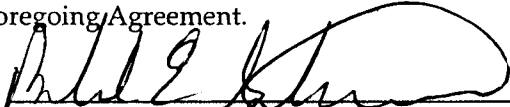




**AUDITOR'S CERTIFICATE**

I hereby certify that funds in the amount of \$30,900.00 are available to pay the obligation of Fort Bend County within the foregoing Agreement.

  
Robert Ed Sturdivant, County Auditor

# Exhibit A

STATE OF TEXAS

§

COUNTY OF FORT BEND

§

§

**THIRD ADDENDUM TO SOFTWARE MAINTENANCE AGREEMENT**

THIS THIRD ADDENDUM is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Zoll Data Systems, Inc., ("Zoll"), a company authorized to conduct business in the State of Texas.

WHEREAS, the parties have previously executed the "Second Addendum To Software Maintenance Agreement" with an effective date of December 30, 2015; "Addendum To Software Maintenance Agreement," with an effective date of October 27, 2015; and "Software Maintenance Agreement," with an effective date of October 6, 2015 to provide maintenance services to County for specified software which also incorporates a "Master Software License Agreement" entered into between the parties as of October 7, 2002 (collectively referred to as the "Agreement" and attached hereto and incorporated by reference as "Exhibit A");

WHEREAS, County desires to purchase maintenance services from Zoll as indicated in Exhibit B;

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, the parties agree to the terms described in Exhibit B. All terms and conditions of the Agreement, including any addenda, not modified herein shall remain in full force and effect for the term of Agreement. If there is a conflict between this Third Addendum and the Agreement, the provisions of this Third Addendum shall prevail with regard to the conflict.

FORT BEND COUNTY

*Robert Hebert*

Robert Hebert, County Judge

February 7, 2017

Date

ATTEST:

*Laura Richard*

Laura Richard, County Clerk

ZOLL DATA SYSTEMS, INC.

*Sandy King*

Authorized Agent - Signature

Sandy King

Authorized Agent- Printed Name

Accounting Operations Manager

Title

1/19/17

Date



**AUDITOR'S CERTIFICATE**

I hereby certify that funds in the amount of \$ 20,400.00 <sup>33,595.00</sup> are available to pay the obligation of Fort Bend County within the foregoing Agreement. R&B 2/16/17

*Robert Ed Sturdivant*

Robert Ed Sturdivant, County Auditor

# **Exhibit A**



# Attachment A

3-2097

STATE OF TEXAS

COUNTY OF FORT BEND

ADDENDUM TO  
SOFTWARE MAINTENANCE AGREEMENT  
ZOLL DATA SYSTEMS FY 2016

THIS ADDENDUM is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter called "County," and ZOLL DATA SYSTEMS, authorized to conduct business in the State of Texas.

THAT, WHEREAS, the parties have entered into a "Software Maintenance Agreement," with an effective date of October 6, 2015 to provide maintenance services to County for specified software which also incorporates a "Master Software License Agreement" entered into between the parties as of October 7, 2002 (collectively the "Agreement" attached hereto as Exhibit A and incorporated by reference); and

WHEREAS, the following changes are incorporated as if a part of the Agreement as if fully set forth verbatim herein:

1. **Term.** This Agreement is effective October 6, 2015 and shall expire October 30, 2016. This Agreement shall not automatically renew.
2. **Payment.** Contractor's fees shall be calculated at the rates set forth in the attached Exhibit A. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is \$33,470.00. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order. Payment shall be made by County within thirty (30) days of receipt of invoice.
3. **Non-appropriation.** It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County.
4. **Taxes.** County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.
5. **Confidential Information.** Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or

confidential information marked as such provided to County by Contractor shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

6. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Contractor for any reason are hereby deleted.
7. **Attorney Fees.** County does not agree to pay any and/or all attorney fees incurred by Contractor in any way associated with the Agreement.
8. **Applicable Law.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to any limitations on the right to bring a claim other than limits that exist by law.
9. **Amendments.** The parties may not waive or amend any term or condition of this Agreement, except by a written agreement executed by both parties.
10. **Software Assurance.** Contractor represents and warrants that its software and any related systems and/or services related to its software (collectively, the "Software") furnished by Contractor to County will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right of any third party. Contractor will, at its expense, defend any suit brought against County and will indemnify County against an award of damages and costs (including reasonable attorney fees, court costs and appeals), made against County by settlement or final judgment of a court that is based on a claim that the use of the Contractor's Software infringes an intellectual property right of a third party. Such defense and indemnity shall survive termination or expiration of the Agreement and the Contractor's liability for the above is not limited by any limitation of liability clauses that may appear in any document executed by the Parties.
11. **Conflict.** In the event of a conflict, the contents of this Addendum shall prevail over the contents of Exhibit A with regard to the conflict.

*Remainder left blank*

*Execution page follows*

FORT BEND COUNTY

  
Gilbert D. Jalome, Jr., PPB  
Purchasing Agent

10.27.15  
Date

ZOLL DATA SYSTEMS

Sandy King  
Authorized Agent- Signature

Sandy King  
Authorized Agent- Printed Name

Accounting Operations Manager  
Title

10/23/15  
Date

**AUDITOR'S CERTIFICATE**

I hereby certify that funds in the amount of \$ 33,170.00 are available to pay the obligation of Fort Bend County within the foregoing Agreement.

  
Robert Ed Sturdivant, County Auditor

Exhibit A: Software Maintenance Agreement," with an effective date of October 6, 2015 and "Master Software License Agreement" entered into between the parties as of October 7, 2002

**STATE OF TEXAS**

**COUNTY OF FORT BEND**

**ADDENDUM TO  
SOFTWARE MAINTENANCE AGREEMENT  
ZOLL DATA SYSTEMS**

**THIS ADDENDUM** is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, hereinafter called "County," and **ZOLL DATA SYSTEMS**, authorized to conduct business in the State of Texas.

**THAT, WHEREAS**, the parties have entered into a "Software Maintenance Agreement," with an effective date of August 11, 2014 to provide maintenance services to County for specified software, as attached hereto as Exhibit A and incorporated by reference; and

**THAT, WHEREAS**, the "Software Maintenance Agreement" with an effective date of August 11, 2014 incorporated a prior agreement between the parties as specified and contained in Exhibit B which is hereby incorporated by reference; and

**WHEREAS**, the following changes are incorporated as if a part of the "Software Maintenance Agreement," incorporated by reference in the same as if fully set forth verbatim herein:

1. Zoll Data systems shall render maintenance services to County for the software identified in, and in accordance with, the attached Exhibit A.
2. The "Software Maintenance Agreement," which includes this Addendum, is effective upon signature of both parties and terminates on September 30, 2015. This Agreement shall not automatically renew.
3. Fort Bend County will pay Zoll Data Systems a total inclusive sum not-to-exceed Thirty Three Thousand, Four-Hundred and Seventy Dollars and 04/100 (\$33,470.04) as more specifically detailed in Exhibit A to this Addendum.
4. The funding provision of the Agreement is contained in paragraph 3 of this Addendum; therefore, all references in any other Agreement of any kind to any remedial payments or any additional charges, including but not limited to all references wherever found to transportation, cables, site-specific installation materials, installation charges, additional labor and rigging, service charges, and travel charges are hereby deleted.
5. Zoll Data Systems shall invoice County for services performed and County will pay Zoll Data Systems within thirty (30) days of receipt of approved invoices.
6. Zoll Data Systems shall perform no custom work without prior written authorization from Fort Bend County.
7. The Parties affirm and agree that this Agreement may be modified by a subsequently dated written amendment signed by the authorized representative of each party. Any statement that a document signed by both parties is not applicable to this Agreement is hereby deleted.
8. Fort Bend County, Texas, is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax exempt certificate will be furnished upon request.

9. Pursuant to § 2251.021, Texas Government Code, a payment by a governmental entity is overdue on the 31st day after payment is due and pursuant to § 2251.025, Texas Government Code, an overdue payment bears interest set by that law. Therefore, all provisions to the contrary are hereby deleted.
10. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas. Any provision to the contrary is hereby deleted.
11. The parties agree that under the Constitution and laws of the State of Texas, Fort Bend County cannot enter into an Agreement whereby Fort Bend County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to indemnifying, holding or saving harmless for any reason whatsoever are hereby deleted.
12. Zoll Data Systems warrants to Fort Bend County that the equipment installed at the premises will be maintained in accordance with the professional standards and in accordance with industry standards.
13. Zoll Data System's warranties provided in this Addendum are in addition to and not in lieu of any other warranties provided in the Agreement. All warranties provided for in this shall be cumulative, shall be deemed consistent and not in conflict, are intended to be given full force and effect and to be interpreted expansively to give the broadest warranty protection to Fort Bend County.
14. To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't. Code §552.001 et seq., as amended (the "Public Information Act"), that provision is of no force and effect. Furthermore, it is expressly understood and agreed that Fort Bend County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any software, or any part thereof, or other items or data furnished to Fort Bend County whether or not the same are available to the public. It is further understood that Fort Bend County, its officers, and employees retains the right to rely on the advice, decisions and opinions of the Attorney General, and that Fort Bend County, its officers and employees has no liability or obligations to Zoll Data Systems for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other items or data furnished to Fort Bend County by Zoll Data Systems in reliance on any advice, decision or opinion of the Attorney General of the State of Texas.
15. All terms and conditions not modified herein shall remain in full force and effect and for the term of this Agreement. If there is a conflict between this Addendum and any other previously executed Agreement, the provisions of this Addendum shall prevail.

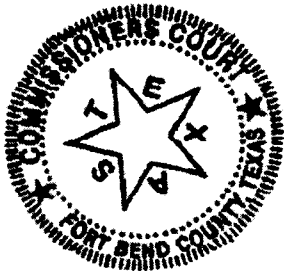
FORT BEND COUNTY:

Robert E. Hebert  
Robert E. Hebert, County Judge

Date: 10-28-2014

ATTEST:

Dianne Wilson  
Dianne Wilson, County Clerk



**ZOLL DATA SYSTEMS**

By: Sandy King  
Authorized Agent - Signature

Sandy King  
Authorized Agent - Printed Name

Title: Accounting Operations Manager

Date: 10/28/14

**AUDITOR'S CERTIFICATE**

I hereby certify that funds in the amount of \$ 33,470.04 are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant  
Robert Ed Sturdivant, County Auditor

**Exhibits attached:**

**Exhibit A:**  
'Software Maintenance Agreement,' with an effective date of August 11, 2014

**Exhibit B:**  
General Terms and Conditions" from "Software License Agreement" (MLSA) with an order date of October 7, 2002

I:\MTR\Agreements\Addenda\Zoll 6.13.2012

## **Exhibit A**

**‘Software Maintenance Agreement,’  
with an effective date of August 11, 2014**

ZOLL Data Systems, Inc.

**SOFTWARE MAINTENANCE AGREEMENT**

This SOFTWARE MAINTENANCE AGREEMENT ("Maintenance Agreement") is entered into between ZOLL DATA SYSTEMS, INC. ("ZDS") and the entity listed below ("Customer") as of the Effective Date set forth below. Any capitalized terms in this Maintenance Agreement will have the meanings given to them in this Maintenance Agreement and in the Master Software License Agreement entered into between ZDS and Customer as of October 7, 2002 ("MSLA").

Sales Order #:	N/A
Effective Date:	August 11, 2014
Customer:	Fort Bend County

Customer desires to receive Maintenance Services under this Maintenance Agreement for the following Software licensed by Customer under the MSLA (each, a "Supported Program"):

PRODUCT	QUANTITY	UNIT LIST PRICE AT TIME OF PRODUCT PURCHASE	MAINTENANCE UNIT PRICE	MAINTENANCE EXTENDED PRICE
TabletPCR Network Licenses	6	\$3,000.00	\$500.00	\$3,000.00
TabletPCR Mobile Licensing	20	\$3,000.00	\$500.00	\$12,000.00
Fax Server	1	\$3,600.00	\$700.00	\$700.00
Modtrent LifeNet SDK	1	\$4,600.00	\$900.00	\$900.00
Billing Users	7	\$7,600.00	\$1,500.00	\$10,500.00
Professional Reports Package	1	\$6,250.00	\$1,250.00	\$1,250.00
Security Module	1	\$4,600.00	\$900.00	\$900.00
Custom Interface	1	\$18,000.00	\$3,200.00	\$3,200.00
			TOTAL:	\$33,470.04

This Maintenance Agreement consists of, and all references to this "Maintenance Agreement" will include, this page and the attached Terms and Conditions, each of which is incorporated into and made a part of this Maintenance Agreement. This Maintenance Agreement will apply and supersede the terms of the MSLA with respect to all Maintenance Services provided under the MSLA. This Maintenance Agreement and portions of the MSLA referenced herein constitute the entire agreement between the parties regarding the subject hereof and together supersede all prior agreements, understandings, and communication, whether written or oral. This Maintenance Agreement will not be modified except by a subsequently dated written amendment signed by authorized representatives of each party. Under no circumstances will the preprinted terms of any purchase order, confirmation or other document (whether or not signed by the parties) apply to this Maintenance Agreement.

All notices, consents and approvals under this Maintenance Agreement must be delivered in writing by courier, facsimile (fax), or certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address set forth on this page, and will be effective upon receipt or 3 business days after being deposited in the mail as required above, whichever occurs sooner. Either party may change its address by giving notice of the new address to the other party.

This Maintenance Agreement may be executed in counterparts (including by facsimile), each of which will be deemed to be an original and such counterparts together will constitute one and the same agreement.

By signing below Customer accepts and agrees to be legally bound by the terms of this Maintenance Agreement as of the Effective Date.

FOR ZDS: ZOLL Data Systems, Inc.
Signature: <u>Debbie Mihalten</u>
Name: <u>Debbie Mihalten</u>
Title: <u>Contract Administration Manager</u>
Date: <u>8/12/14</u>

FOR CUSTOMER: Fort Bend County
Signature: _____
Name: _____
Title: _____
Date: _____



## TERMS AND CONDITIONS

1. **DEFINITIONS.** Capitalized terms used in this Maintenance Agreement will have the meanings set forth in this Section 1. Capitalized terms not defined in this Section 1 will have the meanings set forth in the MSLA. All other capitalized terms will be as defined in this Maintenance Agreement.

1.1. "Critical Error" means any Error that prevents Customer from accessing and using the Supported Program for a purpose for which the Customer has a then-immediate need and for which there is no reasonable workaround. By way of example, a Critical Error would include a situation in which all users are unable to login to the RescuelNet Dispatch system, but not a situation in which only certain users are unable to login to the RescuelNet Dispatch system and there is an acceptable workaround available by logging in under an unaffected user account.

1.2. "Designated Interface" means the contact person or group designated by Customer and agreed to by ZDS who will coordinate all Maintenance Services requested by Customer.

1.3. "Error" means a reproducible defect in the Supported Program when operated on a Supported Environment, which causes the Supported Program not to operate substantially in accordance with the Documentation.

1.4. "Major Update" means any Update designated by a change in the numeral in the version number of the Software immediately to the right of the decimal point (e.g., 4.0, 4.1, 4.2) or immediately to the left of the decimal point (e.g., 4.0, 5.0, 6.0).

1.5. "Resolution" means a modification, correction, release or workaround to a Supported Program (or the Documentation for a Supported Program), or other information provided by ZDS to Customer intended to resolve an Error.

1.6. "Emergency Hours" means 24 hours a day, 7 days a week.

1.7. "Business Hours" means 8 am to 6 pm (Mountain Time), Monday through Friday, excluding ZDS holidays.

1.8. "Supported Environment" means a hardware, software and telecommunications operating environment designated by ZDS for use with the Supported Program.

1.9. "Telephone Support" means the following, provided by ZDS via a telephone number designated by ZDS for Maintenance Services: (a) clarification of functions and features of the Supported Program; (b) clarification of the Documentation for the Supported Program; (c) guidance in operation of the Supported Program; (d) assistance in identifying and verifying the causes of suspected Errors in the Supported Program; and (e) advice (if reasonably possible) on bypassing identified Errors in the Supported Program.

1.10. "Update" means a subsequent release of the Software which ZDS makes generally available at no additional fee to customers that have purchased Maintenance Services for the Software. An Update does not include any release, upgrade, option future, functionality or product which ZDS provides at an additional fee or separately from the Software.

2. **MAINTENANCE SERVICES.** The Maintenance Services provided under this Maintenance Agreement will include the following:

2.1. **Updates.** From time to time, ZDS may make Updates available to Customer for purposes of providing patches, bug fixes, new functionality or addressing other issues regarding the Software. Customer agrees to promptly install all Updates received from ZDS. Unless otherwise agreed by the parties, Customer will be solely responsible for the installation of any Updates in accordance with the Documentation and the installation instructions provided by ZDS. If ZDS agrees to install any Updates on behalf of Customer, ZDS will invoice Customer, and Customer will pay ZDS, for all such work performed at ZDS's then-current professional services rates.

2.2. **Technical Support.** ...

(a) **Critical Errors.** Subject to the terms of this Maintenance Agreement, ZDS will provide Telephone Support to the Designated Interface during Emergency Hours to address all Critical Errors reported to ZDS by the Designated Interface and use commercially reasonable efforts to provide a Resolution to all such Critical Errors through Telephone Support.

(b) **Other Errors.** Subject to the terms of this Maintenance Agreement, ZDS will provide Telephone Support to the Designated Interface during Business Hours to address all other Errors relating to the Supported Program reported to ZDS by the Designated Interface and use commercially reasonable efforts to provide a Resolution to all such other Errors through Telephone Support.

(c) **Tracking.** Customer will use the service request number provided by ZDS in connection with each Error in all correspondence and communications with ZDS relating to that Error.

3. **CUSTOMER RESPONSIBILITIES.**

3.1. **Designated Interface.** Customer will name a Designated Interface for all Maintenance Services. Only customer employees who have been suitably trained with respect to the Supported Programs may serve as the Designated Interface for Maintenance Services. ZDS may, in its sole discretion, require that the Designated Interface be changed if ZDS believes the Designated Interface does not have suitable skill and experience with respect to the Supported Programs. In such event, Company will promptly designate a suitable replacement Designated Interface.

3.2. **Access and Assistance.** Customer will provide ZDS with reasonable assistance in resolving any Error, including providing ZDS with sufficient access to and information regarding Customer's hardware, software or telecommunications environment to enable ZDS to diagnose and duplicate the Error and (as applicable) to provide a Resolution to the Error and verify that the Error has been resolved. Customer will maintain at its own expense all appropriate equipment and software necessary to provide ZDS with remote access to Customer's computer systems allowing ZDS the same level of access to all applicable computer systems as Customer's employees having the highest level of privilege or clearance (and in all cases in accordance with any ZDS remote access specifications).

3.3. **Additional Requests.** Customer will comply with all additional reasonable requests of ZDS in connection with the provision of the Maintenance Services, including taking all steps necessary to implement Resolutions and other procedures provided by ZDS within a reasonable time after receiving such Resolutions and procedures from ZDS.

4. **EXCEPTIONS.** ZDS will have no obligation to provide any Maintenance Services under this Maintenance Agreement if: (a) Customer is in breach of this Maintenance Agreement or the MSLA; (b) the MSLA is terminated or expires; (c) the Software is not installed on or operated in a Supported Environment; (d) the software, hardware or equipment comprising the Supported Environment is not operated in accordance with the applicable manufacturer's documentation or specifications; or (e) the Software is not being operated in accordance with ZDS's applicable Documentation or specifications. In addition, ZDS will have no obligation for any Error that: (i) cannot be reasonably remedied due to the operational characteristics of Customer's hardware, software or telecommunications environment; (ii) is due to any third party products,

hardware equipment, software, or data or the use or combination of the Software with any third party products, hardware, equipment, software, or data (including, as applicable, the Supported Environment); (ii) is due to any Software other than the Supported Programs; (iv) is due to any modifications to the Software not provided by ZDS; (v) is caused by Customer's negligence, accident, abuse, neglect, misapplication or misuse of the Software; or (vi) otherwise results from causes other than ordinary use of the Software. ZDS will have no liability for any charges required by Customer's hardware, software or telecommunications environment which may be necessary to use any Software due to the implementation of a Resolution. ZDS will be required to provide the Maintenance Services only for the most current release and the two immediately preceding Major Updates of a Supported Program. ZDS may modify the Supported Environment at any time upon 6 months notice to Customer. If Customer requests and ZDS agrees to remedy any errors or problems not covered by the terms of this Maintenance Agreement, ZDS will invoice Customer, and Customer will pay ZDS, for all such work performed at ZDS's then-current professional services rates.

**5. SOFTWARE LICENSE.** All Updates, Resolutions and any other software, data, information or materials provided under this Maintenance Agreement and all worldwide Intellectual Property Rights therein and related thereto: (1) are and will remain the exclusive property of ZDS and its suppliers; and (2) are licensed to Customer by ZDS for use as "Software" in accordance with the MSLA. All rights in and to such Updates, Resolutions and other software, data, information or materials not expressly granted to Customer in this Maintenance Agreement are reserved by ZDS and its suppliers.

#### **6. TERM AND TERMINATION.**

**6.1. Term.** The term of this Maintenance Agreement will begin on the Effective Date and will automatically renew annually, unless earlier terminated in accordance with Section 6.2.

**6.2. Termination.** Either party may terminate this Maintenance Agreement if the other party materially breaches any provision of this Maintenance Agreement and does not cure such breach within 30 days after receiving notice thereof. In addition, (a) Customer may terminate this Maintenance Agreement by providing notice to ZDS at least 30 days prior notice; (b) ZDS may terminate this Maintenance Agreement effective upon notice to Customer if ZDS ceases to make any of the Maintenance Services offered under this Maintenance Agreement generally available to its other customers; or (c) ZDS may terminate this Maintenance Agreement for convenience at any time upon 30 days notice to Customer.

**6.3. Reinstatement.** If this Maintenance Agreement is terminated for any reason and Customer later elects reinstate Maintenance Services for the Supported Programs, provided that ZDS still makes such Maintenance Services generally available to its other customers at the time of such election and upon agreement by ZDS, ZDS will reinstate Maintenance Services for the Supported Programs under this Maintenance Agreement upon payment by Customer of the applicable Maintenance Fees which would have accrued during all such periods in which Maintenance Services for the Supported Programs were not maintained by Customer.

**6.4. Effect of Termination.** Upon any termination of this Maintenance Agreement: (a) ZDS may immediately cease performing all Maintenance Services provided under this Maintenance Agreement; (b) Customer will pay to ZDS any Maintenance Fees or other Fees owed to ZDS under this Maintenance Agreement; (c) Customer will promptly return to ZDS, or at the request of ZDS destroy, all property and equipment of ZDS (including any Confidential Information) in its possession or control, including all copies thereof; and (d) upon the request of ZDS, Customer will certify in writing to its compliance with this Section 6.4. Following completion of the foregoing obligations of Customer, ZDS will refund to Customer any Maintenance Fees prepaid by Customer but unused as of the effective date of such termination. Sections 1 (Definitions), 8.4 (Effect of Termination) 8.2 (Disclaimer), 9 (Limitation of Liability) and 10 (Additional Terms) will survive any termination of this Maintenance Agreement for any reason.

#### **7. FEES AND EXPENSES; PAYMENT.**

**7.1. Fees.** As of the Effective Date, the Annual Maintenance Fees due under this Maintenance Agreement are as set forth on the initial page of this Maintenance Agreement. During the term of this Annual Maintenance Agreement, the Maintenance Fees will be equal to 20% of ZDS's then-current list price (excluding any discounts) for all Software included in the Covered Programs and the total combined Services Fees due under the MSLA for any customization of the Software included in the Covered Programs performed by ZDS.

**7.2. Expenses.** Maintenance Services may be provided on-site at a location of Customer. Customer will reimburse ZDS for any reasonable out-of-pocket costs and expenses incurred by ZDS relating to supplies, travel, meals and lodging, as well as and any other costs and expenses incurred by ZDS in performing such Maintenance Services which are not of the sort normally provided or covered by ZDS.

**7.3. Payment.** On or before the Effective Date, Customer will pay ZDS the Maintenance Fee for the Initial Maintenance Period indicated on the initial page of this Maintenance Agreement. Thereafter, ZDS will invoice all Maintenance Fees on a quarterly basis at the Quarterly Fee indicated on the initial page of this Maintenance Agreement (as adjusted per Section 7.1). Customer will pay ZDS all amounts shown on such invoices within 30 days after the date of the applicable invoice. All payments must be made in U.S. dollars, unless otherwise agreed by the parties. ZDS will be under no obligation to provide any Maintenance Services until all Maintenance Fees for the Initial Maintenance Period have been paid by Customer and ZDS may thereafter suspend Maintenance Services to Customer if any invoice is past due. In addition, any amounts not paid when due will accrue interest at the lesser of 1% per month or the maximum rate permitted by applicable law from the due date until paid, together with collection costs, including attorneys' fees, incurred by ZDS in enforcing this Maintenance Agreement. Any amounts not paid when due may result in the forfeiture of any discounts offered on the Effective Date. Except as may be provided in this Maintenance Agreement, all Maintenance Fees are non-refundable once paid to ZDS.

**7.4. Taxes.** Maintenance Fees include, and Customer is responsible for the payment of, any applicable sales, use, value added and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on ZDS's net income) due with respect to the Maintenance Fees or the Maintenance Services. When applicable, ZDS may include any such taxes that it is required to collect as a separate line item on invoices to Customers. Customer will be responsible for, and will indemnify and hold harmless ZDS from, payment of all such taxes and any other fees, duties and charges, and any related penalties and interest, arising from the payment of the Maintenance Fees or from the Maintenance Services.

#### **8. LIMITED WARRANTY AND DISCLAIMER.**

**8.1. Limited Warranty.** ZDS warrants that any Maintenance Services provided to Customer under this Maintenance Agreement will be performed with due care in a professional and workmanlike manner. ZDS shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this Section 8, use commercially reasonable efforts to re-perform the Maintenance Services which gave rise to the breach or, at ZDS's option, refund the Maintenance Fees paid by Customer for the Maintenance Services which gave rise to the

breach: provided that Customer notifies ZDS of the breach in reasonable detail within 30 days following performance of the defective Maintenance Services, specifying the breach in reasonable detail. The Updates, Resolutions and other software, data, information or materials provided under this Maintenance Agreement will in no way extend or alter the scope or duration of any warranty for the Software provided under the MSLA.

**8.2. Disclaimer.** THE REPRESENTATIONS AND WARRANTIES IN THIS SECTION 8 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THIS MAINTENANCE AGREEMENT AND THE MAINTENANCE SERVICES AND SOFTWARE PROVIDED HEREUNDER, AND ZDS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND COVENANTS, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES PROVIDED IN THIS SECTION 8 AND THAT NO WARRANTIES ARE MADE BY ZDS OR ZDS'S SUPPLIERS.

**9. Limitation of Liability.** The total liability of ZDS for all claims of any kind, whether in contract, tort (including negligence), strict liability or otherwise, arising out of, connected with, or resulting from the performance or breach of this Maintenance Agreement or the Maintenance Services provided hereunder during any 3 month period will in no event exceed the total Maintenance Fees paid by Customer under this Maintenance Agreement during such period. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, TORT, (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, WILL ZDS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY NATURE, EVEN IF ZDS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS OR REVENUES, CLAIMS OF CUSTOMER, LOSS OF USE OF ANY EQUIPMENT OR SOFTWARE, SYSTEMS, FACILITIES, LOSS OF DATA OR INFORMATION, LACK OR LOSS OF PRODUCTIVITY, INTEREST CHARGES OR COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, SOFTWARE, SYSTEMS OR SERVICES, COST OF PURCHASED OR DOWNTIME COSTS.

**10. ADDITIONAL TERMS.**

**10.1. No Assignment.** Customer may not assign, delegate or transfer, by operation of law or otherwise, this Maintenance Agreement or any of its rights or obligations under this Maintenance Agreement to any third party without ZDS's prior written consent. Any attempted assignment, delegation or transfer in violation of the foregoing will be null and void. ZDS shall have the right to assign or transfer this Maintenance Agreement, provided that ZDS's successor agrees to assume all of ZDS's obligations and responsibilities under this Maintenance Agreement.

**10.2. Independent Contractors.** The relationship of the parties under this Maintenance Agreement is that of independent contractors. Neither party will be deemed to be an employee, agent, partner or legal representative of the other for any purpose and neither will have any right, power or authority to create any obligation or responsibility on behalf of the other.

**10.3. Governing Law and Venue.** This Maintenance Agreement will be governed by and interpreted in accordance with the laws of the State of Colorado, without reference to its choice of laws rules. Any action or proceeding arising from or relating to this Maintenance Agreement shall be brought in a federal or state court in Denver, Colorado (or otherwise having jurisdiction of matters occurring in Denver, Colorado), and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. The United Nations Convention on the Sale of Goods shall not be applicable to this Maintenance Agreement.

**10.4. Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

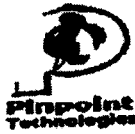
**10.5. U.S. Government End Users.** The Covered Programs and all software provided under this Maintenance Agreement is a "commercial item" as that term is defined in 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Software with only those rights set forth in this Maintenance Agreement, and do not acquire any other right, title or interest, express, implied or otherwise, in or to the Software.

**10.5. Waiver.** Any waiver of the provisions of this Maintenance Agreement or of a party's rights or remedies under this Maintenance Agreement must be in writing to be effective. Failure or delay by a party to enforce the provisions of this Maintenance Agreement or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under this Maintenance Agreement and will not in any way affect the validity of the whole or any part of this Maintenance Agreement or prejudice such party's right to take subsequent action. Except as expressly stated in this Maintenance Agreement, no exercise or enforcement by either party of any right or remedy under this Maintenance Agreement will preclude the enforcement by such party of any other right or remedy under this Maintenance Agreement or that such party is entitled by law to enforce.

**10.7. Severability.** If any term, condition, or provision in this Maintenance Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties will endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Maintenance Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

**Exhibit B:**

**General Terms and Conditions” from  
“Software License Agreement” (MLSA)  
with an order date of October 7, 2002**



Pinpoint Technologies, Inc.  
1800 28th Street  
Boulder, CO 80501  
303.441.0200

Bill To: Fort Bend EMS  
Attn: Michael McClair  
Address: 4336 Hwy 36  
Rosenberg, TX 77417  
USA

# Software Licensing Agreement

Account Manager: Peulon, Jill  
P.O. Number:  
Order Date: 10/07/2002  
Contract No.:  
Order Type: Regular Order  
Status: Sales Order  
Page No: 1 of 1

Ship To: Fort Bend EMS  
Attn: Michael McClair  
Address: 4336 Hwy 36  
Rosenberg, TX 77417

USA

Ship Via: UPS

## CONTRACT TERMS AND CONDITIONS

1. **AGREEMENT** This agreement is made by and between Pinpoint Technologies, Inc. ("Pinpoint") and Customer, as defined in the context of this agreement. Customer is the license recipient of the software and/or hardware products of Pinpoint Technologies, Inc. ("Products") and agrees to be bound by the terms and conditions of this agreement.

12. **WARRANTY** Pinpoint warrants that the software and/or hardware products are free from defects in materials and workmanship under normal use for the period of time specified in the warranty. Pinpoint does not warrant that the software and/or hardware products will be error-free or that they will meet any specific requirements. Pinpoint's liability is limited to the replacement or repair of the software and/or hardware products.

13. **TERMS OF SALE** The software and/or hardware products are sold on a non-exclusive license basis. Customer agrees to pay the full amount of the purchase price at the time of purchase. Pinpoint does not provide any refunds or credits for any reason.

14. **INSTALLATION** Customer is responsible for the installation and configuration of the software and/or hardware products. Pinpoint does not provide any installation or configuration services.

15. **UPDATES** Pinpoint may provide updates to the software and/or hardware products from time to time. Customer agrees to install and use any updates provided by Pinpoint.

16. **ACCEPTANCE** Customer's use of the software and/or hardware products constitutes acceptance of the terms and conditions of this agreement.

17. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

18. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

19. **ENTIRE AGREEMENT** This agreement constitutes the entire agreement between Pinpoint and Customer.

20. **SEVERABILITY** If any provision of this agreement is found to be unenforceable, the remaining provisions shall remain in effect.

21. **GOVERNING LAW** This agreement shall be governed by the laws of the state of Colorado.

22. **NOTICES** All notices shall be in writing and shall be sent to the address specified in this agreement.

23. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

24. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

25. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

26. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

27. **NOTICES** All notices shall be in writing and shall be sent to the address specified in this agreement.

28. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

29. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

30. **NOTICES** All notices shall be in writing and shall be sent to the address specified in this agreement.

31. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

32. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

33. **NOTICES** All notices shall be in writing and shall be sent to the address specified in this agreement.

34. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

35. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

36. **NOTICES** All notices shall be in writing and shall be sent to the address specified in this agreement.

37. **ASSIGNMENT** Customer may not assign, transfer, or sublicense the software and/or hardware products to any third party without the prior written consent of Pinpoint.

38. **FORCE MAJEURE** This agreement shall be subject to the provisions of the Uniform Commercial Code, as amended, in the state of Colorado.

## Attachment B

ZOLL Data Systems, Inc.  
Order Form Addendum

Order No: 00014601

This Order Form is entered into as of December 16, 2015 (the "Effective Date"), executed subject to and made a part of that certain Master Software License Agreement between ZOLL Data Systems, Inc. ("ZOLL") and Fort Bend County EMS ("Customer") (the "MSLA") previously executed. Unless explicitly stated otherwise in this Order Form, any capitalized terms shall have the meaning given to them in the MSLA.

<b>Bill To: Fort Bend County EMS</b> 301 Jackson, Suite 533 Richmond, TX 77469	<b>Ship To: Fort Bend County EMS</b> Attn: Philip Akonom, philip.akonom@fortbendcountytx.gov 301 Jackson Suite 533 Richmond, TX 77469  Shipping:
--	--

Territory Manager: Nick Sortin

Expires: December 31, 2015

Item	Lic. Type	Description	Qty	List Price	Disc	Adj. Price	Semi-Annual Cost or One Time Charge	Monthly Cost
HSBPR	SUB	Subscription RescueNet Billing Premium (Per Concurrent User)	2	\$475.00	10%	\$427.50	\$5,130.00	\$855.00

Comments: THIS IS A SIX (6) MONTH COMMITMENT ONLY.

SEMI-ANNUAL FEES: \$5,130.00  
 MONTHLY FEES: \$855.00  
 PROFESSIONAL SERVICES:

THIS AGREEMENT CAN BE RENEWED AT THE COMPLETION OF THE ORIGINAL SIX (6) MONTH PERIOD IF REQUIRED.

**Payment Terms:** The first invoice issued under this agreement will be issued upon completion of the implementation services and will be for the sum of any PROFESSIONAL SERVICES fees and any ONE TIME FEES listed above if applicable. In addition, ZOLL will invoice Customer at the end of each calendar month during the Term for the amount of the Monthly Fees listed above. Monthly Fees resulting from a purchase of additional licenses or an upgrade to a higher level model will be added to the next monthly invoice. Otherwise, the invoice for the first Monthly Fees hereunder will be issued 90 days after the Effective Date, or upon completion of the implementation, whichever is earlier, with the exception of the Eligibility Module which will start billing on the date agreed upon (and noted in the comment section above) at the time of contract signing, which will in no case be more than 120 days from contract signing. All amounts are due within 30 days after the date of the invoice. The Total Professional Services fees, the One Time Fees and the Monthly Fees are hereinafter referred to collectively as the 'Software Fees'.

**Maintenance Fees:** Maintenance Fees are included in the Monthly Fees. For purposes of this Agreement, all references to Maintenance Fees shall mean Monthly Fees. Maintenance Fees for third party software are set by the software vendor.

**Service Fees:** Service Fees are specified in each SOW. Customer will also reimburse ZOLL for all reasonable out-of-pocket expenses (including travel and accommodation expenses) incurred by ZOLL in providing the Services.

**Scope of License:** Software is licensed based upon the License Type and quantity purchased, as more particularly set forth above and in the attached License Description Addendum.

**Tax Exempt Status:** If Customer is tax exempt or pays state taxes directly, then prior to invoicing, Customer must provide ZOLL with a copy of a current tax exemption certificate issued by Customer's state taxing authority for the given jurisdiction.

\* **Semi-Annual Fee:** The Semi-Annual Fees shown above are for the six-month Term (beginning on the Effective Date), which will be invoiced and paid as the Monthly Fees as shown above.

\* **Monthly Fee (Subject to Adjustment):** The Monthly Fees shown are based on the following options, determined by product: The quantity (Qty) of concurrent users for Dispatch, CommCAD, and Billing; the Qty of Stations for FireRMS; the Qty of Customer Vehicles for Navigator and @Work; the Qty of Facilities for NetTransit; the Qty of employee resources for Crew Scheduler; the Qty of the tier (based on number of visits) for EMS Mobile Health, and for ePCR, the Qty of PCRs listed in the line item above (the PCR Volume). In the case of ePCR, following 12 months of service (from the completion of implementation), ZOLL will conduct an annual audit of PCR Volume. Should PCR volume exceed 110% of quantity for the 12 month period, ZOLL will invoice customer for the excess above quantity at the per PCR price listed in the line item above. Should a shortage greater than 10% of PCR Volume exist for the 12 month period, ZOLL will issue a credit in the amount of 10% of the Annual Fee. Future billings for ePCR will be adjusted based on the new PCR Volume as determined by the audit for the following 12 month period. For EMS Mobile Health, adjustments to the pricing are outlined in Exhibit E. For NetTransit, @Work, and Crew Scheduler ASP, Monthly Fees will be determined by the previous month's actual usage. For the other products, adjustments to the Qty will be handled through an additional ASPA.

**ZOLL Data Systems, Inc.**  
**Order Form Addendum for Fort Bend County EMS**

**Order No: 00014601**

The person signing below represents and warrants that she or he has the authority to bind Customer to the terms of this Order Form. By signing below, the parties agree to the terms and conditions of this Order Form. Once signed, any reproduction of this Order Form, or any attachment or exhibit hereto, made by reliable means (for example, photocopy or facsimile) is considered an original and all Software, Services and Maintenance Services ordered and provided under this Order Form will be subject to it.

**ZOLL Data Systems, Inc.**

Signature:

*Sandy King*

Name: **Sandy King**

Title: Accounting Operations Manager

Date: 12/29/15

**Fort Bend County EMS**

Signature:

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ZOLL Data Systems, Inc.**  
**Order Form Addendum for Fort Bend County EMS**

**Amended Terms and Conditions**

The following sections supersede or are in addition to sections in the existing MSLA.

**1.1 "Annual Fee" for "SUB" Type Licenses.** Means the amount of Monthly Fees that Customer is required to pay under this MSLA in each twelve month period during the Term beginning on the date identified in the Initial Order.

**1.11 "Monthly Fees" for "SUB" Type Licenses.** Means ZOLL's then current standard recurring monthly fees for the license of Software set forth in the Initial Order or any subsequent Order Form. Monthly Fees are part of the Software Fees.

**6.2 Maintenance Fees.** For "SUB" Type Licenses, Maintenance Fees are included in the Monthly Fees. For all other software, if Customer elects to procure Maintenance Services from ZOLL, then 60 days following the Deployment Date, ZOLL will invoice Customer for 1 quarter of Maintenance Services to commence on the date of expiration of the "Software Warranty Period" (as defined in Section 7 below). ZOLL will invoice Customer on a quarterly basis thereafter for all further Maintenance Fees unless Customer notifies ZOLL within 30 days of the end of the then-current Maintenance Services period. ZOLL will have no obligation to provide Maintenance Services to Customer if any invoice issued under this Section 6.2 is past due. If Customer elects to discontinue Maintenance Services at any time, to reinstate Maintenance Services and receive the applicable updates and new releases, Customer must pay the Maintenance Fees for all time periods missed. All Maintenance Fees are non-refundable.

**6.6 Audit Rights.** During the Term and for a period of six (6) months following the termination or expiration of this MSLA, ZOLL will have the right, during normal business hours, to inspect (through remote access to Customer servers, reports, etc. or onsite if determined necessary), or have an independent audit firm inspect, Customer's records relating to Customer's use of the Software to ensure it is in compliance with the terms of this MSLA, including with any limitation on the number of servers, personal computers and/or other portable devices on which Customer may install the Software hereunder and/or the number of Customer users that may use the Software hereunder, and/or the number of PCRs generated through the software hereunder. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer's underpayment of Fees exceeds 5% for products other than ePCR Monthly Fees that are subject to adjustment as described on page 1. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL's standard, non discounted rates) plus interest as provided in Section 6.4 above.

**11.4 Effects of Termination.** Upon termination or expiration of the MSLA for any reason: (a) any amounts owed to ZOLL under this MSLA and all Statements of Work before such termination or expiration will be immediately due and payable, including, in the event of termination of this MSLA (i) by ZOLL under "Section 11.2" or (ii) by Customer under "Section 11.3", a termination fee ("Early Termination Fee" equal to the amount, if any, of (x) the initial Annual Fee minus (y) the sum of Monthly Fees (as defined in the Initial Order) paid by Customer to ZOLL hereunder prior to the date of termination during the initial twelve-month period; (b) all licensed rights granted in this MSLA will immediately cease to exist; (c) Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers and the computers of its customers, and return to ZOLL or destroy all copies of the Software and Documentation on tangible media in Customer's possession; and (d) each party shall promptly discontinue all use of the other party's Confidential Information, and return to the other party or, at the other party's option, destroy, all copies of any such Confidential Information in tangible or electronic form. If ZOLL terminates an SOW for cause, such termination will have no effect upon any other SOWs that may be in effect unless ZOLL terminates the MSLA for cause. Upon ZOLL's request, Customer will provide a written certification (in the form acceptable to ZOLL), certifying as to Customer's compliance with its post-termination obligations set forth in this Section 11.3.

**12.9 Access to Insight Analytics.** Provided the Customer is current on payments of Maintenance Fees hereunder, Customer may subscribe, at no additional charge, to ZOLL's website [www.ZOLLonline.com](http://www.ZOLLonline.com) ("ZOLL Online") by agreeing to the terms of the Application Service Provider Agreement available on ZOLL Online ("The ASP Agreement"), pursuant to which Customer shall receive access, at no additional charge, to Insight Analytics product of ZOLL, subject to the terms of the ASP Agreement.

**12.10 Entire Agreement.** This MSLA, together with all exhibits hereto and the ASP Agreement, if any, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This MSLA shall not be modified except by a subsequently dated written amendment signed on behalf of ZOLL and Customer by their duly authorized representatives.

ZOLL Data Systems, Inc.  
Order Form Addendum

Order No:00014547

This Order Form is entered into as of December 7, 2015 (the "Effective Date"), executed subject to and made a part of that certain Master Software License Agreement between ZOLL Data Systems, Inc. ("ZOLL") and Fort Bend County EMS ("Customer") (the "MSLA") previously executed. Unless explicitly stated otherwise in this Order Form, any capitalized terms shall have the meaning given to them in the MSLA.

<b>Bill To: Fort Bend County EMS</b> 301 Jackson, Suite 533 Richmond, TX 77469	<b>Ship To: Fort Bend County EMS</b> Attn: Ed Sturdivant, ed.sturdivant@fortbendcountytx.gov 301 Jackson Suite 533 Shipping: Richmond, TX 77469
--	--

Territory Manager: Nick Sortin

Expires: December 31, 2015

Item	License	Description	Qty	List Price	Disc.	Adj. Price	Ext. Price	Annual Maint.
ARC	--	A/R Consulting Day (Excludes T&E)	3	\$1,500.00		\$1,500.00	\$4,500.00	\$0.00

Item	License	Description	Qty	List Price	Disc.	Adj. Price	Ext. Price	Annual Maint.
T&E	--	Travel Expenses (Not to exceed)	1	\$1,600.00		\$1,600.00	\$1,600.00	\$0.00

Comments:

SUBTOTAL SOFTWARE:	
SUBTOTAL PROFESSIONAL SERVICES:	\$6,100.00
<b>TOTAL:</b>	<b>\$6,100.00</b>
ANNUAL MAINTENANCE:	\$0.00

**Payment Terms:** The TOTAL amount specified above in this Order Form is due within 30 Days from completion of services.

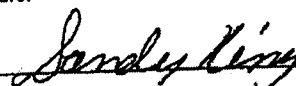
**Maintenance Fees:** Maintenance Fees specified in this Order Form will be prorated up to the next maintenance billing cycle and included as a line item in the invoice issued in connection with this Order Form.

**Service Fees:** Service Fees are specified in each SOW. Customer will also reimburse ZOLL for all reasonable out-of-pocket expenses (including travel and accommodation expenses) incurred by ZOLL in providing the Services.

**Scope of License:** Software is licensed based upon the License Type and quantity purchased, as more particularly set forth above and in the attached License Description Addendum.

**Tax Exempt Status:** If Customer is tax exempt or pays state taxes directly, then prior to invoicing, Customer must provide ZOLL with a copy of a current tax exemption certificate issued by Customer's state taxing authority for the given jurisdiction.

The person signing below represents and warrants that she or he has the authority to bind Customer to the terms of this MSLA. By signing below, the parties agree to the terms and conditions of this MSLA. Once signed, any reproduction of this MSLA, or any attachment or exhibit hereto, made by reliable means (for example, photocopy or facsimile) is considered an original and all Software, Services and Maintenance Services ordered and provided under this MSLA will be subject to it.

**ZOLL Data Systems, Inc.**  
 Signature: \_\_\_\_\_  
  
 Name: Sandy King  
 Title: Accounting Operations Manager  
 Date: 12/29/15

**Fort Bend County EMS**  
 Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**ZOLL Data Systems, Inc.**  
**Order Form Addendum for Fort Bend County EMS**

**Amended Terms and Conditions**

The following sections supersede or are in addition to sections in the existing MSLA.

**1.1 "Annual Fee" for "SUB" Type licenses.** Means the amount of Monthly Fees that Customer is required to pay under this MSLA in each twelve-month period during the Term beginning on the date identified in the Initial Order.

**1.11 "Monthly Fees" for "SUB" Type licenses.** Means ZOLL's then current standard recurring monthly fees for the license of Software set forth in the Initial Order or any subsequent Order Form. Monthly Fees are part of the Software Fees.

**6.2 Maintenance Fees.** For "SUB" Type licenses, Maintenance Fees are included in the Monthly Fees. For all other software, if Customer elects to procure Maintenance Services from ZOLL, then 60 days following the Deployment Date, ZOLL will invoice Customer for 1 quarter of Maintenance Services to commence on the date of expiration of the "Software Warranty Period" (as defined in Section 7 below). ZOLL will invoice Customer on a quarterly basis thereafter for all further Maintenance Fees unless Customer notifies ZOLL within 30 days of the end of the then-current Maintenance Services period. ZOLL will have no obligation to provide Maintenance Services to Customer if any invoice issued under this Section 6.2 is past due. If Customer elects to discontinue Maintenance Services at any time, to reinstate Maintenance Services and receive the applicable updates and new releases, Customer must pay the Maintenance Fees for all time periods missed. All Maintenance Fees are non-refundable.

**6.6 Audit Rights.** During the Term and for a period of six (6) months following the termination or expiration of this MSLA, ZOLL will have the right, during normal business hours, to inspect (through remote access to Customer servers, reports, etc. or onsite if determined necessary), or have an independent audit firm inspect, Customer's records relating to Customer's use of the Software to ensure it is in compliance with the terms of this MSLA, including with any limitation on the number of servers, personal computers and/or other portable devices on which Customer may install the Software hereunder and/or the number of Customer users that may use the Software hereunder, and/or the number of PCR's generated through the software hereunder. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer's underpayment of Fees exceeds 5% for products other than ePCR Monthly Fees that are subject to adjustment as described on page 1. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL's standard, non discounted rates) plus interest as provided in Section 6.4 above.

**11.4 Effects of Termination.** Upon termination or expiration of the MSLA for any reason: (a) any amounts owed to ZOLL under this MSLA and all Statements of Work before such termination or expiration will be immediately due and payable, including, in the event of termination of this MSLA (i) by ZOLL under "Section 11.2" or (ii) by Customer under "Section 11.3", a termination fee ("Early Termination Fee" equal to the amount, if any, of (x) the initial Annual Fee minus (y) the sum of Monthly Fees (as defined in the Initial Order) paid by Customer to ZOLL hereunder prior to the date of termination during the initial twelve-month period; (b) all licensed rights granted in this MSLA will immediately cease to exist; (c) Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers and the computers of its customers, and return to ZOLL or destroy all copies of the Software and Documentation on tangible media in Customer's possession; and (d) each party shall promptly discontinue all use of the other party's Confidential Information, and return to the other party or, at the other party's option, destroy, all copies of any such Confidential Information in tangible or electronic form. If ZOLL terminates an SOW for cause, such termination will have no effect upon any other SOWs that may be in effect unless ZOLL terminates the MSLA for cause. Upon ZOLL's request, Customer will provide a written certification (in the form acceptable to ZOLL), certifying as to Customer's compliance with its post-termination obligations set forth in this Section 11.3.

**12.9 Access to Insight Analytics.** Provided the Customer is current on payments of Maintenance Fees hereunder, Customer may subscribe, at no additional charge, to ZOLL's website [www.ZOLLonline.com](http://www.ZOLLonline.com) ("ZOLL Online") by agreeing to the terms of the Application Service Provider Agreement available on ZOLL Online ("The ASP Agreement"), pursuant to which Customer shall receive access, at no additional charge, to Insight Analytics product of ZOLL, subject to the terms of the ASP Agreement.

**12.10 Entire Agreement.** This MSLA, together with all exhibits hereto and the ASP Agreement, if any, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This MSLA shall not be modified except by a subsequently dated written amendment signed on behalf of ZOLL and Customer by their duly authorized representatives.

# Annex B

## Fort Bend County Travel Policy

Approved in Commissioners' Court on November 3, 2009

Effective November 4, 2009

Revised September 7, 2010

Revised June 2, 2015, Effective August 1, 2015

Revised July 28, 2015, Effective August 1, 2015

The Commissioners' Court allocates funds annually for the payment of travel expenditures for county employees and officials within the individual departmental budgets. Travel expenditures paid from these budgets must serve a public purpose for Fort Bend County. These expenditures may be paid directly to the vendor or provided as a reimbursement to the employee/official upon completion of their travel. Advance payments to vendors may be accommodated by issuance of a check or use of a County procurement card. Eligible expenditure categories under this policy include: Lodging, meals, transportation, registration fees, and other fees (with justification). Each category is further defined below.

### CONTRACT RATES:

Fort Bend County is a 'Cooperative Purchasing Participating Entity' with the State of Texas. This program is also known as TPASS (Texas Procurement and Support Services) State Travel Management Program (STMP). This gives County employees and officials access to the contract rates negotiated by the State for hotels and rental cars. Procurement procedures for these contract services are explained within the categories below.

### OUT OF STATE TRAVEL:

**Authorization:** The traveler must obtain Commissioners' Court approval for out-of-state travel before departure. The duration must include travel days along with the event scheduled days. To prevent delays in processing travel reimbursement, ensure that the travel duration is accurately defined when submitting the agenda request.

**Documentation:** The traveler must provide an excerpt from the Commissioners' Court minutes (<http://www.fortbendcountytexas.gov/index.aspx?page=55>) with the travel reimbursement form.

### LODGING (In and Out of State):

#### Hotel:

Hotel reimbursements are limited to the Federal Travel Regulations set forth by US General Services Administration (GSA) by location not including taxes. The rates are set annually and vary by month and location. The maximum rates for lodging per day can be found at:

[http://www.gsa.gov/portal/content/104877?utm\\_source=OGP&utm\\_medium=print-radio&utm\\_term=perdiem&utm\\_campaign=shortcuts](http://www.gsa.gov/portal/content/104877?utm_source=OGP&utm_medium=print-radio&utm_term=perdiem&utm_campaign=shortcuts) based on travelers destination.

Fort Bend County is a 'Cooperative Purchasing Participating Entity' with the State of Texas. This gives County employees and officials access to the contract rates negotiated by the State for hotels. Participating hotels can be found at: [http://portal.cpa.state.tx.us/hotel/hotel\\_directory/index.cfm](http://portal.cpa.state.tx.us/hotel/hotel_directory/index.cfm) (be sure to check the correct fiscal year). When making a reservation the traveler must ask for the State of Texas Contract rate (not the government rate) and be prepared to provide the County's agency #: C0790. Traveler must verify confirmed rate matches the negotiated

**contract rates found on the State's website listed above and does not exceed the GSA daily allowance.**

If the organizer of a conference/seminar has negotiated discount rates with a hotel(s), the traveler may choose these lodging services without penalty but the traveler must reserve the room at the group rate and be able to provide documentation of the group rate.

The traveler will be responsible for the excess charge over the GSA per diem rate for the city/county even if using the State rate. The Auditor's Office will deduct from the travelers' reimbursement any excess charges over the GSA per diem rate. Travel websites including but not limited to Expedia and Travelocity should not be used to book lodging.

**Travel Days:** If the traveler must leave before 7:00AM to arrive at the start of the event and/or return to the County after 6:00PM after the event concludes, an additional night's lodging is allowable before and/or after the event.

**Additional fees allowable: Self-parking**

**Additional fees allowable with justification:** Valet parking is allowable if an extreme hardship exists due to physical disability of the traveler or if no self-parking is available.

**Fees not allowable:** Internet, phone charges, laundry, safe fees

**Gratuities:** Gratuities are not reimbursable for any lodging services.

**Overpayments by County:** Any lodging overpayment by the County must be reimbursed by the hotel before processing a reimbursement to the traveler for any of the categories addressed in this policy. Prepaid lodging services should be accurately calculated or underestimated by excluding the taxes to prevent delays in processing travel reimbursements.

**Procurement Card:** The traveler may use the procurement card to make lodging reservations. Contact Purchasing to arrange or use the procurement card assigned to the department or traveler.

**Documentation:** A final settled hotel bill with a zero balance from the front desk is required even if lodging is paid by the procurement card. The hotel bill left under the door is not acceptable. The hotel bill should be scrutinized before traveler departs to make sure all charges are valid and notify hotel of any invalid charges and resolve issues before departing. Any invalid charges will be the responsibility of the traveler. A copy of the itemized hotel statement must be submitted with the travel reimbursement claim if the traveler used a County procurement card to purchase lodging services or prepaid by County check. Event agenda/documentation or a letter from the traveler describing the event/meeting is required. If utilizing conference negotiated hotel rates, documentation of rates is required.

**Changes/Modifications to Reservation** - Any modifications including cancellation of reservation, the traveler must obtain a confirmation number and note the name of the person they spoke with in case the hotel charges the traveler. If the traveler does not obtain a confirmation number then any expenses incurred will be the responsibility of the traveler. Expenses resulting from changes or modifications to travel reservations will be paid by the County if the traveler produces documentation that a family emergency exists.

#### **MEALS:**

**Texas:** Meals including gratuities will be reimbursed to the traveler at a flat rate of \$36/day. The travelers per diem on the departure day and final day of travel will be at 75% of the per diem which is \$27/day.

**Out-of-state:** Meals including gratuities will be reimbursed to the traveler at a flat rate of \$48/day. The travelers per diem on the departure day and final day of travel will be at 75% of the per diem which is \$36/day.

**Day trips:** Meals will not be reimbursed for trips that do not require an overnight stay.

**Procurement Card:** No meal purchases are allowed on any County procurement card.

**Documentation:** No meal receipts are required for reimbursement. Event agenda/documentation or a letter from the traveler describing the event/meeting is required.

## **TRANSPORTATION:**

**Personal Vehicle:** Use of personal vehicle will be reimbursed at the current rate/mile set by Commissioners' Court. Mileage should be calculated using the County office location of the traveler and the event location. Mileage may not be calculated using the traveler's home. Mileage should be calculated using an employee's vehicle odometer reading or by a readily available online mapping service for travel out of Fort Bend County. If using the mileage of an online mapping service, state which mapping service was used or provide a printout of your route detailing the mileage. For local travel, odometer readings or mapping service details are not required. Departments should develop a mileage guide for employees for local travel points, if a department does not have a mileage guide, the Auditor's Office will determine if the mileage listed is reasonable.

**Allowable expenses:** Parking and tolls with documentation.

**County Vehicle:** Fuel purchases when using a County vehicle should be made with the County Procurement card if available. Original receipts will accompany the Procurement Card statement but a copy must be provided with the travel reimbursement request.

**Allowable expenses:** Parking and tolls with documentation required.

**Airfare:** Airfare is reimbursable at the lowest available rate based on 14 day advance purchase of a discounted coach/economy full-service seat based on the required arrival time for the event. The payment confirmation and itinerary must be presented with the travel reimbursement form. The traveler will be responsible for the excess charges of an airline ticket purchase other than a coach/economy seat. When using Southwest Airlines a traveler should choose the "wanna get away" flight category.

**Allowable Expenses:** Bag fees. Fare changes are allowable if business related or due to family emergency.

**Unallowable Expenses/Fees:** Trip insurance, Early Bird Check In, Front of the line, Leg Room, Fare changes for personal reasons.

**Rental Car:** Rental cars are limited to the negotiated TPASS rates listed at: <http://www.window.state.tx.us/procurement/prog/stmp/stmp-rental-car-contract/vendor-comparison/>. The contact information for Avis is listed here: <http://www.window.state.tx.us/procurement/prog/stmp/stmp-rental-car-contract/Avis/>. The contact information for Enterprise is listed here: <http://www.window.state.tx.us/procurement/prog/stmp/stmp-rental-car-contract/Enterprise/>. You will need to make your reservations at least 14 days in advance and provide the County's agency #: C0790. The traveler will not be reimbursed for any amount over the negotiated contract rates if a non-contract company is used at a higher rate. The traveler should select a vehicle size comparable to the number of County travelers. The traveler may use a non-contract vendor at an overall rate lower than the contract rates with no penalty. The original contract/receipt must be presented with the travel reimbursement form or a copy if a County procurement card is used. The traveler will be responsible for any excess charges not included in the TPASS rates or for choosing a vehicle size not comparable with the number of travelers on the trip.

Insurance is included in the negotiated TPASS rates, if a traveler chooses to take out additional insurance the cost is on the traveler.

**Enterprise:**

- Optional Customer, Coupon or Corporate number is **TXC0790**
- Please enter the first 3 characters of your company's name or PIN number **FOR**
- Enterprise will automatically bill FBC when you reserve your vehicle so you need to have a purchase order before your departure.

**Avis:**

- Avis Worldwide Discount (AWD) Number or Rate Code **F930790**
- You cannot use the wizard option if you have an account with Avis, the wizard will override the state rate and normally the State rates are less.

**Unallowable Fees/Charges:** GPS, prepaid fuel, premium radio, child safety seats, additional insurance, one way rentals.

**Allowable expenses:** Parking and tolls allowed with documentation.

**Other Transportation:** Other forms of transit (bus, taxi, train) are reimbursable with an original receipt.

**Gratuities:** Gratuities are not reimbursable for any transportation services.

**Procurement Card:** The traveler may use a County procurement card to make transportation reservations for air travel and rental car services. Contact Purchasing to arrange or use the procurement card assigned to the department or traveler.

**Documentation:** Original receipts are required for all transportation reimbursements paid by the traveler. Transportation services obtained with a County procurement card require a copy of the receipt. Additional requirements are noted within each category above. Event agenda/documentation or a letter from the traveler describing the event/meeting is required.

**REGISTRATION:**

**Registration fees:** Registration fees are reimbursable for events that serve a Fort Bend County purpose. Registration fees for golf tournaments, tours, guest fees and other recreational events are not reimbursable.

**Procurement Card:** The traveler may use a County procurement card to register for an event. Contact Purchasing to arrange or use the procurement card assigned to the department or traveler.

**Documentation:** An original receipt must be obtained upon registration and submitted with the reimbursement request if paid by the traveler. A copy of the receipt must be provided if registration is paid on a County procurement card. Event agenda/documentation or a letter from the traveler describing the event/meeting is required.

**GRANTS:**

Travel expenditures from Federal and State grants must also conform to the granting agency's funding requirements.

**TRAVEL REIMBURSEMENT FORM:**

The traveler must use the current travel reimbursement form (<http://econnect/index.aspx?page=55>) for all travel related services addressed in this policy. No other expenditures may be submitted for reimbursement on the travel reimbursement form. After completing all required information, the travel form must be signed/dated by the traveler and the department head/elected official. Travel reimbursement request should be submitted within 30

days from when traveler returns from trip. Mileage reimbursement request should be submitted no less frequently than quarterly. Mileage reimbursement request for the fourth quarter should be submitted no later than October 30th for yearend processing.

**EXCLUSIONS:**

If the traveler has custody of a person pursuant to statute or court order or if the traveler is required by court or legal entity to appear at a particular time and place the traveler will not be penalized for accommodations that require a 14 day advance purchase ticket if travel is required with less than 14 days' notice.

If the traveler has custody of a person pursuant to statute to court order the traveler will not be held to the 75% per diem on the departure and final day of travel.

# **Exhibit B**



11802 Ridge Parkway Suite 400  
 Broomfield, CO 80021

**MAINTENANCE DETAILS**  
 THIS IS NOT AN INVOICE

Invoice	Customer No.	Inv Date	Contract No.	Terms	Due Date	PO Number
9029755	147191	01-SEP-16	183627	NET 30 DAYS	01-OCT-16	

<b>BILL TO:</b>	Fort Bend County 301 Jackson, Suite 533 RICHMOND TX 77469	<b>SHIP TO:</b>	Fort Bend County 4336 Hwy 36 ROSENBERG TX 77471
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Description	List Price	Qty	Unit Price	Extd Price
TABLETPCR MEDTRONIC LIFENET SDK (PHYSIO INTERFACE)	4,500.00	1	900.00	900.00
FAX SERVER UTILITY	3,500.00	1	700.00	700.00
TABLETPCR MOBILE UNIT LICENSE	3,000.00	3	600.00	1,800.00
TABLETPCR MOBILE UNIT LICENSE	3,000.00	8	600.00	4,800.00
TABLETPCR MOBILE UNIT LICENSE	3,000.00	9	600.00	5,400.00
RESCUENET EPCR NETWORK USER / WEBPCR LICENSE	3,000.00	5	600.00	3,000.00
CUSTOM INTERFACE (TIME & MATERIALS)	16,000.00	1	3,200.00	3,200.00
RESCUENET EPCR NETWORK USER / WEBPCR LICENSE	3,000.00	1	600.00	600.00

**Annual Total:** 20,400.00

# ZOLL.

11802 Ridge Parkway Suite 400  
Broomfield, CO 80021

## INVOICE

Invoice	Customer No.	Inv Date	S.O. No.	Terms	Due Date	PO Number
9029755	147191	01-SEP-16	183627	NET 30 DAYS	01-OCT-16	

**BILL TO:** Fort Bend County  
301 Jackson, Suite 533  
RICHMOND  
TX 77469  
ZCO\*Fort Bend County\*Rosenberg\*TX

**SHIP TO:** Fort Bend County  
4336 Hwy 36  
ROSENBERG  
TX 77471

Item	Description	Qty	List Price	Unit Price	Amount
RNM	RESCUENET MAINTENANCE:01-OCT-16:30-SEP-17	1	20,400.00	20,400.00	20,400.00

We now take Visa, MC and AMEX. Please call 303-801-1856 or email AR@ZOLL.com to pay with credit card, or with any questions on your account.

<b>Sub-Total:</b>	20,400.00
<b>Tax Total:</b>	0.00
<b>Invoice Total:</b>	20,400.00
<b>Payments &amp; Credits:</b>	0.00
<b>Revised Total Due:</b>	20,400.00

Please tell us how we are doing by taking this quick 3 question survey at <http://zfs.fin.sqizmo.com/s3/>. Your feedback is valuable to us and will assist us in our efforts to improve our invoicing and customer service processes.

# ZOLL

11802 Ridge Parkway Suite 400  
Broomfield, CO 80021

## INVOICE

Invoice	Customer No.	Inv Date	S.O. No.	Terms	Due Date	PO Number
9029780	147191	01-SEP-16	183624	NET 30 DAYS	01-OCT-16	

**BILL TO:** Fort Bend County  
301 Jackson, Suite 533  
RICHMOND  
TX 77469  
ZCO\*Fort Bend County\*Rosenberg\*TX

**SHIP TO:** Fort Bend County  
4336 Hwy 36  
ROSENBERG  
TX 77471

Item	Description	Qty	List Price	Unit Price	Amount
RNM	RESCUENET MAINTENANCE.01-OCT-16:30-SEP-17	1	13,195.00	13,195.00	13,195.00

We now take Visa, MC and AMEX. Please call 303-801-1856 or email AR@ZOLL.com to pay with credit card, or with any questions on your account.

<b>Sub-Total:</b>	13,195.00
<b>Tax Total:</b>	0.00
<b>Invoice Total:</b>	13,195.00
<b>Payments &amp; Credits:</b>	0.00
<b>Revised Total Due:</b>	13,195.00

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.  
Zoll Data  
Broomfield, CO United States

Certificate Number:  
2017-158196

Date Filed:  
01/25/2017

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.  
Fort Bend County

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.  
13175  
Rescuenet Maintenance

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

SHAWN SIMS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20144018788  
MY COMMISSION EXPIRES MAY 8, 2018

*Sandy King*  
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Shaun Sims, this the 26 day of January, 20 17, to certify which, witness my hand and seal of office.

*Shaun Sims*  
Signature of officer administering oath

Shaun Sims  
Printed name of officer administering oath

Notary Public  
Title of office administering oath

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.  
 Zoll Data  
 Broomfield, CO United States

Certificate Number:  
 2017-158196

Date Filed:  
 01/25/2017

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.  
 Fort Bend County

Date Acknowledged:  
 02/07/2017

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.  
 13175  
 Rescuenet Maintenance

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

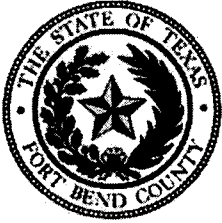
6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
 Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath



**FORT BEND COUNTY, TEXAS  
PURCHASE ORDER**

**P.O.NUMBER:** 149724

**PAGE #:** Page 1 of 1

**P.O.DATE:** 2/14/2017

**DELIVERY BY:** 2/14/2017

**BUYER:** Cassie Nash

**VENDOR:** 13175

ZOLL DATA SYSTEMS, INC  
11802 RIDGE PARKWAY, STE 400  
BROOMFIELD CO 80021

**SHIP TO:** EMERGENCY MEDICAL SERVICE  
4332 HIGHWAY 36  
ROSENBERG TX 77471

**BILL TO:** COUNTY AUDITOR  
301 JACKSON  
RICHMOND, TX 77469

<u>DESCRIPTION</u>	<u>QUANTITY</u>		<u>UNIT COST</u>	<u>EXTEND COST</u>
1 MAINTENANCE RescueNet Thru Oct. 30, 2017	1	EA	\$20400.00	\$20,400.00

APPROVED C.C. 2.7.17

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**GRAND TOTAL:** \$20,400.00

# **Exhibit B**

**ZOLL Data Systems, Inc.**  
**Application Service Provider Agreement**

Order No: 00021187

**THIS APPLICATION SERVICE PROVIDER AGREEMENT ("ASPA")** is made as of August 17, 2017 (the "**Effective Date**"), by and between ZOLL Data Systems, Inc., a Delaware corporation with offices at 11802 Ridge Parkway, Suite 400, Broomfield, CO 80021 ("**ZOLL**") and Fort Bend County EMS (the "**Customer**").

<b>Bill To: Fort Bend County EMS</b> 301 Jackson, Suite 533 Richmond, TX 77469	
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**Territory Manager:** Nick Sortin

**Expires:** October 31, 2017

Item	Lic. Type	Description	Qty	List Price	Disc	Adj. Price	Annual Cost or One Time Charge	Monthly Cost
HBPRO-03	HL	RescueNet Billing Pro (Per Transport/Month) - 3 Year	1200	\$2.15		\$2.15	\$30,960.00	\$2,580.00

**Comments:** As provided below:

- Initial One-Year Term;
- Second One-Year Term; and
- Third One-Year Term

ANNUAL FEE FOR INITIAL ONE-YEAR TERM:	\$30,960.00
ANNUAL FEE FOR SECOND ONE-YEAR TERM:	\$30,960.00
ANNUAL FEE FOR THIRD ONE-YEAR TERM:	\$30,960.00
MONTHLY FEES:	\$2,580.00

unless earlier terminated as described below.

**Payment Terms:** ZOLL will issue an invoice under this Initial Order at the end of each calendar month during the Term following the earlier of: (i) the date upon which the deployment of ASP Services is complete and the ASP Services are able to function as described in the Instructions, regardless of whether Customer actually uses the ASP Services; or (ii) ninety (90) days after the Effective Date, unless a delay in completion of implementation has been caused by ZOLL, in which case the issuance of the Deployment Invoice shall be postponed for a number of days equal to the delay that ZOLL has caused (the earlier of such dates being the "**Deployment Effective Date**"). All amounts are due within 30 days after the date of the invoice.

**Term.** Unless earlier terminated as set forth in the ASPA or this Initial Order, (i) the initial term of this Initial Order shall begin on the Effective Date and continue for one (1) year following the Deployment Effective Date (the "**Initial One-Year Term**"); (ii) after the Initial One-Year Term, Customer may renew this Agreement for an additional one (1) year (the "**Second One-Year Term**"); (iii) after the Second One-Year Term, this Initial Order shall continue for an additional one (1) year (the "**Third One-Year Term**"); and (iv) after the Third One-Year Term, this Initial Order automatically shall continue until so terminated.

**Early Termination Fee.** Notwithstanding the ASPA, if this Initial Order is terminated by ZOLL for a material default or by Customer without cause (the "**Early Termination**") (i) prior to the expiration of the Initial One-Year Term, then Customer immediately shall pay ZOLL an early termination fee equal the amount of the Annual Fee for Initial One-Year Term minus the sum of Monthly Fees paid by Customer to ZOLL prior to the Early Termination; (ii) after the expiration of the Initial One-Year Term but prior to the expiration of the Second One-Year Term, then Customer immediately shall pay ZOLL an early termination fee equal the amount of the Annual Fee for Second One-Year Term minus the sum of Monthly Fees paid by Customer to ZOLL after the expiration of the Initial One-Year Term but prior to the Early Termination; and (iii) after the expiration of the Second One-Year Term but prior to the expiration of the Third One-Year Term, then Customer immediately shall pay ZOLL an early termination fee equal the amount of the Annual Fee for Second One-Year Term minus the sum of Monthly Fees paid by Customer to ZOLL following the expiration of the Second One-Year Term but prior to the Early Termination.

\* **Annual Fees:** The Annual Fees shown above are for twelve-month periods during the Term (beginning on the Deployment Effective Date), which will be invoiced and paid as the Monthly Fees as shown above.

\* **Monthly Fee (Subject to Adjustment):** The Monthly Fees shown are based on the quantity ("**Qty**") of transports listed in the line item above (the "**Transport Volume**"). Following 12 months of service (from the Deployment Effective Date), ZOLL will conduct an annual audit of the Transport Volume. Should the Transport Volume exceed 110% of quantity for the 12 month period, ZOLL will invoice Customer for the excess above quantity at the per-transport price listed in the line item above. Should a shortage greater than 10% of Transport Volume exist for the 12 month period, ZOLL will issue a credit in the amount of 10% of the Annual Fee. Future billings for Billing Pro will be adjusted based on the new Transport Volume as determined by the audit for the following 12 month period.

**ZOLL Data Systems, Inc.**  
**Application Service Provider Agreement for Fort Bend County EMS**

**Order No: 00021187**

The person signing below represents and warrants that she or he has the authority to bind Customer to the terms of this Agreement. By signing below, the parties agree to the terms and conditions of this Agreement. Once signed, any reproduction of this Agreement, or any attachment or exhibit hereto, made by reliable means (for example, photocopy or facsimile) is considered an original and all ASP Services ordered and provided under this Agreement will be subject to it.

**ZOLL Data Systems, Inc.**

**Fort Bend County EMS**

Authorized Signature:

Authorized Signature:

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ZOLL Data Systems, Inc.**  
**Application Service Provider Agreement for Fort Bend County EMS**

**Terms and Conditions**

**1. Definitions**

- 1.1. **"ASP Services"** means the provision of Fire or EMS data management functionality as described hosted by ZOLL and made available to its customers for their internal business use in accordance with the terms of this Agreement.
- 1.2. **"BAA"** means the Business Associate Addendum attached hereto as **Exhibit A**.
- 1.3. **"Confidential Information"** means all trade secrets, business and financial information, computer software, machine and operator instructions, business methods, procedures, know how, and other information that relates to the business or technology of either party and is marked or identified as confidential, or is disclosed in circumstances that would lead a reasonable person to believe such information is confidential. The Software and the Instructions shall be considered ZOLL's Confidential Information, notwithstanding any failure to mark or identify it as such.
- 1.4. **"Fee Based Services"** means the ASP Services for which ZOLL charges Customer a fee.
- 1.5. **"Initial Order"** means the written, mutually executed document preceding these terms and conditions.
- 1.6. **"Instructions"** means the instructions for use of the ASP Services and the documentation and users manuals from time-to-time provided by ZOLL on the ZOLL Site.
- 1.7. **"Intellectual Property Rights"** means any and all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.
- 1.8. **"Order Form"** means a written document mutually agreed to and signed by the parties and made a part of this Agreement, setting forth additional ASP Services to be provided to Customer under the terms of this Agreement during the Term.
- 1.9. **"Software"** means the ZOLL software that underlies the ASP Services provided to Customer, as modified, updated, and enhanced.
- 1.10. **"ZOLL Site"** means the web site located at a unique URL to be provided by ZOLL to Customer where end users may download the Software and access and use the ASP Services.

**2. ASP Services; Payment Obligation; Taxes.**

- 2.1. **Provision of ASP Services by ZOLL.** Subject to the terms and conditions of this Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer through the ZOLL Site over normal network connections, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling its users and protection of confidentiality of its login IDs and passwords. The BAA shall apply to the ASP Services. Customer acknowledges that (i) it is responsible for maintaining its interface and connectivity to the ASP Services and (ii) the facility(ies) used for provision of the ASP Services may be owned or operated by ZOLL, or a ZOLL affiliate or a third party, or any combination of such facilities, as determined by ZOLL.
- 2.2. **Modifications and Upgrades to ASP Services.** Customer acknowledges that ZOLL may modify and upgrade the ASP Services, on an ongoing basis, in order to improve or adapt the ASP Services. Without limiting the foregoing, ZOLL will have the right, in its sole discretion, to develop, provide and market new, upgraded or modified ASP Services to Customer, including adding, removing, or modifying the functionality or features of the ASP Services accessible by Customer and its users. ZOLL will use commercially reasonable efforts to notify Customer within a reasonable period of time prior to the implementation of such changes so that Customer is reasonably informed of alterations to the ASP Services that will affect the ASP Services and Customer's use of them.
- 2.3. **Support and Maintenance.** ZOLL will provide telephone support services during ZOLL's regular business hours for Service questions.
- 2.4. **Payment Obligation.** Fee Based Services provided to Customer will require payment of applicable fees. The fees (the **"Fees"**) and terms of use and payment for Fee Based Services are set forth in the Initial Order and any Order Form. All payments must be made in U.S. dollars, unless otherwise agreed by the parties. Any amounts not paid within thirty (30) days after receipt of the invoice are late and subject to interest charges as provided by TEX. GOV'T CODE ANN. §§ 2251.001 *et seq.*, as amended. In addition, ZOLL reserves the right to deny Customer, and its users, access to the ASP Services in the event that any invoice is not paid in a timely manner, or to terminate this Agreement in the case of non-payment of an invoice(s); unless Customer has provided written that the invoice is the subject of a good faith dispute. Customer acknowledges that ZOLL will not be responsible for any damage or liability caused by ZOLL's interruption or termination of the ASP Services in accordance with this Section 2.3 as a result of Customer's failure to pay ZOLL in a timely manner.
- 2.5. **Taxes.** Fees exclude, and Customer will make all payments of the Fees to ZOLL free and clear of, all applicable sales, use, and other taxes and all applicable export and import fees, customs duties and similar charges. When applicable, ZOLL may include any taxes that it is required to collect as a separate line item on an invoice. Customer will be responsible for, and will indemnify and hold harmless ZOLL from, payment of all such taxes (other than taxes based on ZOLL's net income), fees, duties, and charges, and any related penalties and interest, arising from the payment of the Fees or the delivery of the ASP Services to Customer hereunder. Customer is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.

**3. License Grant; Restrictions; Ownership.**

- 3.1. **License Grant.** Subject to the terms and conditions of this Agreement, ZOLL grants to Customer, during the Term, a non-exclusive, non-transferable, non-sublicensable license to access and use the ASP Services using the Software, each as made available to Customer through the ZOLL Site, solely for Customer's internal business purposes and solely in accordance with the Instructions.
- 3.2. **Restrictions.** Customer shall not, and shall not permit any third party to: (a) modify, adapt, alter, translate, or create derivative works from the ASP Services, Software or the Instructions; (b) allow any third party access to or use of the ASP Services; (c) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the source code for the Software; or (d) otherwise use or copy the Software or the Instructions or the ASP Services in any manner not expressly permitted hereunder. Customer agrees not to use the ASP Services in excess of its authorized login protocols. Customer shall immediately notify ZOLL of any unauthorized use of Customer's login ID, password, or account or any other breach of security.
- 3.3. **Remediation.** If Customer becomes aware of any actual or threatened activity contemplated by the restrictions on use set forth in Section 3.2 above, Customer will, and will cause its users to, immediately take all reasonable measures necessary to stop the activity or threatened activity and to mitigate the effect of such activity including: (a) discontinuing and limiting any improper access to any data; (b) preventing any use and disclosure of improperly obtained data; (c) destroying any copies of improperly obtained data that may have been made on their systems; (d) otherwise attempting to mitigate any harm from such events; and (e) immediately notifying ZOLL of any such event(s) so that ZOLL may also attempt to remedy the problem(s) and prevent its future occurrence.

**ZOLL Data Systems, Inc.**  
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**3.4. Ownership.** The Software, Instructions, ASP Services, all proprietary technology utilized by ZOLL to perform its obligations under this Agreement, and all Intellectual Property Rights in and to the foregoing, are the exclusive property of ZOLL (or, as the case may be, its licensors and suppliers). Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

**4. Customer Content; Security; Backups.**

**4.1. Customer Content.** As between ZOLL and Customer, and without limiting the rights (if any) of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services ("**Customer Content**"); provided, however, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

**4.2. Security.** Subject to Customer's obligations under this Agreement, ZOLL will implement commercially reasonable security measures within the ASP Services in an attempt to prevent unlawful access to Customer Content by third parties. Such measures may include, where appropriate, use of updated firewalls, commercially available virus screening software, logon identification and passwords, encryption, intrusion detection systems, logging of incidents, periodic reporting, and prompt application of current security patches and virus definitions.

**4.3. Backup of Customer Content.** While ZOLL will use commercially reasonable efforts to maintain the integrity of the Customer Content, to back up the Customer Content, and to provide full and ongoing access to the ASP Services, loss of access to the ASP Services and/or loss of Customer Content may occur. Customer will make provision for additional back-up storage of any critical Customer Content. ZOLL will not be responsible for any loss, corruption of or inaccessibility of the Customer Content due to interruption in the ASP Services or otherwise arising out of circumstances not within ZOLL's control.

**5. Warranty Disclaimers.**

**5.1. ZOLL Service Warranty.** ZOLL represents and warrants that during the Term of this Agreement, (i) ZOLL has the right to license the ASP Services and Instructions to Customer pursuant to this Agreement and (ii) the ASP Services will materially conform to the Instructions. Customer will notify ZOLL in writing of any breach of this warranty, and request a correction of the warranted nonconformity. If ZOLL is unable to provide a correction or work-around pursuant to the terms governing the provision of the ASP Services after using commercially reasonable efforts, ZOLL may terminate this Agreement upon written notice to Customer. This Section 5.1 sets forth Customer's exclusive remedy, and ZOLL's entire liability, for breach of the warranty for the ASP Services contained herein.

**5.2. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5.1, THE ASP SERVICES ARE PROVIDED "AS IS", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY; ZOLL DOES NOT PROMISE THAT THE ASP SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE, OR THAT THEY ARE SUITABLE FOR THE PARTICULAR NEEDS OF CUSTOMER, ITS USERS OR ANY THIRD PARTY OR THAT THEY WILL BE AVAILABLE FOR ANY PERIOD AND ZOLL MAKES NO UP-TIME COMMITMENT. ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE OR USAGE IN TRADE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS.**

**5.3** Customer acknowledges and agrees that, in entering into the this Agreement, it has not relied upon the future availability of any new or enhanced feature or functionality, or any new or enhanced product or service, including, without limitation, updates or upgrades to ZOLL's existing product and services. ZOLL's performance obligations hereunder are limited to those expressly enumerated herein, and payment for ZOLL's performance obligations shall be due as described herein.

**6. Limitation of Liability.** In no event will either party be liable hereunder for any consequential, indirect, exemplary, special, punitive or incidental damages, or for any lost data, lost profits or costs of procurement of substitute goods or services, arising from or relating to this Agreement, however caused and under any theory of liability (including negligence), even if such party has been advised of the possibility of such damages. ZOLL's total cumulative liability in connection with this Agreement and the Software, whether in contract or tort or otherwise, will not exceed the amount paid TO ZOLL BY CUSTOMER FOR the ASP SERVICES provided UNDER THIS AGREEMENT IN THE PREVIOUS SIX (6) MONTH PERIOD. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability, and Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers. The limitation on liability shall not apply to claims, damages, fines, or other monetary penalties resulting from a violation of HIPAA and/or the Texas Medical Privacy Act resulting from ZOLL's negligence in performing its obligations under this Agreement.

**7. Term and Termination.**

**7.1. Term.** The term of this Agreement ("**Term**") begins on the Effective Date and continues until terminated as set forth herein.

**7.2. Termination.** Either party may terminate this Agreement without cause on twenty (20) days' prior written notice to the other party. Either party may terminate this Agreement immediately if the other party materially defaults in the performance of any of its obligations hereunder and fails to cure such default within thirty (30) days after written notice from the non-defaulting party.

**7.3. Effects of Termination.** Upon termination of this Agreement for any reason: (a) all amounts, if any, owed to ZOLL under this Agreement before such termination will become immediately due and payable, including, in the event of termination of this Agreement (i) by ZOLL under Section 7.2 for a material default (ii) by Customer under Section 7.2, a termination fee ("**Early Termination Fee**") - if applicable as described in Section 7.4 - equal to the amount, if any, of (x) the initial Annual Fee minus (y) the sum of Monthly Fees (as defined in the Initial Order) paid by Customer to ZOLL hereunder prior to the date of termination during the initial twelve-month period (b) Customer's right to access the ASP Services will immediately terminate; and (c) Customer must (i) promptly discontinue all use of the ASP Services and (ii) return or destroy all copies of the Instructions and the Software in Customer's possession or control.

**7.4 Products Excluded from Early Termination Fee.** RescueNet @Work, RescueNet NetTransit, and stand alone instances of RescueNet Crew Scheduler ASP are excluded from the Early Termination Fee.

**8. Confidentiality.**

**8.1. Protection.** Subject to Section 4 hereof, the party receiving Confidential Information ("**Receiving Party**") from the other party ("**Disclosing Party**") will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

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**8.2. Exceptions.** The Receiving Party's obligations under Section 8.1 above with respect to any Confidential Information of the Disclosing Party will terminate if and when the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) approved in writing by the Disclosing Party, (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding, or (iii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure in writing prior to making such disclosure and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure. ZOLL expressly acknowledges that Customer is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, Customer will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to Customer by ZOLL shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.

**9. Indemnification.**

**9.1.** ZOLL will defend, at its own expense, any action against Customer brought by a third party alleging that the ASP Services infringe any U.S. patents or any copyrights or misappropriate any trade secrets of a third party, and ZOLL will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer: (a) notifying ZOLL promptly in writing of such action; (b) giving ZOLL sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at ZOLL's request and expense, assisting in such defense. If the ASP Services become, or in ZOLL's opinion are likely to become, the subject of an infringement claim, ZOLL may, at its option and expense, either: (i) procure for Customer the right to continue using the ASP Services; (ii) replace or modify the ASP Services so that they become non-infringing; or (iii) terminate this Agreement, in whole or in part, as appropriate. Notwithstanding the foregoing, ZOLL will have no obligation under this Section 9.1 or otherwise with respect to any infringement claim based upon: (1) any use of the ASP Services not in accordance with this Agreement; (2) any use of the ASP Services in combination with products, equipment, software, or data not supplied by ZOLL if such infringement would have been avoided but for the combination with other products, equipment, software or data; (3) the failure of Customer to implement any replacements, corrections or modifications made available by ZOLL for the ASP Services; (4) Customer Content; or (5) any modification of the ASP Services or use thereof by any person other than ZOLL or its authorized agents or subcontractors. This Section states ZOLL's entire liability and the Customer's exclusive remedy for any claims of infringement.

**9.2. ZOLL SHALL INDEMNIFY AND DEFEND CUSTOMER AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF ZOLL, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENCE ACT, ERROR, OMISSION OF ZOLL OR ANY OF ZOLL'S AGENTS, SERVANTS OR EMPLOYEES.**

**9.3.** To the extent permitted by law, Customer shall indemnify, defend and hold ZOLL harmless from and against any and all liabilities, losses, expenses, damages and claims that arise out of information provided to ZOLL by Customer or Customer's use of the ASP Services except to the extent same are due to ZOLL's breach hereof or ZOLL's gross negligence or intentional misconduct.

**10. General Provisions.**

**10.1. Compliance with Laws and Export Regulations.** Both parties shall comply with all applicable laws and regulations concerning services and obligations under this Agreement, including without limitation if applicable all export and import control laws and regulations. Customer will not use the Services for any purpose in violation of any applicable laws. To the extent permitted by law, Customer agrees to defend, indemnify, and hold harmless ZOLL from and against any and all liabilities, losses, expenses, damages and claims that arise out of violation of any applicable laws or regulations by Customer or any of its agents, officers, directors, or employees.

**10.2. Audits and Inspections.** Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used strictly in accordance with the terms and conditions of this Agreement. In addition, upon prior written notice, ZOLL will have the right, during normal business hours, to inspect, or have an independent audit firm inspect, Customer's records relating to Customer's use of the ASP Services to ensure it is in compliance with the terms of this Agreement, including with any limitation on the number of vehicles or other mechanism upon which pricing is based hereunder. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer's underpayment of Fees exceeds 5%. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL's standard, non-discounted rates) plus interest as provided in Section 2.4 above.

**10.3. Assignment.** Neither party may assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party without the other party's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ZOLL shall have the right to assign this Agreement to an affiliate or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. If ZOLL assigns this Agreement as provided by this Section 10.3, then ZOLL will notify Customer no later than thirty (30) days after the assignment.

**10.4. U.S. Government End Users.** If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Instructions are comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and if provided hereunder are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202 1 (JUN 1995) and 227.7202 3 (JUN 1995).

**10.5. Notices.** All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile (fax), or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth in the Initial Order (or such other address as from time to time provided by such party in accordance with this Section), and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner.

**10.6. Governing Law and Venue; Waiver of Jury Trial.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Texas without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The Parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in this Agreement shall be construed to waive the Client's sovereign immunity.

**10.7. Remedies.** Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the ASP Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or threatened breach hereof may constitute

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immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party may be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

**10.8. Waivers.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**10.9. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect.

**10.10. Independent Contractors.** The parties are entering into, and will perform, this Agreement as independent contractors. Nothing in this Agreement will be construed to make either party the agent of the other for any purpose whatsoever, to authorize either party to enter into any contract or assume any obligation on behalf of the other or to establish a partnership, franchise or joint venture between the parties.

**10.11. Subcontracting by ZOLL.** ZOLL may, in its sole discretion, contract with any third party to provide the ASP Services.

**10.12. Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

**10.13. Force majeure.** Neither party shall be liable for damages for any delay or failure of performance hereunder (other than payment obligation) arising out of causes beyond such party's reasonable control and without such party's fault or negligence, including, but not limited to, Acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures.

**10.14. Entire Agreement; Amendment; No Third-Party Beneficiaries; Survival.** This Agreement, including the Initial Order and any Order Forms executed hereunder and any exhibits hereto (including the BAA), and the Terms of Use and Privacy Policy that are accessible on the ZOLL Site constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. If there is any conflict between this Agreement and the Terms of Use, this Agreement shall take precedence. This Agreement may not be amended or any provision hereof waived except in writing signed by both parties. There are no third-party beneficiaries of this Agreement. Those provisions of this Agreement that may be reasonably interpreted as surviving termination of this Agreement or the survival of which is necessary for the interpretation or enforcement of this Agreement shall continue in full force and effect in accordance with their terms notwithstanding the termination hereof.

**10.15. Non-Appropriation.** It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Customer under this Agreement, Customer shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Customer.

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**Exhibit A – Business Associate Addendum**

This Business Associate Addendum (this "Addendum") is entered into by and between Lubbock Aid Ambulance ("Covered Entity") and ZOLL Data Systems, Inc. ("Business Associate") in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104 191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations collectively referred to as "HIPAA") This Addendum amends the terms and conditions of and is hereby incorporated as part of that certain agreement between Covered Entity and Business Associate entitled Application Service Provider Agreement (the "Services Agreement") and attached hereto.

STATEMENT OF AGREEMENT

- §1. Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HIPAA; provided that PHI shall refer only to protected health information of Covered Entity unless otherwise stated.
- §2. Compliance and Agents.** Business Associate agrees that to the extent it has access to PHI, Business Associate will fully comply with the requirements of this Addendum with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth in this Addendum. If Covered Entity is required by HIPAA to maintain a Notice of Privacy Practices, Covered Entity shall notify Business Associate of any limitations in such notice to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- §3. Use and Disclosure; Rights.** Business Associate agrees that it shall not use or disclose PHI except as permitted under this Addendum, including Section 16 hereof, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Addendum, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Services Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.
- §4. Safeguards.** Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308 - 164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Addendum.
- §5. Minimum Necessary.** Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.
- §6. Report of Improper Use or Disclosure.** Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Addendum and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of "unsecured protected health information," as defined in 45 C.F.R. § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Addendum.
- §7. Individual Access.** In accordance with an individual's right to access to their own PHI in a designated record set under 45 CFR §164.524 and the individual's right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual's representative.
- §8. Amendment of and Access to PHI.** Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.
- §9. Accounting.** Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual's request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.
- §10. DHHS Access to Books, Records, and Other Information.** Business Associate shall make available to the U.S. Department of Health and Human Services ("DHHS"), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's compliance with HIPAA.
- §11. Individual Authorizations; Restrictions.** Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate's use or disclosure of PHI.
- §12. Compliance with ARRA.** Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the American Recovery and Reinvestment Act of 2009 ("ARRA") (P.L. 111 5), including all privacy and security regulations issued under ARRA that apply to Business Associate as and when those regulations are effective.
- §13. Term.** This Addendum shall take effect on the effective date of the Services Agreement, and shall continue in effect unless and until either party terminates this Addendum or the Services Agreement.
- §14. Breach; Termination; Mitigation.** If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Addendum, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and, if such steps are unsuccessful, Covered Entity may terminate this Addendum. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

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**§15. Return of PHI.** Business Associate agrees that upon termination of this Addendum, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Addendum to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

**§16. De-identified Health Information.** Business Associate may de-identify any and all PHI and may create a "Limited Data Set" in accordance with 45 C.F.R. § 164.514(b)&(e). Customer acknowledges and agrees that deidentified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

**§17. Survival.** All representations, covenants, and agreements in or under this Addendum or any other documents executed in connection with the transactions contemplated by this Addendum, shall survive the execution, delivery, and performance of this Addendum and such other documents. The respective rights and obligations of Business Associate under Section 14 of this Addendum shall survive termination or expiration of this Addendum.

**§18. Further Assurances; Conflicts.** Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this Addendum. The terms and conditions of this Addendum will override and control any conflicting term or condition of the Services Agreement. All non conflicting terms and conditions of the Service Agreement shall remain in full force and effect. Any ambiguity in this Addendum with respect to the Services Agreement shall be resolved in a manner that will permit Covered Entity to comply with HIPAA.

**§19. Applicable Law.** The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Addendum and may affect the parties' obligations under this Addendum. The parties agree to take such action as is necessary to amend this Addendum from time in order as is necessary for Covered Entity to comply with HIPAA.

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**Exhibit B – Service Level Agreement**

Service Level Agreement (the “SLA”) defines the service levels provided by ZOLL in accordance with delivering its software as a hosted service pursuant to the Application Service Provider Agreement (the “ASP Agreement”), to which this SLA is attached as an exhibit. This SLA is effective upon ZOLL’s acceptance of a signed copy of the ASP Agreement from Customer and receipt from Customer of all fees due and payable. Capitalized terms used but not defined herein shall have the same meanings as assigned to such terms in the ASP Agreement.

**1 Service Overview.** ZOLL’s hosted services (the “Hosted Services”) are defined as the service of hosting, on ZOLL’s IT platform, the web based Software for use by Customer. ZOLL’s IT platform includes the network connectivity, hardware systems, security components and management services supporting the Hosted Services. Specifically excluded from this SLA are the services, software and hardware provided by other third parties (such as cellular network carriers and mobile handset providers), and any other software, services or systems operating outside of ZOLL hosted infrastructure, including any software (including ZOLL’s developed software) or systems operating on Customer’s premises.

**2 Service Deliverables**

**2.1 Service Deliverables**

**2.1.1 Downtime.** Downtime, expressed in minutes, is any time the Hosted Service is not accessible to Customer and Customer’s users.

**2.1.2 Planned Downtime.** Planned Downtime is Downtime including scheduled periods where the Hosted Services may not be available in order for ZOLL to continue to bring the best possible service, features and performance to its customers. Planned Downtime includes, but is not limited to: 1) Standard Maintenance; and 2) Emergency Maintenance. Standard Maintenance is performed when upgrades or system updates need to be applied (i.e. standard software release, non-critical software updates). Emergency maintenance happens when there is a critical system update that needs to be applied quickly to avoid significant downtime (such as hardware patches that address server vulnerabilities or a critical software update).

*Standard Maintenance Windows:* Weekly, Monday and Wednesday between the hours of 7pm to 11pm Mountain Time. Notice will go out at least 24 hours in advance of the planned outage.

*Emergency Maintenance Windows: As needed.* Best efforts will be made to provide notice at least 30 minutes in advance of the planned outage.

**2.1.3 Excused Downtime.** Excused Downtime time is Downtime caused by: a) services, software or hardware provided by anyone other than ZOLL (such as the cellular network carrier or the mobile handset provider), b) software, services or systems operating outside of ZOLL hosted infrastructure, including any software (including ZOLL’s developed software) or systems operating on Customer’s premises; c) a Force Majeure event or a customer related action (e.g. a customer’s failure to comply with its obligations under the Application Service Provider Agreement or use of the Hosted Services in ways that were not intended).

**2.1.4 Unplanned Downtime.** Unplanned Downtime in a calendar month is expressed as a percentage calculated as follows:

$\frac{(\text{Downtime} - (\text{Planned Downtime} + \text{Excused Downtime}))}{\text{Total number of minutes in the calendar month}} \times 100 = x\%, \text{ where "x" is Unplanned Downtime.}$
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**2.1.5 Unplanned Downtime Goal.** ZOLL shall provide the Hosted Services such that there is less than 1% of Unplanned Downtime in a calendar month.

**2.1.6 Incident Monitoring and Reporting.** Problems with the Hosted Services can be logged by Customer through the ZOLL support website at support@zoll.com or through the ZOLL’s call center at 800-663-3911. An incident report will be created and escalated as appropriate.

**STANDARD ZOLL DELIVERABLES:**

*Online Incident Reporting:* 24x7 reporting through the ZOLL support site, support@zoll.com. Responses shall be provided within 24 hours during normal business hours.

*Call Center Standard Support:* Monday to Friday 6:00am to 6:00pm, Mountain Time.

**2.2 Covered Services / Customer Content**

**2.2.1 Covered Services.** The Hosted Services covered by the Unplanned Downtime Goal are those identified in the ASP Agreement as the ASP Services, that have been activated for Customer, and Customer has accepted and is using in the course of carrying out their normal business operations.

**2.2.2 Availability of Customer Content.** It is Customer’s responsibility to maintain any Customer Content that it requires for archival purposes or ongoing management of its operations. Unless specified otherwise in the ASP Agreement, ZOLL will store Customer Content, other than Inactive Data (as defined below), for [5] years (calculated from the date of creation of such Customer Content, or ZOLL’s receipt of such Customer Content, whichever is later) in ZOLL’s working data set. Upon the expiration of such [5]-year period, ZOLL will notify Customer in writing and will provide Customer the option, which Customer shall exercise by informing ZOLL in writing, within 30 days of receiving the notice, that either (a) Customer wishes to receive Customer Content in a ZOLL-provided tool that allows Customer to view, search and print such Customer Content, or (b) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store such Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy all Customer Content in its possession or under its control. During the time ZOLL stores Customer Content for Customer hereunder, ZOLL will periodically identify Customer Content that has had no activity associated with it for at least 180 days (“Inactive Data”) and will notify Customer in writing of its intent to remove the Inactive Data from ZOLL’s working data set and destroy such data, unless Customer requests, in writing, within 30 days of receiving the notice from ZOLL, that either (a) Customer wishes to receive such Inactive Data in a ZOLL-provided tool that allows Customer to view, search and print such Inactive Data, or (b) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store such Inactive Data. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the applicable Inactive Data in its possession or under its control. Except for this Section 2.2.2, the terms of this SLA (including, without limitation, the Unplanned Downtime Goal) do not apply to Customer’s access of Inactive Data.

**ZOLL Data Systems, Inc.**  
**Application Service Provider Agreement for Fort Bend County EMS**

**Exhibit B – Service Level Agreement**

**2.3 Remedies.** A “Service Credit” means a percentage of the monthly service fee to be credited to Customer (subject to Customer’s written request therefor and ZOLL’s verification thereof) for the service for which the Unplanned Downtime Goal is exceeded in a calendar month. For any calendar month where the aggregate total of Unplanned Downtime for a particular service exceeds 1%, ZOLL will provide a 10% Service Credit towards Customer’s monthly service charge for the service that was affected; provided, that credit is requested by the Customer within 30 days of the end of the calendar month in which the Unplanned Downtime occurred and the Unplanned Downtime is verified by ZOLL. The Service Credit will be applied to a future month’s service invoice (typically two months later). Customer service remedy disputes concerning Unplanned Downtime must be made in writing within 60 days from the Unplanned Downtime in dispute and include details on the nature of the outage and date and time of occurrence. Prior to issuance of Service Credits, the incident must be verified by ZOLL. Failure to submit a written request for Service Credit as noted above shall constitute a waiver of such Service Credits by Customer. Further, Service Credits shall not be issued if Customer is not current on all fees due and payable.

**3 Term.** The term of this SLA shall be coincident with the term of the ASP Agreement.

**4 Other Conditions**

**4.1 General Terms & Conditions.** Terms and conditions on use of Hosted Services are contained in the ASP Agreement.

**4.2 Modifications.** Changes to this SLA may be made from time to time at ZOLL’s sole discretion. Customer will be notified of any material changes to this SLA.

**4.3 Limitations On Remedies.** The remedies of Section 2 of this SLA shall be Customer’s sole and exclusive remedies with respect to ZOLL exceeding the Unplanned Downtime Goal.

**ZOLL Data Systems, Inc.**  
**Application Service Provider Agreement Fort Bend County EMS**

**Exhibit C – Services**

**1. DEFINITIONS.** Capitalized terms used in this Exhibit C but not defined in the Agreement shall have the meanings set forth herein.

**2. SERVICES**

**2.1 ZOLL Obligations.** ZOLL agrees to provide the Services as more specifically described in, and in accordance with, any SOW executed under the Agreement.

**2.2 Customer's Obligations.**

(a) Access. Customer shall at its own expense provide or make available to ZOLL access to the Customer's premises, systems, telephone, terminals and facsimile machines and all relevant information, documentation and staff reasonably required by ZOLL to enable ZOLL to perform the Services.

(b) Maintenance of Access Conditions. Customer is responsible for maintaining the conditions of access specified in clause 2.2(a) above and the SOW. ZOLL may suspend its obligations during such period that such conditions of access are not maintained and Customer agrees to reimburse ZOLL for any reasonable costs incurred as a result of such suspension at its then current time and materials rates.

(c) Other Obligations. Customer agrees to perform its obligations hereunder (including the SOW) in a timely manner and shall co-operate and provide ZOLL with requested information to enable ZOLL to perform the Services. To the extent that ZOLL is performing work in accordance with specifications provided by Customer, Customer shall be solely responsible for compliance with all laws and regulations.

**3. EXTENSION OF TIME.**

**3.1 Delay.** Customer acknowledges that time frames and dates for completion of the Services as set out in the SOW are estimates only and the ability to meet them is influenced by a range of factors including: (a)the developing nature of the scope of work; (b)the performance of third party contractors involved in the process; (c)the contribution of resources by the Customer; and (d)times of response by and level of co-operation of Customer. Obligations as to time are therefore on a "reasonable efforts" basis only and ZOLL shall not be liable for failure to meet time frames or completion dates unless that is due to negligence of ZOLL. If Customer fails to schedule installation within 6 months from the Effective Date, or postpones or cancels a scheduled installation with less than 30 days notice or Customer requests a change in the timing or duration of the Services with less than 30 days' notice, ZOLL may charge, and Customer shall pay, an additional installation fee plus any additional costs incurred as a result (including, without limitation, a \$200 travel change fee to cover increased travel costs as a result of the rescheduling).

**3.2 Changes.** Customer understands that ZOLL's performance is dependent in part on Customer's actions. Accordingly, any dates or time periods relevant to performance by ZOLL hereunder will be appropriately and equitably extended to account for any delays resulting from changes due to Customer's acts or omissions. If either party proposes in writing a change to the scope, timing, or duration of the Services, the other party will reasonably and in good faith consider and discuss with the proposing party the proposed change and a revised estimate of the costs for such change. If Customer elects to have ZOLL develop custom software, Customer agrees that the functionality provided by the custom software is not essential to Customer's use of the Software. If Customer does not use all of the Services purchased, unused Services will be credited.

**3.3 Notification.** Where in ZOLL's reasonable opinion there is likely to be a delay in the provision of Services under any SOW because of a cause beyond the reasonable control of ZOLL (including default or delay of Customer in performing its obligations), ZOLL will: (a)notify Customer of the circumstances of the delay; (b)give details of the likely effect of the delay and develop, at the Customer's expense, a strategy to manage the consequences of the delay; (c)request a reasonable extension of time; and (d)submit to Customer a statement of the variations to the SOW resulting from the delay.

**4. THIS SECTION INTENTIONALLY LEFT BLANK**

**5. OWNERSHIP AND LICENSE.**

**5.1 Ownership.** ZOLL shall retain all right, title and interest in and to: (a)all software, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that ZOLL makes, develops, conceives or reduces to practice, whether alone or jointly with others, in the course of performing the Services; (b)all enhancements, modifications, improvements and derivative works of the Software and of each and any of the foregoing; and (c)all Intellectual Property Rights related to each and any of the foregoing (collectively, the "ZOLL Property").

**5.2 License.** Provided that Customer is not in breach of any material term of the Agreement or any SOW, ZOLL grants Customer a non-exclusive, non-transferable license, without rights to sublicense, to use the ZOLL Property that is incorporated into deliverables delivered pursuant to an SOW (each, a "Deliverable"), solely for Customer's own internal business purposes in connection with the use of the Deliverable and the Software and solely for so long as the licenses to the Software granted pursuant to the Agreement remain in effect.

**ZOLL Data Systems, Inc.**  
**Application Service Provider Agreement for Fort Bend County EMS**

**Exhibit D – Description of License Types**

The license to install and use the Software shall be in accordance with the following license options. The Software may contain a software license management tool (a “**License Manager**”) that regulates Customer’s use of the Software. If so, all of the licensed activity described below must be subject to the control of the License Manager, and Customer may not install or use the Software in a manner that circumvents or interferes with the operation of the License Manager or any other technological measure that controls access to the Software.

**Hosted License** - Hosted License provides access to the ASP Services as described in Section 3.1 and provides Customer the right to install the Software on an unlimited number of compatible personal computers or devices, for use by any number of Customer users to perform Dispatch, Billing, Scheduling, Records Management, or to facilitate the entry of PCRs, as specified on the Initial Order. The license is not limited to any specifically identified Customer users.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

ZOLL Data Systems, Inc.  
Broomfield, CO United States

Certificate Number:  
2017-252792

Date Filed:  
08/22/2017

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

Fort Bend County

Date Acknowledged:

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

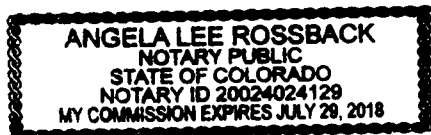
147213  
Billing Pro technology.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Rennert, Jonathan	Chelmsford, MA United States	X	
	Stowell, Craig	Chelmsford, MA United States	X	
	ZOLL Medical Corporation	Chelmsford, MA United States	X	

5 Check only if there is NO Interested Party.

**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



*[Handwritten Signature]*  
\_\_\_\_\_  
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Jon Bourne, this the 22 day of August, 2017, to certify which, witness my hand and seal of office.

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature of officer administering oath

Angela Lee Rosback  
\_\_\_\_\_  
Printed name of officer administering oath

Notary  
\_\_\_\_\_  
Title of officer administering oath

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
 ZOLL Data Systems, Inc.  
 Broomfield, CO United States

**Certificate Number:**  
 2017-252792

**Date Filed:**  
 08/22/2017

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**  
 Fort Bend County

**Date Acknowledged:**  
 09/26/2017

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**  
 147213  
 Billing Pro technology.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Rennert, Jonathan	Chelmsford, MA United States	X	
	Stowell, Craig	Chelmsford, MA United States	X	
	ZOLL Medical Corporation	Chelmsford, MA United States	X	

**5 Check only if there is NO Interested Party.**

**6 AFFIDAVIT** I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

\_\_\_\_\_  
 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said \_\_\_\_\_, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, to certify which, witness my hand and seal of office.

\_\_\_\_\_  
 Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath