

**SOFTWARE LICENSE AGREEMENT**

This Software License Agreement is subject to 911Cellular's Terms and Conditions of Software License, which is attached hereto as Exhibits A, and is made a part hereof.

**Effective Date:** 8/15/23

**Parties:** 911Cellular ("911Cellular")  
6001 Cochran Road Suite 911  
Solon, Ohio 44139

Lexington-Fayette Urban County Government ("Buyer" and "Licensee")  
200 East Main Street  
Lexington, Kentucky 40507

**Licensed Site:** All currently owned and operated Lexington-Fayette Urban County Government facilities

**Initial Term:** 3 Years

**Products and Services:**

Subscribed Product or Service	Number of Licenses/Units	Cost
Computer Panic Buttons	1,000	\$8,790 / Year
Configuration	-	\$3,000 (One Time)

**Fees:**

Fee Schedule	
Year	Licensee Fee
Year 1	\$11,790
Year 2+	\$8,790 / Year

By executing this Software License Agreement, you are agreeing to 911Cellular's Terms and Conditions of Software License, which is attached hereto as Exhibits A.

For and on behalf of 911Cellular:

Signature.....  
Name..... *Chad Saleklor*  
Title..... *President*  
Date..... *9/6/23*

For and on behalf of Buyer/Licensee:

Signature .....  
Name .....  
Title .....  
Date .....

## EXHIBIT A

### TERMS AND CONDITIONS OF SOFTWARE LICENSE

These Terms and Conditions of Software License (these "License Terms") are the only terms which govern the license of the Software (as defined herein) by 911Cellular to the Licensee stated above. The "Agreement" consists of these License Terms, the Sale of Hardware and Software License Agreement, and the Terms and Conditions of Sale. These License Terms prevail over any of Licensee's terms and conditions regardless whether or when Licensee has submitted its purchase order or such terms. Providing the Software to Licensee does not constitute acceptance of any of Licensee's terms and conditions and does not serve to modify or amend these License Terms..

1. Definitions. "Effective Date," "Parties," "911Cellular," "Licensee," "Licensed Site," "Initial Term," " shall have the meanings set forth on the Sale of Hardware and Software License Agreement. The following capitalized terms shall have the meanings set forth below.

(a) "Action" means any claim, action, cause of action, demand, lawsuit, arbitration, notice of violation, litigation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or otherwise.

(b) "Hardware" means the Physical Panic Button Device(s) purchased by Licensee pursuant to the Sale of Hardware and Software License Agreement to which these License Terms are attached.

(c) "Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

(d) "Law" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

(e) "Loss" or "Losses" means all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

(f) "Person" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

(g) "Software" means the 911Cellular Software Product(s) for which the Licensee has subscribed in the Sale of Hardware and Software License Agreement.

(h) "Specifications" means the Software Specifications set forth in Schedule 1.

2. Implementation and Training.

(a) Implementation. 911Cellular shall use commercially reasonable efforts to implement the Software consistent with the Specifications. In the event that Licensee desires a change to the Specifications, it shall submit a written change request, and Licensee and 911Cellular shall work together in good faith to reach agreement on any necessary amendments to the Specifications, including any necessary changes to the License

Fee(s). The Specifications may be changed only in writing executed by both Licensee and 911Cellular and are subject to modification fees.

**(b) Training and Maintenance.** 911Cellular shall provide training and maintenance as indicated in Schedule 2. Licensee's personnel will be responsible for Licensee's implementation of the Software on a single mutually-agreeable day and additional training as indicated in Schedule 2.

**(c) Support.** 911Cellular shall provide support between the hours of 8:30am-5:00pm Eastern Standard Time via phone and email.

**3. Grant of License.**

**(a) License Grant.** Subject to Licensee's payment of the License Fees and compliance with the other terms and conditions of this Agreement, 911Cellular grants Licensee a limited, non-exclusive, non-sublicensable, non-transferrable right and license to remotely access and use the Software and the user and instruction manuals applicable thereto (the "Documentation") in object code form only solely for the Authorized Purpose. Licensee shall be solely responsible for ensuring that it has the appropriate hardware, software and network access necessary to remotely access and use the Software as made available to Licensee by 911Cellular.

**(b) License Restrictions.** Licensee shall not: (i) permit any third party to access or use the Software or the Hardware on its behalf of or for the benefit of any third party except as expressly permitted in Section 4; (ii) modify, decompile, disassemble, reverse engineer or translate the source code or other part of the Software; (iii) bypass or breach any security device or protection used for or contained in the Software or the Hardware; (iv) use the Software or Hardware in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable Law, (v) create derivative works based on or using the Software; (vi) sell, lease, license, sublicense, or otherwise encumber the Software; or (vii) use the Software, Hardware or Documentation other than for the Authorized Purpose or in any manner or for any purpose or application not expressly permitted by this Agreement. Licensee shall promptly notify 911Cellular in writing if it becomes aware of any unauthorized use of the Software, Hardware or Documentation by any Person.

**4. Authorized Purpose: Access and Use; Access Configuration and Wi-Fi.**

**(a) Access.** Subject to Licensee's payment of the all fees set forth herein, 911Cellular will host and provide Licensee with remote access to the Software. Licensee (and anyone acting for or on its behalf or with its permission) only may access and use the Software using the Hardware or other remote access facilities designated and expressly made available to Licensee by 911Cellular for such purpose. Licensee shall be solely responsible for selecting the Permitted Users and completing the configuration of all such Hardware and Software specific to those Permitted Users and the Licensed Site, including, without limitation, configuration of all access and credentials required to connect Licensee's wi-fi network to each item of Hardware. LICENSEE ACKNOWLEDGES AND AGREES THAT THE HARDWARE WILL ONLY WORK WHEN CONNECTED TO A WI-FI NETWORK AT THE LICENSED SITE. LICENSEE HAS THE SOLE RESPONSIBILITY FOR ENSURING THAT EACH ITEM OF HARDWARE IS CONNECTED TO A WI-FI NETWORK AT THE LICENSED SITE. LICENSOR HAS NO RESPONSIBILITY WHATSOEVER FOR LICENSEE'S WI-FI NETWORK.

**(b) Authorized Purpose.** Licensee's right to access and use the Software is expressly limited to supplementing (but not replacing) Licensee's other safety and security measures at the Licensed Site (the "Authorized Purpose"). LICENSEE ACKNOWLEDGES AND AGREES THAT, AS BETWEEN IT AND 911CELLULAR, LICENSEE ALONE HAS SOLE RESPONSIBILITY FOR PROVIDING ALL NECESSARY SAFETY AND SECURITY MEASURES AT THE LICENSED SITE AND THAT SUCH RESPONSIBILITY INCLUDES DETERMINING WHETHER THE SOFTWARE IS (AND AT ALL TIMES CONTINUES TO BE) USEFUL AND APPROPRIATE FOR SUCH PURPOSES. Licensee (and anyone acting for or on its behalf or with its permission including Permitted Users) shall not access, use or otherwise exploit any other features or functionality of the Software or any information stored within the Software to which it may have

access for any other purpose, and may not access or use the Software at or for the benefit of any third party or at any location or facility other than the Licensed Site.

(c) **Permitted Users.** Licensee may permit its employees, contractors and agents with a bona fide reason for such access ("**Permitted Users**") to access and use the Software using the mobile application and/or Hardware made available for such use by 911Cellular. All Permitted Users' access and use of the Software is expressly subject to this Agreement and any applicable end-user license agreements. Licensee shall have sole responsibility for maintaining the confidentiality of all login and usernames and all related passwords and other access control information associated with its Permitted Users, and shall be solely responsible for all access and use of the Software by Permitted Users regardless of whether such access or use was authorized, intended or requested by or on behalf of Licensee. Licensee shall immediately report to 911Cellular any actual or apparent unauthorized use or access of the Software by a Permitted User or any other third party as soon as Licensee reasonably becomes aware that an unauthorized access or use of the Software may have occurred.

(d) **Licensee Submissions.**

(i) Licensee shall be solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness, ownership and right to use any and all information and materials recorded, entered, transmitted, or otherwise submitted to the Software by or on its behalf ("**Licensee Submissions**"), and Licensee shall be solely responsible for monitoring the Software and responding to all Licensee Submissions.

(ii) 911Cellular shall have access to Licensee Submissions, and Licensee shall not take any action to impede, block, encrypt or otherwise withhold Licensee Submissions from 911Cellular. Notwithstanding the foregoing, 911Cellular takes no responsibility for any Licensee Submissions created or accessible on or through the Software. 911Cellular is not obligated to monitor or exercise any control over any Licensee Submissions, but reserves the right to do so. In the event that 911Cellular becomes aware that any Licensee Submissions may violate the terms of this Agreement or, in the sole discretion of 911Cellular, risks exposing 911Cellular to civil or criminal liability, 911Cellular reserves the right to block access to such Licensee Submissions, disclose such information to appropriate legal authorities, and suspend or terminate access to the Software. 911Cellular further reserves the right to cooperate with legal authorities and third parties in the investigation of any alleged wrongdoing.

(e) **Limitations on Use.** LICENSEE ACKNOWLEDGES THAT THE SOFTWARE DEPENDS ON HARDWARE, SOFTWARE AND OTHER TECHNOLOGY AND FACTORS OVER WHICH 911CELLULAR HAS LITTLE OR NO CONTROL, INCLUDING CELLULAR TELEPHONES OF VARIOUS MAKES AND MODELS AND WITH VARYING SOFTWARE THAT MAY INTERACT OR INTERFERE WITH THE PROPER FUNCTIONING OF THE SOFTWARE, WIRED AND WIRELESS COMMUNICATIONS NETWORKS INCLUDING THE CELLULAR NETWORKS OF VARIOUS CARRIERS, AND GLOBAL POSITIONING SYSTEM ("**GPS**") FUNCTIONALITY. LICENSEE ACKNOWLEDGES THAT THE SOFTWARE ONLY WORKS WHEN CONNECTED TO THE WIFI NETWORK AT THE LICENSED SITE. LICENSEE FURTHER ACKNOWLEDGES THAT THE ABILITY OF THE SOFTWARE TO FUNCTION MAY BE LIMITED IN WHOLE OR IN PART BASED ON FACTORS THAT 911CELLULAR CANNOT CONTROL, INCLUDING SOFTWARE AND HARDWARE MALFUNCTIONS, NETWORK UNAVAILABILITY, OUTAGES AND DEAD ZONES, AND THE AVAILABILITY OF GPS SIGNALS AND OTHER LOCATION INFORMATION. LICENSEE ACKNOWLEDGES THAT ELECTRONIC COMMUNICATIONS MAY BE ACCESSED BY UNAUTHORIZED PARTIES WHEN TRANSMITTED ACROSS THE INTERNET, NETWORK COMMUNICATION FACILITIES, TELEPHONES OR OTHER ELECTRONIC MEANS AND THAT 911CELLULAR SHALL NOT BE RESPONSIBLE FOR ANY LICENSEE SUBMISSIONS TRANSMITTED OR OTHERWISE SUBMITTED BY LICENSEE THAT IS LOST, ALTERED, INTERCEPTED OR STORED WITHOUT AUTHORIZATION DURING THE TRANSMISSION OR SUBMISSION OF SUCH INFORMATION USING NETWORKS THAT ARE NOT OWNED AND OPERATED BY 911CELLULAR.

5. **Fees and Payment.**

(a) **License Fees.** Licensee shall pay 911Cellular the license fees set forth in the Sale of Hardware and Software License Agreement in accordance with the terms of this **Section 5.** If the Term is renewed for any

Renewal Term(s) pursuant to Section 11(b), Licensee shall pay the then-current standard license fees that Licensee charges for the Software during the applicable Renewal Term.

(b) Taxes. All Fees and other amounts payable by Licensee under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Licensee is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Licensee hereunder, other than any taxes imposed on 911Cellular's income.

(c) Payment. One Hundred Percent (100%) of the Year 1 Licensee Fee is due within thirty (30) days following execution of this Agreement. License Fees for each year of the Term are due at the beginning of the applicable term year within thirty (30) days of the anniversary of the Effective Date, and will be invoiced accordingly. Licensee shall pay all amounts due and owing under this Agreement within thirty (30) days after the date of 911Cellular's invoice therefor. Except as specifically stated herein, all fees and payments are non-refundable.

(d) Late Payment. If Licensee fails to make any payment when due then, in addition to all other remedies that may be available to 911Cellular:

(i) 911Cellular may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable Law;

(ii) Licensee shall reimburse 911Cellular for all costs incurred by 911Cellular in collecting any late payment of amounts due or related interest, including attorneys' fees, court costs, and collection agency fees; and

(iii) if such failure continues for thirty (30) days following the due date, 911Cellular may: (i) disable Licensee's use of the Software (including by means of a disabling code, technology or device); (ii) withhold, suspend or revoke its grant of a license hereunder; and/or (iii) terminate this Agreement under Section 11(c).

(e) No Deductions or Setoffs. All amounts payable to 911Cellular under this Agreement shall be paid by Licensee to 911Cellular in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

(f) Third Party Fees. The License Fees (including the Initial License Fee) does not include any hardware or third-party software that may be required to use the Software. Any third party products supplied by 911Cellular are subject to all applicable third party rights.

## 6. Confidential Information.

(a) Confidential Information. In connection with this Agreement, each Party (the "Disclosing Party") may disclose or make available Confidential Information to the other Party (the "Receiving Party"). Subject to Section 6(b) "Confidential Information" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated, or otherwise identified as "confidential." Without limiting the foregoing, the Software and Documentation are the Confidential Information of 911Cellular.

(b) Exclusions. Confidential Information does not include information that: (i) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with this Agreement; (ii) was or becomes generally known by the

public other than by the Receiving Party's noncompliance with this Agreement; (iii) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (iv) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

(c) **Protection of Confidential Information.** As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall: (i) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; (ii) except as may be permitted under the terms and conditions of Section 6(d), not disclose or permit access to Confidential Information other than to its officers, directors, managers, employees, advisors, representatives, and agents who need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement and are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 6; and safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care.

(d) **Compelled Disclosures.** If a Receiving Party is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party will: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek, at its sole cost and expense, a protective order or other remedy or waive its rights under Section 6(c); and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 6(d), the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party will disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.

## 7. **Intellectual Property Rights.**

(a) **Intellectual Property Ownership.** Licensee acknowledges and agrees that:

(i) the Software and Documentation are licensed, not sold, to Licensee by 911Cellular and Licensee does not have under or in connection with this Agreement any ownership interest in the Software or Documentation, or in any related Intellectual Property Rights;

(ii) 911Cellular is the sole and exclusive owner of all right, title and interest in and to the Software and Documentation, including all Intellectual Property Rights relating thereto, subject only to the limited license granted to Licensee under this Agreement; and

(iii) Licensee hereby unconditionally and irrevocably assigns to 911Cellular, its entire right, title and interest in and to any Intellectual Property Rights that Licensee may now or hereafter have in or relating to the Software or Documentation (including any rights in derivative works or patent improvements relating to either of them), whether held or acquired by operation of law, contract, assignment or otherwise.

(b) **No Implied Rights.** Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel or otherwise, to Licensee or any third party any Intellectual Property Rights or other right, title, or interest in or to any of the Software or Documentation.

8. **Warranty and Liability.**

(a) **Limited Warranty.** Subject to the limitations and conditions set forth in Section 8 and Section 10, 911Cellular warrants to Licensee that for a period of ninety (90) days from the Effective Date (the "Software Warranty Period") the Software will substantially conform in all material respects to the Documentation, when installed, operated and used as recommended in the Documentation and in accordance with this Agreement.

(b) **Licensee Requirements.** The limited warranty set forth in Section 8(a) applies only if Licensee: (i) notifies 911Cellular in writing of the warranty breach before the expiration of the Software Warranty Period and (ii) as of the date of notification, is in compliance with all terms and conditions of this Agreement (including the payment of all license fees then due and owing).

(c) **Exceptions.** Notwithstanding any provisions to the contrary in this Agreement, the limited warranty set forth in Section 8(a) does not apply to problems arising out of or relating to:

(i) any operation or use of, or other activity relating to, the Software or the Hardware other than as specified in the Documentation, including any incorporation in the Software of, or combination, operation or use of the Software in or with, any technology (including any software, hardware, firmware, system or network) or service not specified for Licensee's use in the Documentation;

(ii) Licensee's or any third party's negligence, abuse, misapplication or misuse of the Software or Hardware, including any use of the Software or Hardware other than as specified in the Documentation;

(iii) the operation of, or access to, Licensee's or a third party's system or network; or

(iv) Licensee's breach of any material provision of this Agreement.

(d) **Remedial Efforts.** If 911Cellular breaches, or is alleged to have breached, the limited warranty set forth in Section 8(a), 911Cellular shall, at its sole expense, repair the Software or Documentation to conform to the Specifications. The remedy set forth in this Section 8(d) is Licensee's sole remedy and 911Cellular's sole liability under the limited warranty set forth in Section 8(a).

(e) **Acknowledgment.** Licensee acknowledges that the Software and the Hardware has not been prepared to meet Licensee's individual requirements, whether or not such requirements are set out in any part of this Agreement or otherwise have been communicated to 911Cellular, and that Licensee has sole responsibility to ensure that the Software meets its requirements. 911Cellular shall not be liable for any failure of the Software to provide any facility or function not identified in the Specifications.

(f) **DISCLAIMER.** EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8(a), ALL LICENSED SOFTWARE, HARDWARE, DOCUMENTATION AND OTHER PRODUCTS, INFORMATION, MATERIALS AND SERVICES PROVIDED BY 911CELLULAR ARE PROVIDED "AS IS." 911CELLULAR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, 911CELLULAR MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED SOFTWARE, HARDWARE OR DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET LICENSEE'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE.

9. **Indemnification.**

(a) **911Cellular Indemnification.** 911Cellular shall indemnify, defend, and hold harmless Licensee from and against any and all Losses incurred by Licensee resulting from any Action by a third party that the Software or Documentation, or any use of the Software or Documentation in accordance with this Agreement, infringes or misappropriates such third party's US Intellectual Property Rights. This Section 9(a) does not apply to the extent that the alleged infringement arises from:

(i) combination, operation, or use of the Software in or with, any technology or service not provided by 911Cellular or specified for Licensee's use in the Documentation;

(ii) modification of the Software other than: (i) by 911Cellular in connection with this Agreement; or (ii) with 911Cellular's express written authorization and in strict accordance with 911Cellular's written directions and specifications;

(iii) use of any version of the Software other than the most current version or failure to timely implement any modification, update or replacement of the Software made available to Licensee by 911Cellular;

(iv) use of the Software after 911Cellular's notice to Licensee of such activity's alleged or actual infringement, misappropriation or other violation of a third party's rights;

(v) use of the Software or Documentation by or on behalf of Licensee that is outside the purpose, scope, or manner of use authorized by this Agreement or in any manner contrary to 911Cellular's instructions; or

(vi) events or circumstances outside of 911Cellular's commercially reasonable control (including any third-party hardware, software, or system bugs, defects, or malfunctions).

(b) **Indemnification Procedure.** Licensee shall promptly notify 911Cellular in writing of any Action for which 911Cellular believes it is entitled to be indemnified pursuant to Section 9(a). 911Cellular shall promptly assume control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at 911Cellular's sole cost and expense. The Licensee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. 911Cellular shall not settle any Action on any terms or in any manner that adversely affects the rights of Licensee without the Indemnitee's prior written consent, which shall not be unreasonably withheld or delayed.

(c) **Mitigation.** If the Software, or any part of the Software, is, or in 911Cellular's opinion is likely to be, claimed to infringe, misappropriate or otherwise violate any third-party Intellectual Property Right, or if Licensee's use of the Software is enjoined or threatened to be enjoined, 911Cellular may, at its option and sole cost and expense:

(i) obtain the right for Licensee to continue to use the Software materially as contemplated by this Agreement;

(ii) modify or replace the Software, in whole or in part, to seek to make the Software non-infringing, while providing materially equivalent features and functionality; or

(iii) terminate this Agreement, in its entirety or with respect to the affected part or feature of the Software, effective immediately on written notice to Licensee, in which event: (1) Licensee shall cease all use of the Software and Documentation immediately on receipt of Licensee's notice; and (2) provided that Licensee fully complies with its post-termination obligations set forth in Section 11(d), 911Cellular shall promptly refund to



Licensee, on a pro rata basis, the share of any license fees prepaid by Licensee for the future portion of the Term that would have remained but for such termination.

(d) **Sole Remedy.** THIS SECTION 9 SETS FORTH LICENSEE'S SOLE REMEDIES AND 911CELLULAR'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR DOCUMENTATION OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

10. **Limitations of Liability.**

(a) **EXCLUSION OF DAMAGES.** IN NO EVENT WILL 911CELLULAR BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (i) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (ii) LOSS OF GOODWILL OR REPUTATION, (iii) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY LICENSED SOFTWARE, (iv) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (v) COST OF REPLACEMENT GOODS OR SERVICES, OR (vi) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER 911CELLULAR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) **CAP ON MONETARY LIABILITY.** IN NO EVENT WILL THE AGGREGATE LIABILITY OF 911CELLULAR ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO 911CELLULAR UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

11. **Term and Termination.**

(a) **Initial Term.** The Initial Term of this Agreement commences as of the Effective Date and continues during the Initial Term (as set forth on the Sale of Hardware and Software License Agreement) unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").

(b) **Renewal Term.** This Agreement will automatically renew for additional successive three (3) year terms unless earlier terminated pursuant to any of the Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least ninety (90) days prior to the expiration of the then-current term (each a "**Renewal Term**" and, collectively, together with the Initial Term, the "**Term**").

(c) **Termination.** This Agreement may be terminated at any time:

(i) by 911Cellular, effective on written notice to Licensee, if Licensee fails to pay any amount when due under this Agreement, where such failure continues more than thirty (30) days after 911Cellular's delivery of written notice thereof;

(ii) by either Party, effective on written notice to the other Party, if the other Party materially breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach;

(iii) by 911Cellular, effective immediately, if the Licensee: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

(d) Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

(i) all rights, licenses and authorizations granted to Licensee hereunder will immediately terminate and Licensee will immediately cease all use of and other activities with respect to the Software and Documentation; and

(ii) all amounts payable by Licensee to 911Cellular of any kind under this Agreement are immediately payable and due no later than thirty (30) days after the effective date of the expiration or termination of this Agreement.

(e) Surviving Terms. The provisions set forth in the following sections, and any other right, obligation or provision under this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: this Section 11(e), Section 5, Section 6, Section 7, Section 8, Section 9, Section 10, and Section 12.

## 12. Miscellaneous.

(a) Relationship of the Parties. This Agreement establishes an arms-length contractual relationship between 911Cellular and Licensee, and nothing in this Agreement creates any partnership, joint venture, agency, franchise, representative, employment or other relationship between the parties. Neither Party shall have any right or ability to bind or commit the other Party in any manner.

(b) Interpretation. For purposes of this Agreement: (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice versa; and (e) words denoting any gender include all genders. The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

(c) Entire Agreement. This Agreement and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

(d) Assignment. Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without 911Cellular's prior written consent, which consent shall not unreasonably be delayed or withheld. No assignment, delegation, or transfer will relieve Customer of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 12(d) is void. This Agreement is binding on and inures to the benefit of the Parties hereto and their respective successors and permitted assigns.

(e) **Force Majeure.** In no event will 911Cellular be liable or responsible to Licensee, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any circumstances beyond 911Cellular's reasonable control, including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the Effective Date, failure of any of Licensee's technology or wi-fi networks, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation.

(f) **Notices.** Any notices, requests or demands required by or provided for in this Agreement shall be in writing and sent by facsimile with a confirmation copy mailed by certified mail, return receipt requested, or delivered to the most recently specified address. Notices shall be deemed to have been received the day after delivery of the facsimile has been confirmed or, if delivered by a delivery service, upon the written confirmation of delivery.

(g) **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

(h) **Amendment and Modification: Waiver.** No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(i) **Severability.** If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

(j) **Governing Law; Submission to Jurisdiction.** Both parties agree to remain silent with respect to Governing Law; Submission to Jurisdiction.

(k) **Waiver of Jury Trial.** EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY IN FAVOR OF A BENCH TRIAL.

(l) **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**Schedule 1**  
**System Specifications**

1. **Description of Software.** The System contains one Product that works in tandem with the website management tool.

**Product 1: Computer Panic Button Software**

(a) **Product One:** Computer Panic button software that can be installed on any Windows based PC running Windows version 7 or higher, and any Mac running version 11 or higher. Once installed and configured, the Computer Panic Button can be activated by using a two key combination of keyboard strokes. Alerts triggered through the Computer Panic Button are accessible via the Public Safety Cloud Webportal and can also be delivered via SMS and/or voice call. The computer panic button contains the following features: keyboard activation, connection status reports.

The website management tool is made available to Licensee's Permitted Users (as defined in the Terms and Conditions), in order to obtain and display necessary information from the app and computer panic button users. The website management tool is also used by safety forces to send mass notification system alerts to the community. All information will be accessible through the website management tool provided by 911Cellular.

2. **Specifications and Functional Requirements.** The Software requires Licensee to have desktop computers or mobile devices with internet access and a recently updated web browser (updated within the last one year). The 911Cellular mobile application requires users to have smartphones.

3. **Documentation.** During the training, Licensee will be provided training materials, which may include PowerPoint presentations, hand-outs, skill tests and other materials, which are strictly confidential. 911Cellular may provide Licensee materials which help train new app and device users.

**Schedule 2**  
**Maintenance and Support**

1. **Maintenance Services.** Subject to Licensee's timely payment of the Maintenance Fee (as defined in the Sale of Hardware and Software License Agreement) , 911Cellular (or its designee) shall provide the following maintenance and support services for the Software (the "Maintenance Services"):

(a) **Training.** 911Cellular shall provide training equal to one (1) hour per Software product for which Licensee subscribes pursuant to this Agreement. If Licensee schedules a training and fails to attend without providing a minimum of (24) hours' notice, they will be deemed to have used 30 (thirty) minutes of training. Additionally, three (3) written attempts to establish a training session with no response from Licensee will be considered acknowledgement that Licensee understands the system and 911Cellular's training obligations have been fully satisfied.

(b) **Additional Support.** Additional support beyond training will be provided in accordance with the terms below:

(i) 911Cellular shall provide telephone or email support services at no cost for errors/bugs that are causing immediate System Failures to any Emergency Functionality of the Software. "System Failure" is defined as the inability for Licensee to use the feature as a direct result of an issue related to the 911Cellular Software. System Failure does not include Licensee's inability to understand or use a feature. "Emergency Functionality" is defined as a feature that connects system users directly to first responders. Emergency Functionality includes any emergency button, or mass notification system. Emergency Functionality expressly excludes non-emergency features including shuttle tracking software, campus/city resources and remote connection testing.

(ii) 911Cellular shall use its reasonable efforts to solve as soon as reasonably possible errors and defects in the Software; provided however, that 911Cellular does not warrant that it will solve all errors or defects. If an error or defect prevents Licensee's continuing usage of the Software, 911Cellular shall endeavor to remedy such error or defect as a matter of priority.

(iii) 911Cellular shall provide a telephone or email service for any Non-emergency Situation according to the following fee structure: Telephone or email support services are available during normal business hours (8:30am EST-5:00pm EST). Non-emergency Situations are defined at 911Cellular's sole discretion, and means, among other things: additional training, 911Cellular altering/rearranging data on behalf of client, additional time spent for marketing services, and answering of general questions. After hours support is available for an additional fee of \$125/hour, billed in 6 minute increments.

(iv) 911Cellular shall have no obligation to provide Maintenance Services in the event of unauthorized use or modification of the Software.

2. **Licensee Obligations.**

(a) Licensee shall ensure that any equipment and any third party software upon which the Software relies or is interdependent with, including hardware and software used by Permitted Users, are compatible with the Software and are not malfunctioning in a way that adversely affects operation of the Software. Licensee shall ensure that the Software and such equipment are used in a proper manner by competent trained individuals.

**(b)** Licensee shall cooperate with 911Cellular in the diagnosis of any error or defect in the Software, including providing access to its facilities upon reasonable notice and at mutually convenient times to the extent necessary, and keeping detailed records of all faults.

**(c)** Licensee shall not access the data files maintained by the Software by any means other than the standard 911Cellular interfacing routines included as part of the Software system.