and conditions of this Agreement. ESO may discontinue Support Services for Licensed Software upon 12 months' notice to Customer.
- 17.14. No Class Actions. NEITHER PARTY SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER ESO CUSTOMERS, OR PURSUE ANY CLAIM AS A REPRESENTATIVE OR CLASS ACTION OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.
- 17.15. Dispute Resolution. Customer and ESO will attempt to resolve any Dispute through negotiation or by utilizing a mediator agreed to by the parties, rather than through litigation. ESO understands Customer is a governmental body, and that negotiations and mediations will be subject to applicable laws concerning confidentiality. If the parties are unable to reach a resolution within 30 days of notice of the Dispute to the other party, the parties may pursue all other courses of action available at law or in equity.
- 17.16. Technology Export. Customer shall not: (a) permit any third party to access or use the Software in violation of any U.S. law or regulation; or (b) export any software provided by ESO or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the Software in, or export such software to, a country subject to a United States embargo (as of the Effective Date - Cuba, Iran, North Korea, Sudan, and Syria).
- 17.17. Order of Precedence. In the event of any conflict between this Agreement, Addenda or other attachments incorporated herein, the following order of precedence will govern: (1) the General Terms and Conditions; (2) any Business Associate Agreement; (3) the applicable Order, with most recent Order taking precedence over earlier ones; and (4) any ESO policy posted online, including without limitation its privacy policy. No amendments incorporated into this Agreement after execution of the General Terms and Conditions will amend such General Terms and Conditions unless it specifically states its intent to do so and cites the section or sections amended.
- 17.18. Counterparts. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, and all such counterparts will constitute a single instrument.
- 17.19. Signatures. Electronic signatures on this Agreement or on any Order (or copies of signatures sent via electronic means) are the equivalent of handwritten signatures.

[signature page follows]

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

ESO Solutions, Inc.

Customer

By: _____
(signature)

By: _____
(signature)

Name: _____
(print name)

Name: Carbett "Trey" J. Duhon, III
(print name)

Title: _____
(print title)

Title: County Judge
(print title)

EXHIBIT A-1**SAAS SOFTWARE**

1. The SaaS subscription term shall begin 15 calendar days after the Effective Date ("SaaS Subscription Start Date"). Customer shall be deemed to have accepted the SaaS on the SaaS Subscription Start Date. The parties will make reasonable efforts to ensure that Customer is able to use the SaaS as contemplated as quickly as possible, but in no event will the SaaS Subscription Start Date be modified for implementation delays.
2. Customer hereby orders, and agrees to timely pay for, the following products according to the schedule below:

Fire			
Product	Volume	Total	Fee Type
IFC - 2018 Code Set	600 Fire Incidents	\$348.00	Recurring
Fire Incidents CAD Integration - Volunteer	1 Stations	\$395.00	Recurring
ESO Properties	600 Fire Incidents	\$597.00	Recurring
ESO Fire Incidents	1 Stations	\$825.00	Recurring
ESO Inspections	1 Stations	\$395.00	Recurring
ESO Activities - Fire and Fire/EMS Agencies	1 Stations	\$195.00	Recurring
Fire Setup & Online Training	2 Sessions	\$595.00	One-time
Fire Incidents NFIRS Data Import	600 Incidents	\$0.00	One-time
Properties/Inspections Data Import	1 Stations	\$0.00	One-time

Asset Management/Checklist			
Product	Volume	Total	Fee Type
ESO Asset Management	4 Vehicles	\$325.00	Recurring
ESO Checklists	4 Vehicles	\$405.00	Recurring

Personnel Management			
Product	Volume	Total	Fee Type
Personnel Management	13 Employees	\$845.00	Recurring
Personnel Management Data Migration	13 Employees	\$0.00	One-time

Scheduling			
Product	Volume	Total	Fee Type
ESO Scheduling	13 Employees	\$795.00	Recurring
ESO Scheduling - Setup & Online Training	2 Sessions	\$1,190.00	One-time

Total Recurring Fees	\$	5,125.00
Total One-Time Fees	\$	1,785.00
TOTAL FEES	\$	6,910.00

Customer acknowledges and agrees that it must fully and accurately report discounts or other incentives under this Agreement on any cost reports or other applicable claims for payment submitted under any federal health care program, including but not limited to Medicare and Medicaid, as required by federal law.

3. Unless indicated below, no Third-Party Payer is responsible for any products Fees.
4. All the Fees above will be invoiced by ESO as follows unless otherwise arranged with a Third-Party Payer:
 - 4.1. Training and Training Travel Fees shall be invoiced on the Effective Date.
 - 4.2. During the first year, 100% of the remaining Fees shall be invoiced on the SaaS Subscription Start Date.
 - 4.3. During the second year and any renewal years thereafter, 100% of the recurring Fees shall be due on the anniversary of the SaaS Subscription Start Date.