

CODERED® NEXT SERVICES AGREEMENT
Licensee Supplied Data Only

This CodeRED® NEXT Services Agreement (“Agreement”) is made and effective as of the last date written below (the “Effective Date”) by and between Emergency Communications Network, LLC, a Delaware Limited Liability Company (“Licensor”) located at 780 W. Granada Boulevard, Ormond Beach, FL 32174 and the **Town of Fountain Hills**, a body politic and corporate of the State of **Arizona** (“Licensee”) located at **16705 East Avenue of the Fountains, Fountain Hills, AZ 85268**.

Licensor is the owner of a service identified as “CodeRED® Emergency Notification System” (the “Service”), which is designed to allow authorized licensed users to have access 24 hours a day, 7 days a week for the purpose of generating high-speed notifications to targeted groups via an Internet-based software application. Licensee desires to utilize the Service for the purpose of communicating emergency notifications and matters of public interest. The parties agree as follows:

1. **License:** Licensor grants Licensee a non-exclusive and non-transferable license (the “License”) to use the Service for Licensee’s own purpose, in accordance with the terms of this Agreement. Licensor reserves the right to either charge additional fees or terminate this Agreement if other parties not contemplated in this Agreement are granted access to the Service by Licensee. Licensee assumes full and complete responsibility for the use of the Service by anyone whom Licensee permits to use the Service or who otherwise uses the Service through Licensee’s pass codes.

Licensee may not assign, license, sublicense, rent, sell or transfer the License, the Service, those codes used to access the Service, or any rights under this Agreement. To access the Service, Licensor will provide Licensee with up to **ten (10)** unique user name(s) and pass code(s). Additional user pass codes may be obtained at an additional annual fee as outlined in Exhibit A, attached hereto and incorporated by reference.

2. **Ownership:** Licensee agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with the Service or any software provided. Licensee’s License confers no title or ownership in the Service or its underlying technology.
3. **Copyright:** Licensee understands and agrees that United States copyright laws and international treaty provisions protect the Service. Except for the limited License provided for herein, Licensor reserves all rights in and to the Service and all underlying data, compilations, and information maintained by Licensor relating to the Service, including but not limited to, the source or object code. Licensee shall not make any ownership, copyright or other intellectual property claims related to the Service or data processed through the Service.
4. **Functionality:**

a) The Service provides Licensee the ability to generate high-speed notifications to geographically selected calling areas and/or listed databases via an Internet-based software application. The Service has the ability to select calling databases via a geographic mapping component. Licensee’s database(s) shall be limited to the geographic boundaries (determined by Lat/Lon coordinates) of the **Town of Fountain Hills, Arizona (the “Calling Area”)**. The Service will also allow Licensee to utilize an interactive voice response telephone service to record messages and initiate call out projects. Licensee may only place calls via the system to telephone numbers assigned within the 48 contiguous United States of America. International call rates may be set by separate agreement. Licensee understands and agrees that: (i) absent separate purchase from Licensor, Licensee is responsible to provide data to Licensor for use in the Service, and that Licensor shall in no way be responsible for any delays in Licensee’s ability to use the Service due to Licensee’s failure to provide data; and (ii) the data Licensee supplies to Licensor for use in the Service may be subject to calling and other restrictions, and Licensee agrees to use the Service in accordance with any such restrictions. Any additional Service functions will be charged at the rates on Exhibit A.

b) Licensee may upgrade the Service to include the purchase of commercially available data sources (the “Commercial Data”), and data related services from Licensor to be used in the Service. In the event Licensee elects to upgrade the Service in accordance with this paragraph 4.b), Licensee shall pay to Licensor an additional **three thousand one hundred twenty-five dollars (\$3,125.00) per year or any partial year**. Licensee understands and agrees that, once exercised, this upgrade option may not be removed from the Service absent separate, written agreement executed by Licensee and Licensor.

Licensee further acknowledges and agrees that the Commercial Data shall remain the sole and exclusive property of Licensor. Licensee further understands that, in the event the upgrade in this paragraph 4.b) is exercised by Licensee, the renewal cost for the Service for any subsequent year shall increase to twelve thousand seven hundred fifty-seven dollars and eighty-one cents (\$12,757.81) per year. In the event Licensee purchases the Commercial Data for use in the Service as set forth herein, and Licensee uses the Service for the purpose of communicating emergency notifications and matters of public concern, Licensor agrees to be solely responsible for and defend, indemnify and hold harmless Licensee and each council member, officer, employee or agent thereof from any and all lawsuits, demands, liabilities, damages, claims, losses, costs or expenses, including attorneys' fees (whether by salary, retainer or otherwise), whether brought by a third party, arising from Licensor's providing the Commercial Data to Licensee for use with the Service.

5. **Costs for the Service:** During the Term of this Agreement, Licensee agrees to pay all costs and fees for utilizing the Service, as described in Exhibit A, and as set forth in this paragraph. Licensee understands and agrees that it will purchase prepaid minutes for the Service ("System Minutes"). Licensee further understands and agrees that whenever Licensee utilizes the Service, the actual calling minutes used by Licensee while utilizing the Service will be deducted from the balance of System Minutes remaining in Licensee's System Minutes account or bank. Licensee is responsible to maintain, at all times, a sufficient balance of System Minutes on account. Payment for the Service or System Minutes is due and payable upon receipt of invoice (ROI). Finance charges at a rate of 1% per month (12% per annum) will be charged on all balances outstanding beyond 60 days. All payments due under this Agreement shall be paid to: Emergency Communications Network, LLC at 780 W. Granada Boulevard, Ormond Beach, FL 32174. Licensee understands and agrees that the prices set forth on Exhibit A are not final until this Agreement has been fully executed, and that it is at the Licensor's discretion to honor such prices in the event this Agreement has not been returned to the Licensor within 90 days from the date this Agreement was drafted for the Licensee.
6. **Free Testing and Training Minute Blocks:** Licensee is allotted free time on the system which runs the Service for the purpose of testing and training. Licensee understands and agrees that the following conditions must be met in order for Licensee to utilize the free minute bank specified in Exhibit A:
 - a) Minutes used for testing and training will be deducted from Licensee's minute bank at the time of using the Service;
 - b) Licensee must notify Licensor in writing within 60 days from the date the Service was used for testing or training, specifying qualified project(s) and minutes used, to request that such minutes be designated as free minutes and restored to the minutes that were deducted from Licensee's System Minute bank. Licensee understands and agrees that, if Licensee fails to notify Licensor within 60 days of the use of the Service, the minutes used will not be eligible for restoration as free minutes, and will remain deducted from Licensee's System Minute bank as described above; and
 - c) Licensor will have the final right to deem all free calling minutes eligible or ineligible for reimbursement under this paragraph.
7. **Annual System Minute Bank Replenishment:** Each year, Licensee will have access to 37,500 System Minutes. The System Minute bank will be refilled every year to 37,500 System Minutes, upon the anniversary of the Effective Date, as set forth in this Agreement. System Minutes are not transferable and do not rollover from year to year, unless otherwise paid for and agreed in writing. If the entire bank of System Minutes is exhausted during the given year, Licensee will be required to repurchase System Minutes according to the Minute Bank Refill Feature described herein.
8. **Term:** This Agreement, and the License extended herein, will continue for a period of three (3) years (the "Initial Term") commencing on the Effective Date. Upon termination of this Agreement, whether by expiration of the Initial Term, any Renewal Term (as hereinafter defined) (the Initial Term and any Renewal Term, collectively, the "Term"), or as otherwise set forth herein, Licensee's access to the Service will be terminated and all System Minutes remaining in its System Minute bank shall transfer solely to Licensor.
9. **Contract Extension:** Upon completion of the Initial Term and each Renewal Term (as hereinafter defined), the Term of this Agreement may extend for an additional one (1) year period (each a "Renewal Term"). If activated, this contract extension provision will continue to extend the Agreement period by one (1) additional

year at the end of the Initial Term and each Renewal Term. Licensee's extension of the Agreement for a Renewal Term shall be deemed activated upon Licensor's acceptance of any of the following prior to the end of the Initial Term or then-current Renewal Term: Licensor accepts a renewal letter, electronically or hard copy, from Licensee; Licensor accepts a Purchase Order for payment of the Service for one additional year from Licensee; or Licensor accepts payment from Licensee for one additional year of the Service. In the event the Agreement is extended:

- a) Licensee's System Minute bank will be replenished to the annual 37,500 minute balance;
- b) Licensor will update its systems to extend the active software License and associated pass codes for **one (1)** additional year of use;
- c) Licensor will invoice Licensee for one additional year of Service at the rate of nine thousand six hundred thirty-two dollars and eighty one cents (\$9,632.81) per year, subject to the terms of paragraph 4.b); and
- d) Licensee agrees to pay the fees set forth in this paragraph for each Renewal Term, upon ROI, subject to the terms as set forth in paragraph 5.

Licensee understands and agrees that its failure to extend the Agreement pursuant to this section may result in increased costs for the Service in the event that Licensee requests Licensor to provide any services to Licensee after the expiration of the Term.

10. Minute Bank Refill Feature: The parties recognize that Licensee may utilize the Service in a manner that results in Licensee exceeding the amount of prepaid System Minutes in Licensee's System Minute bank. In the event that using the Service completely exhausts Licensee's remaining prepaid System Minute bank, Licensor will immediately refill Licensee's System Minute bank with a block of 3,750 System Minutes, and will invoice Licensee for this block of minutes at the Additional System Minute price as indicated in Exhibit A. Licensee shall pay Licensor for all additional System Minutes from Licensor upon ROI from Licensor, subject to the same terms as set forth in paragraph 5. Licensee understands and agrees that it is required to maintain a System Minutes balance in its System Minute bank at all times, and agrees to purchase Additional System Minute blocks as needed in order to maintain a positive System Minute balance. The purpose of this refill feature is to ensure that calls being placed via the Service are not interrupted as the result of Licensee's depletion of its System Minutes.

11. Appropriate Use of The Service: Licensee agrees to use the Service in a way that conforms with all applicable laws and regulations, including but not limited to all applicable laws regarding outbound telemarketing, the Federal Telephone Consumer Protection Act of 1991, The Telemarketing and Consumer Fraud and Abuse Prevention Act of 1999, as well as State and Local telemarketing laws and requirements. Licensee agrees not to initiate a call, such that the same call is to be delivered to two (2) or more lines of a business. Licensee specifically agrees not to make any attempt to gain unauthorized access to any of Licensor's systems or networks. Licensee agrees that Licensor shall not be responsible or liable for the content of the message(s) created by Licensee, or by those who access the Service using Licensee's codes, or otherwise delivered by the Service on behalf of Licensee. To the extent permitted by law, Licensee agrees to be solely responsible for and defend, indemnify and hold harmless Licensor and its affiliates, employees, officers, directors, managers, members and agents from any and all lawsuits, demands, liabilities, damages, claims, losses, costs or expenses, including attorneys' fees (whether by salary, retainer or otherwise), whether brought by a third party, arising from any violation of this Agreement by Licensee; from the content, placement, or transmission of any messages or materials sent or maintained through Licensee's accounts, or use of the Service through Licensee's account; and from any violations of any laws by Licensee. Licensor will defend, indemnify, and hold Licensee, from and against any all liabilities, claims, damages, losses, costs and expenses (including reasonable attorney's fees) owing to third parties suffered or sustained by Licensee, arising out of or incurred as a result of any infringement of any third party's patent, copyright, trademark, or trade secret rights by the Service provided by Licensor under this Agreement (other than to the extent based on any content, messages or materials transmitted by Licensee through the Service). The foregoing obligation of indemnification does not apply with respect to the Service or portions or components thereof (i) that Licensor did not supply, (ii) that are combined with other products, processes or materials where the infringement or misappropriation relates to such combination, unless Licensor expressly authorized such combination, (iii) to the extent that Licensee continues allegedly infringing activity after being provided modifications that would have avoided the alleged infringement, or (iv) where Licensee's use of the Service

is not strictly in accordance with this Agreement. In the event Licensor believes that the Service is, or is likely to be, the subject of an infringement claim, Licensor may, at its option, (1) procure for Licensee the right to continue using the Service under this Agreement, or (2) replace or modify the Service so that it becomes non-infringing but substantially equivalent in functionality and performance. The foregoing obligations are Licensor's only obligations and liability in connection with infringement by the Service. Each party seeking indemnification hereunder shall provide the other party with: (a) prompt written notice of any claim for which indemnification is sought; (b) complete control of the defense and settlement of such claim; and (iii) reasonable assistance and cooperation in such defense at the indemnifying party's expense. In any proceeding the indemnified party shall have the right to retain, at its expense, its own counsel. Notwithstanding the foregoing, the indemnifying party may not enter into a settlement of a claim that involves a remedy other than the payment of money by the indemnified party without the indemnified party's written consent.

12. Security: Licensor will use commercially reasonable practices and standards to secure and encrypt data transmissions. Licensee understands and acknowledges that Licensor is providing the Service on the World Wide Web through an "upstream" third party Internet Service Provider, utilizing public utility services which may not be secure. Licensee agrees that Licensor shall not be liable to Licensee in the event of any interruption of service or lack of presence on the Internet as a result of any disruption by the third party Internet Service Provider or public utility. Licensee agrees that Licensor cannot guarantee the integrity of any Licensee supplied or user supplied data. Any errors, duplications, or inaccuracies related to Licensee or user supplied data will be the responsibility of Licensee.

13. Representations and Warranties: Licensee acknowledges and agrees that: (a) the Service is run by software that is designed to be active 24 hours per day, 365 days per year; software in general is not error-free and the existence of any errors in Licensee's software used in conjunction with the Service shall not constitute a breach of this Agreement; (b) in the event that Licensee discovers a material error which substantially affects Licensee's use of the Service, and Licensee notifies Licensor of the error, Licensor shall use reasonable measures to restore access to the Service, provided that such error has not been caused by incorrect use, abuse or corruption of the Service or the Service's software or by use of the Service with other software or on equipment with which it is incompatible by Licensee or a third party accessing the Service through Licensee's pass codes; (c) Licensee is responsible for maintaining access to the Internet in order to use the Service; Licensor in no way warrants Licensee's access to the Internet via Licensee's Internet Service Provider(s); (d) Under certain rare instances not all technologies are compatible without manual intervention by both parties. Licensee agrees that its staff will cooperate with Licensor's staff to make necessary modifications to allow the Service to perform; and (e) the individual signing on behalf of Licensee is an authorized officer, employee, member, director or agent for Licensee and has full authority to cause Licensee to enter into and be bound by the terms of this Agreement and this Agreement fully complies with all laws, ordinances, rules, regulations, and governing documents by which Licensee may be bound.

14. Disclaimer: In no event (even should circumstances cause any or all of the exclusive remedies to fail their essential purpose, and even if Licensor has been advised of the possibility of such damages) shall Licensor, its officers, directors, managers, members, employees or agents, be liable for any indirect, punitive, special, incidental or consequential damages of any nature (regardless of whether such damages are alleged to arise in contract, tort or otherwise), including, but not limited to, loss of anticipated profits or other economic loss in connection with or ensuing from the existence, furnishing, function, or Licensee's use of any item or products or services provided for in this Agreement. Licensee understands that the cumulative liability of Licensor for any and all claims relating to the Service provided by Licensor shall not exceed that total amount paid by Licensee for the most recent payment made by Licensee to Licensor. **The Service is provided as-is, and Licensor disclaims all warranties, express or implied, and does not warrant for merchantability or fitness of a particular purpose.** Licensee recognizes that once email and text messages have been released from Licensor's equipment, the ultimate delivery of the messages depends on the message recipient's local network. As a result Licensor cannot guarantee the delivery of email and text messages to a recipient.

15. Confidentiality: Licensor acknowledges the confidential nature of Licensee supplied data and files that it is to prepare, process or maintain under this Agreement, and agrees to perform its duties in such a manner as to prevent the disclosure to the public or to any persons not employed by Licensor, any confidential data and

files. Data collected by Licensor will remain secured on Licensor's equipment and will only be released upon mutual agreement by both parties, a court order of sufficient jurisdiction or as required by public records law. Licensee understands and agrees that private citizens and other persons in the Calling Area may voluntarily contribute their contact information to be used in the Service, and that Licensor shall develop and maintain a database of such information, along with other information privately developed by Licensor (the "Data"). Licensee acknowledges and agrees that Licensor desires to maintain the privacy of the Data, and that Licensee shall take no steps to compromise the privacy of the Data. Licensor understands and agrees that private citizens and other persons in the Calling Area may designate that the data they provide to Licensor may be given to Licensee (the "Resident Data"). Provided Licensee uses the Services for the purpose of communicating emergency notifications and matters of public concern, Licensor agrees to be solely responsible for and defend, indemnify and hold harmless Licensee and each council member, officer, employee or agent thereof from any and all lawsuits, demands, liabilities, damages, claims, losses, costs or expenses, including attorneys' fees (whether by salary, retainer or otherwise), whether brought by a third party, arising from Licensor's collection and provision of the Data or Resident Data to Licensee, except to the extent that any third party wrongfully or incorrectly supplies portions of the Data or Resident Data to Licensor. Licensor agrees that it will, upon termination of this Agreement and the request of Licensee, provided all fees due hereunder are paid in full, transmit the Resident Data, one (1) time, to Licensee. Licensor reserves the right to charge Licensee any database maintenance fees it incurs in processing such request, as set forth on Exhibit A. Licensee further acknowledges that Licensor shall disclose to Licensee certain confidential, proprietary trade secret information of Licensor (along with the Data, "Confidential Information"). Confidential Information may include, but is not limited to, the Service, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Licensee agrees that, at all times during and after the termination of this Agreement, except for as required by public records law, Licensee will not, without the express prior written consent of Licensor, disclose any Confidential Information or any part thereof to any third party. Nothing in this Agreement will be deemed to require Licensor to disclose any Confidential Information to Licensee or to prohibit the disclosure of any information in response to a subpoena or other similar order by a court or agency or as required by public records law. Licensee will promptly notify Licensor of the receipt of any subpoena or other similar order and of any request under the Public Information Act or any other similar law, and, to the extent allowable by law, will allow Licensor a reasonable opportunity to object to such request, at Licensor's sole expense, if deemed necessary by Licensor, prior to Licensee's disclosure of any requested Confidential Information of Licensor.

16. Termination:

- a) Upon termination of this Agreement, Licensee will return all Confidential Information and copies to Licensor and Licensee agrees to remove from Licensee's computer(s), and any computers within Licensee's control, any and all files and documents related to the Service.
- b) Licensor, in its sole discretion, may also terminate this Agreement: i) for any reason by providing no less than 30 days advance written notice, and in such case, Licensor will refund to Licensee an amount equal to the lesser of the monthly-prorated balance of the annual fee based on the number of days left in the Term of the Agreement or the value of the balance of System Minutes in Licensee's System Minute bank as calculated by multiplying the remaining System Minutes by the Additional System Minute price on Exhibit A; or ii) immediately, and without further notice, as a result of Licensee's breach of this Agreement, and in such case, no fees paid hereunder shall be refunded and any fees then-due shall be paid in full by Licensee.
- c) Licensee, in its sole discretion, may also terminate this Agreement: i) for any reason by providing no less than 30 days advance written notice, and in such case, no fees paid hereunder shall be refunded and any fees then-due shall be paid in full by Licensee; or ii) immediately, and without further notice, as a result of Licensor's breach of this Agreement, and in such case, Licensor will refund to Licensee an amount equal to the lesser of the monthly-prorated balance of the annual fee based on the number of days left in the Term of the Agreement or the value of the balance of System Minutes in Licensee's System Minute bank as calculated by multiplying the remaining System Minutes by the Additional System Minute price on Exhibit A. Licensee understands and agrees that it has been granted multi-year discounted pricing by Licensor, and that, in the event this Agreement is terminated in accordance with this paragraph 16.c), Licensee agrees to immediately pay, in full, to Licensor at the time of premature termination, the multi-year pricing discount provided to Licensee as set forth on Exhibit A for any term of this Agreement less than **three (3) years**.

17. Entire Agreement: This Agreement supersedes all prior understandings or agreements, whether oral or written, on the subject matter hereof between the parties. Only a further writing that is duly executed by both parties may modify this Agreement. The terms and conditions of this Agreement will govern and supersede any additional terms provided by Licensee, including but not limited to additional terms contained in standard purchase order documents and third party application terms, unless mutually agreed to, via written signature, by Licensor. The terms of this Agreement shall not be waived except by a further writing executed by both parties hereto. The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall any waiver under this Agreement constitute a waiver of any subsequent action.

18. Notices: All notices or requests, demands and other communications hereunder shall be in writing, and shall be deemed delivered to the appropriate party upon: (a) personal delivery, if delivered by hand during ordinary business hours; (b) the day of delivery if sent by U.S. Mail, postage pre-paid; (c) the day of signed receipt if sent by certified mail, postage pre-paid, or other nationally recognized carrier, return receipt or signature provided and in each case addressed to the parties as follows:

As to **Licensor:** Emergency Communications Network, LLC, 780 W. Granada Boulevard, Ormond Beach, FL 32174

As to **Licensee:** Town of Fountain Hills, Attn: Mike Ciccarone/Administrator, 16705 East Avenue of the Fountains, Fountain Hills, AZ 85268

Either party may change the address provided herein by providing notice as set forth in this paragraph.

19. General: Each party to this Agreement agrees that any dispute arising under this Agreement shall be submitted to binding arbitration according to the rules and regulations of, and administered by, the American Arbitration Association, and that any award granted pursuant to such arbitration may be rendered to final judgment. If any dispute arises hereunder, the prevailing party shall be entitled to all costs and attorney's fees from the losing party for enforcement of any right included in this Agreement, whether in Arbitration, a Court of first jurisdiction or any Court of Appeal.

20. Interpretation and Severability: In the event any provision of this Agreement is determined by an arbitrator or court of competent jurisdiction to be void, the remaining provisions of this Agreement shall remain binding on the parties hereto with the same effect as though the void provision(s) had been limited or deleted, as applicable.

21. Counterparts and Construction: This Agreement may be executed in counterparts, each of which shall constitute an original, with all such counterparts constituting a single instrument. The headings contained in this agreement shall not affect the interpretation of this Agreement and are for convenience only. Licensee agrees that this Agreement shall not be construed against Licensor as the drafter, and that Licensee has read and understands this Agreement, and has had the opportunity to review this Agreement with legal counsel.

22. Survival: Certain obligations set forth herein represent independent covenants by which either party hereto may be bound and shall remain bound regardless of any breach of this Agreement and shall survive termination of this Agreement.

23. Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. Licensee may cancel this Agreement without penalty or further obligations by the Licensee or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Licensee or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

24. E-Verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, Licensor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Licensor's or its subcontractor's breach of the above-mentioned warranty shall be deemed a material breach

of this Agreement and may result in the termination of this Agreement by the Licensee. Licensee retains the legal right to randomly inspect the papers and records of Licensor and its subcontractors who work on this Agreement to ensure that Licensor and its subcontractors are complying with the above-mentioned warranty.

25. **Israel.** Licensor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in Ariz. Rev. Stat. § 35-393, of Israel.
26. **Agreement Subject to Appropriation.** Licensee is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during Licensee's then current fiscal year. Licensee's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of Licensee concerning budgeted purposes and appropriation of funds. Should the Licensee elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and Licensee shall be relieved of any subsequent obligation under this Agreement. The parties agree that Licensee has no obligation or duty of good faith to budget or appropriate the payment of Licensee's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. Licensee shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. Licensee shall keep Licensor informed as to the availability of funds for this Agreement. The obligation of Licensee to make any payment pursuant to this Agreement is not a general obligation or indebtedness of Licensee. Licensor hereby waives any and all rights to bring any claim against Licensee from or relating in any way to Licensee's termination of this Agreement pursuant to this section. In the event of a termination under this paragraph 26 no fees paid hereunder shall be refunded and any fees incurred prior to the effective date of termination shall be paid in full by Licensee

IN WITNESS WHEREOF, the parties execute this Agreement on the date(s) indicated below.

Licensee:
Town of Fountain Hills, Arizona

Signature: 
Printed Name: Gordon Miller
Title: Town Manager
Date: 12/22/2016

Licensor:
Emergency Communications Network, LLC

Signature: 
Printed Name: David DiGiacomo
Title: President
Date: 12/20/2016

CR
12/21/16

Exhibit A – Service Charges

Three (3) year Discount CodeRED® NEXT Services Agreement	\$ 33,398.43
Multi-Year Discount	\$ (4,500.00)
Total:	\$ 28,898.43

Payments due in annual installments of \$ 9,632.81

Up to <u>37,500</u> Annual CodeRED® System Minutes	\$ <u>Included</u>
Additional System Minutes	\$ <u>0.33 per minute</u>
<u>500</u> minutes for testing and training	\$ <u>No Charge</u> (see section 6)
Up to <u>10</u> CodeRED® user pass codes <i>Additional pass codes may be purchased for an annual fee of \$150.00 per pass code.</i>	\$ <u>Included</u>
One (1) CodeRED® distance training session <i>Additional distance training sessions may be purchased for \$150.00 per hour (one hour minimum). Additional on-site training sessions may be purchased for \$1,500.00 per trainer, per day plus all travel, ground transportation, and lodging expenses.</i>	\$ <u>Included</u>
Initial Licensee Supplied Database Upload	\$ <u>Included</u>
Commercial Data and Licensor Managed Data Services <i>Per paragraph 4.b)</i>	\$ <u>3,125.00</u>
Standard CodeRED® data collection website	\$ <u>No Charge</u>
Email and Text Messaging	\$ <u>No Charge</u>
Annual System Maintenance, including all Software Upgrades	\$ <u>No Charge</u>

System usage will be charged against prepaid System Minutes at actual minutes of time connected while delivering prerecorded System calls. All calls will be billed in 6-second increments. Only connected calls (live connections, answering machine connections and fax tone connections) will result in connection charges being incurred.

Database Accuracy Updates

Licensee Supplied Database: One annual "Database Accuracy Update" will be performed by the Licensor upon request by the Licensee at no charge. In order for this Database Accuracy Update to occur, Licensee must supply Licensor with a new data file each year during the Term of this Agreement. Additional updates requested by Licensee will incur charges at the rate listed below after the annual update is completed by Licensor.

Additional Update Fees: A service labor fee of One Hundred Dollars (\$100.00) per hour will be billed to Licensee for any data importing, manipulating, and loading any database supplied by Licensee or on Licensee's behalf to Licensor.

\$100 per hour for database maintenance

Professional Services Upon Request: \$135.00 per hour
Licensor shall perform professional services as requested from time to time by Licensee in its sole discretion.