

COMMISSIONERS JOURNAL NO. 50 - DELAWARE COUNTY
MINUTES FROM REGULAR MEETING HELD JANUARY 10, 2008

THE BOARD OF COMMISSIONERS OF DELAWARE COUNTY MET IN REGULAR SESSION ON THIS DATE WITH THE FOLLOWING MEMBERS PRESENT:

Present: Glenn A. Evans, Kristopher W. Jordan, James D. Ward

PUBLIC COMMENT

Mr. Joe Warren spoke to the Commissioners
(For a complete record refer to the Official CD minutes).

RESOLUTION NO. 08-28

IN THE MATTER OF APPROVING THE RESOLUTIONS AND RECORDS OF THE PROCEEDINGS FROM REGULAR MEETING HELD JANUARY 7, 2008 AS CONTAINED IN THE COUNTY’S OFFICIAL ELECTRONIC RECORDINGS OF THE PROCEEDINGS:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve the resolutions and records of the proceedings from regular meeting held January 7, 2008 as contained in the county’s official electronic recordings of the proceedings.

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-29

IN THE MATTER OF APPROVING PURCHASE ORDERS, VOUCHERS, THEN AND NOW CERTIFICATES, AND PAYMENT OF WARRANTS IN BATCH NUMBERS CMAPR0109:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve Then And Now Certificates, payment of warrants in batch numbers CMAPR0109, and Purchase Orders and Vouchers as listed below:

<u>Vendor</u>	<u>Description</u>	<u>Account Number</u>	<u>Amount</u>
Po’s			
Columbia Gas of OH	Gas Utilities/Del County	10011105-5338	\$ 26,000.00
AEP	Electric Utilities/ Del County	10011105-5338	\$ 260,000.00
City of Delaware	Water, Sewage & Refuse/Del Co.	10011105-5338	\$ 36,000.00
Alert Tracking System	Maintenance & Support	21411306-5325	\$ 45,000.00
AEP	Electric at Tower sites	21411306-5338	\$ 20,000.00
AEP	Electric Service to Medic 1,2,3,9	10011303-5338	\$ 12,000.00
BP Products N. America Inc.	Diesel Fuel for Medic Trucks	10011303-5228	\$ 15,000.00
Rodman Neeper Funeral	Coroner Calls	10030301-5342	\$ 10,000.00
HP Products Corp.	Janitorial supplies	10011303-5222	\$ 10,000.00
Meyers Uniforms Inc.	EMS Uniform Purchases	10011303-5224	\$ 30,000.00
Verizon	Phone Serv. Medic 3,6,8, & 5	10011303-5330	\$ 5,500.00
Bound Tree Medical LLC	EMS Medical Supplies	10011303-5243	\$ 35,000.00
Beems BP Dist. Inc.	Gas/Fuel for Co. Vehicles	10011106-5228	\$ 36,000.00
W. D. Tire Service Center	Tires for Co. Vehicles	10011106-5228	\$ 10,000.00
Washington Auto Parts	Vehicle Parts/Del. County	10011106-5228	\$ 24,000.00
Petroleum Traders Corp.	Gas/Diesel Fuel	10011106-5228	\$ 18,000.00
McWherters Petroleum	Diesel Fuel/Del Co.	10011106-5228	\$ 18,000.00
Krieger Lincoln Mercury	Vehicle Parts/Del. County	10011106-5228	\$ 16,000.00
Goodyear Auto Service	Tires for State Bid	10011106-5228	\$ 30,000.00
Goodyear Auto Service	Vehicle Repair Alignment	10011106-5328	\$ 100.00
Germain Ford of Columbus	Vehicle Parts/Del. County	10011106-5228	\$ 3,000.00
Germain Ford of Columbus	Vehicle Repair/Del. Co.	10011106-5228	\$ 6,000.00
Englefield Oil Co.	Gasoline Acct.	10011106-5228	\$ 18,000.00
Chesrown	Vehicle Parts/Del. County	10011106-5228	\$ 5,000.00
Chesrown	Vehicle Repair/Del. Co.	10011106-5328	\$ 500.00
Delaware Motive Parts Inc.	Vehicle Parts/Del. County	10011106-5228	\$ 24,000.00
Autozone	Vehicle Parts/Del. County	10011106-5228	\$ 10,000.00
Wadad Investment Group Inc.	12 Troy Rd. Bldg. & Land Rental	10011105-5335	\$ 28,158.00
Ben Bro Enterprises Inc.	Bldg. & Land Rental N. Sandusky	10011105-5335	\$ 247,500.00
Synergy Mechanical	Service Agreement/Sprinklers	10011105-5325	\$ 12,668.00
Loeb Electric Co.	Building Repair Supplies	10011105-5234	\$ 7,500.00
HP Products Corp.	Cleaning Products	10011105-5222	\$ 24,000.00
Lawn Greenkeeper LLC	Snow Removal/Del. Co. Offices	10011105-5325	\$ 24,000.00
Verizon	Telephone Service/Del. Co. Offc.	10011105-5330	\$ 60,000.00
Postmaster	Postal Services/Del. Co. Offices	10011105-5331	\$ 20,500.00
Pitney Bowes	Postage Reserve Mail Acct.	10011105-5331	\$ 250,000.00
Otis Elevator Co. Inc.	Elevator Maintenance Agreement	10011105-5325	\$ 33,000.00

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Northwestern OH Security	Safety Services	10011105-5345	\$	5,000.00
Northwestern OH Security	Safety & Security Supplies	10011105-5238	\$	1,000.00
Nextel Communications	Phone Equipment & Supplies	10011105-5250	\$	100.00
Nextel Communications	Cell Phone Services	10011105-5330	\$	10,000.00
Fibercare	Janitorial Cleaning/Engineers & SO	10011105-5325	\$	41,500.00
First Communications LLC	Long Distance Phone Service	10011105-5330	\$	9,000.00
Delaware Maintenance Co.	Cleaning Svcs./Facil. Bldg. Rte 23 N.	10011105-5325	\$	6,100.00
Delaware Co. Engineer	Share Utilities/50 Channing 40%	10011105-5338	\$	18,000.00
CCAO SC	Gas/Utilities for Del. Co.	10011105-5338	\$	175,000.00
Del. Municipal Ct./Justice	Witness Reimbursement	10029203-5360	\$	5,000.00
Del. Municipal Ct./Justice	Jury Fees Reimbursement	10029203-5360	\$	50,000.00
Kids Count Learning Center	Day Care	22411610-5348	\$	27,500.00
Netcare Corporation	Court Ordered Psych Evaluations	10011202-5342	\$	10,000.00
DSS Corporation	Annual Maintenance Contract 2008	21411306-5325	\$	9,350.00
Treasurer, State of Ohio	Reimb to St. Pub. Def. Office	10011202-5319	\$	30,000.00
The Dispatch Printing Co.	Position Advertisements	10011108-5312	\$	15,000.00
Blues Auto Service Inc.	Liability Insurance Claims	60111901-5370	\$	25,000.00
General Body Shop	Liability Insurance Claims	60111901-5370	\$	15,000.00
Prudential Group Life	Monthly Life Ins. Premium 2008	60211902-5370	\$	27,000.00
Prudential Group Life	Long Term Disability Ins.	60211902-5370	\$	91,000.00
CEBCO	Medical Claims 2008	60211902-5370	\$	9,360,000.00
Kathy A McKee	Day Care	22411610-5348	\$	12,500.00
Sandra S. McConnell	Day Care	22411610-5348	\$	12,500.00
Nancy Lucas	Day Care	22411610-5348	\$	12,500.00
Sue A. Koloff	Day Care	22411610-5348	\$	12,500.00
Leslie Kanniard	Day Care	22411610-5348	\$	12,500.00
Tarri Jones	Day Care	22411610-5348	\$	12,500.00
Patricia A. Jones	Day Care	22411610-5348	\$	12,500.00
Hartford Croton Fair	Grant	10011102-5601	\$	7,000.00
City of Powell	Powell Main Street	10011102-5601	\$	10,000.00
Del. Co. Historical Society	Grant	10011102-5601	\$	20,000.00
OSU Ext.	Grant	10011102-5601	\$	286,000.00
Regional Planning	Membership Dues	10011102-5308	\$	134,111.00
Treasurer, Delaware County	Real Estate Taxes	10011102-5380	\$	10,525.00
Kimberly H. VanDyke	Day Care	22411610-5348	\$	12,500.00
Christina Tucker	Day Care	22411610-5348	\$	12,500.00
Donna Teegarden	Day Care	22411610-5348	\$	12,500.00
Paula Smith	Day Care	22411610-5348	\$	12,500.00
Kerry J. Santa	Day Care	22411610-5348	\$	12,500.00
Darlene Hill	Day Care	22411610-5348	\$	12,500.00
Shelly Heuser	Day Care	22411610-5348	\$	12,500.00
Michelle Croy	Day Care	22411610-5348	\$	12,500.00
Dawnya Chemelle Coleman	Day Care	22411610-5348	\$	1,000.00
Dawnya Chemelle Coleman	Day Care	22511607-5348	\$	11,500.00
Carolyn R. Chute	Day Care	22411610-5348	\$	12,500.00
Yvette R. Walker	Day Care	22411610-5348	\$	12,500.00
Leah R. Blake	Day Care	22511607-5348	\$	1,000.00
Leah R. Blake	Day Care	22411610-5348	\$	12,500.00
Laura Black	Day Care	22411610-5348	\$	12,500.00
Stepping Stones Learning	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22511607-5348	\$	5,000.00
Kindercare Learning Center	Day Care	22411610-5348	\$	50,000.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22511607-5348	\$	5,000.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kids Academy	Day Care	22411610-5348	\$	27,500.00
La Petite Academy Inc.	Day Care	22411610-5348	\$	27,500.00
Kids Count Learning Center	Day Care	22411610-5348	\$	27,500.00
Jelly Bean Junction	Day Care	22411610-5348	\$	27,500.00
Grace Family Daycare	Day Care	22411610-5348	\$	27,500.00
Gingerbread House	Day Care	22411610-5348	\$	27,500.00
Delaware City Schools	Day Care	22411610-5348	\$	27,500.00
Delaware Christian School	Day Care	22411610-5348	\$	27,500.00
Del. Area Career Center	Day Care	22411610-5348	\$	27,500.00

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Come N Play Day Care	Day Care	22411610-5348	\$	27,500.00
Childrens Discovery Place	Day Care	22411610-5348	\$	27,500.00
Brooksedge Day Care Center	Day Care	22411610-5348	\$	27,500.00
Adventure Academy LLC	Day Care	22411610-5348	\$	27,500.00
Delaware County Fair	Grant	10011102-5601	\$	10,000.00
MORPC	Membership Fees	10011102-5308	\$	44,548.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Kindercare Learning Center	Day Care	22411610-5348	\$	27,500.00
Liberty Community Center	Day Care	22511607-5348	\$	10,000.00
Liberty Community Center	Day Care	22411610-5348	\$	50,000.00
The Trident Group LTD.	Security	10011102-5345	\$	150,000.00
Child Care Unlimited Inc.	Day Care	2241610-5348	\$	27,500.00
Child Care Unlimited Inc.	Day Care	22411610-5348	\$	27,500.00
Mary Lemasters	Day Care	22411610-5348	\$	12,500.00
Vouchers				
CCAO	Oct/ Nov 07 County Gas	10011105-5338	\$	10,334.98
Prudential Group Life	Dec. Life Premiums	60111901-5370	\$	2,219.49
Prudential Group Life	Dec 07 LTD Premiums	60111901-5370	\$	7,601.44

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

RESOLUTION NO. 08-30

IN THE MATTER OF APPROVING PERSONNEL ACTIONS:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve the following:

Paul Bender is resigning his position as a Part-time Paramedic with the EMS Department; effective December 29, 2007.

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-31

IN THE MATTER OF APPROVING TRANSFER OF FUNDS AND TRANSFER OF APPROPRIATIONS:

It was moved by Mr. Jordan, seconded by Mr. Ward to approve the following:

Transfer of Funds			
FROM:	TO:		
10015102-5801	20315101-4601		700,000.00
Data Processing/Transfers	Data Center Fund/Interfund Revenue		
10011110-5801	22511607-4601		2,150,000.00
Human Services/Transfers	Childrens Services/Interfund Revenue		
10011110-5801	22411601-4601		296,649.00
Human Services/Transfers	JFS Income Maint./Interfund Revenue		
10011110-5801	22411606-4601		45,000.00
Human Services/Transfers	JFS Social Services		
10011102-5801	21511307-4601		45,384.80
General Fund-Transfers	EMA-Interfund Revenue		
10011102-5801	21511308-4601		7,615.20
General Fund-Transfers	Fy 06 HMEP-Interfund Revenue		
10011102-5801	72291901-4601		75,000.00
General Fund/Transfers	Data Transit Board		
10011102-5801	50111117-4601		1,615,816.77
General Fund/Transfers	Bond Retirement/Interfund Revenue		
10011304-5801	50111117-4601		1,414,375.00
911 Dispatching/Transfers	Bond Retirement/Interfund Revenue		

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10031303-5801	50111117-4601	558,196.26
Sheriff Jail/Transfers	Bond Retirement/Interfund Revenue	
Transfer of Appropriation		
From	To	
40411411-5410	40411412-5410	
Capital/Building & Improvements	2081 RT 23 NORTH/Building & Improvements	1,850,000.00
28631311-5004	28631311-5101	
2007 Leap Grant/Overtime	2007 Leap Grant/Insurance	224.38
Vote on Motion	Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye	

RESOLUTION NO. 08-32

IN THE MATTER OF APPROVING A SUPPORT AND MAINTENANCE AGREEMENT WITH ALERT TRACKING SYSTEMS:

It was moved by Mr. Ward, seconded by Mr. Jordan to approve the following:

Support and Maintenance Agreement

This agreement (“Agreement”) is made by and between Alert Tracking Systems, Inc. (“AlertTS”) and the customer identified at the end of this Agreement (“Customer”) and is dated as of the effective date, as defined herein.

Recitals.

- A. Customer has licensed and/or purchased the Product(s) (as defined below) from AlertTS under separate agreement (the “Purchase Agreement”) and desires to obtain support and maintenance services for such Products.
- B. AlertTS desires to provide such support and maintenance services for such Product(s) upon the terms and conditions set forth in this agreement.

Therefore, for good and valuable consideration AlertTS and Customer agree as follows:

Section 1. Definitions.

- 1.1 “Error” means any failure of a Product(s) to conform in any material respects to its published and/or provided documentation.
- 1.2 “Product(s)” means the AlertTS Product(s) listed on Exhibit A. The Product(s) includes any and all Enhancement Releases, Maintenance Releases or Patches delivered to Customer under this Agreement or the Purchase Agreement. Items not supplied by AlertTS do not qualify as Products hereunder.
- 1.3 “Enhancement Release” means a new release of a Product with new features and/or functionality or improved performance for which a separate new version upgrade fee is not charged.
- 1.5 “Maintenance Release” means a new release of a Product that incorporates Patches and/or other maintenance changes.
- 1.6 “Patch” means an interim piece of code released to supplement a Product that typically fixes High Priority Errors between Maintenance Releases.
- 1.7 “Workaround” typically means a set of procedures that a Customer follows to circumvent or mitigate the impact of an Error. The Error still exists. A Workaround may be provided at AlertTS’s discretion in lieu of a Patch for a specific Error.
- 1.8 Other Defined Terms. Except as expressly defined in this Agreement, capitalized terms shall have the meaning ascribed to them in the Purchase Agreement.

Section 2. Scope of Support And Maintenance Services.

- 2.1 Services Provided. During the term of this Agreement, for so long as Customer subscribes to the applicable AlertTS Product maintenance program and timely pays therefore, and for so long as AlertTS makes support and maintenance services for the Product(s) generally available to its customers, AlertTS shall support the Product(s) by providing the services described in the following paragraphs of this Section 2. Support and maintenance services are subject to change at AlertTS’s option provided that support and maintenance terms are so modified for all similarly situated Product maintenance subscribers. AlertTS has no obligation to correct or support Errors arising from Customer’s misuse, improper use, alteration (other than by an AlertTS representative), or damage to the Product(s) including, without limitation, by electrical power failures or surges, or Customer’s combining or merging the Product(s) with any hardware or software not identified as compatible by AlertTS, or any other Errors not resulting from normal wear and tear.
- 2.2 Technical Support. AlertTS will provide telephone technical support regarding use of the Product(s) and response to Errors to Customer’s Support Contacts designated under Section 2.7.2. AlertTS technical support representatives will be available by telephone Monday through Friday from 8:00 a.m. to 6:00 p.m. ET. During off-hours, in connection with High Priority situations as described in Section 2.3 below, an AlertTS technical support representative will endeavor to return Customer’s call within four (4) hours.
- 2.3 Response Priorities. AlertTS will assign all Customer requests for Error support one of two response priorities that will dictate the timing of the response as follows:
 - High Priority. A major feature/function of the Product(s) is not working or the system integrity is at risk. AlertTS will attempt to provide a Workaround or Patch within three (3) business days of Customer’s report of the problem. If the Workaround or Patch cannot be provided within the three (3) business days, AlertTS will dedicate resources to the problem resolution and will inform Customer on a periodic basis of the resolution status.
 - Low Priority. The Customer has a problem that is not seriously impacting the Customer’s workflow, i.e., any problem that does not meet the above standard for “High Priority”. AlertTS will assess, in good faith, the timing for the provision of a Workaround or Patch for such problem, whether in a future Maintenance Release,

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Enhancement Release or earlier. When such determination is made, AlertTS will notify Customer of the results of the status evaluation, which could include delaying repair of the error until a future planned release.

2.4 Subsequent Release(s). During the term of this Agreement, AlertTS will send Enhancement Releases and Maintenance Releases to Customer when made generally commercially available by AlertTS to its customers. Each Enhancement Release, Maintenance Release and Patch delivered by AlertTS under this Agreement is subject to the provisions of the Purchase Agreement and shall be automatically deemed to be covered by all applicable Product license terms.

2.5 Preventative Maintenance. AlertTS may, at its sole option, schedule technical service telephone calls or visits for the purpose of Product inspection or preventative maintenance.

2.6 Customer Notification. AlertTS's obligations to provide the assistance specified in this Section 2 are conditioned on Customer's prompt notification to AlertTS of the problem that provides AlertTS with information sufficient to identify the problem. Such information may include, but not be limited to, error diagnostic messages, diagnostic memory dumps, operator console logs, data file dumps, application program listings, and a written explanation of the problem.

2.7 Customer Cooperation and Support Contacts.

2.7.1 Customer Cooperation. Customer acknowledges that AlertTS may not be able to resolve an Error if Customer does not cooperate with and assist AlertTS in resolving the Error.

2.7.2 Support Contacts. AlertTS shall only be required to receive communication from a Customer designated Support contact. Customer will designate three (3) authorized Support Contacts and agrees that each Support Contact will be knowledgeable in all aspects of the Customer's operating environment in which the Product(s) are being used. Customer will provide all requested information about each of its Support Contacts by completing the attached Authorized Support Contacts form, but may change designation of the contacts in writing.

Section 3. Support And Maintenance Fees.

3.1 Required Coverage. All Product(s) to be covered by this Agreement on the effective date of this Agreement must be the then current Product(s) furnished by AlertTS. Thereafter, Customer must remain within at least one new Release of the Product.

3.2 Annual Support and Maintenance Fee. Customer shall pay an annual support and maintenance Fee at AlertTS's rate in effect at the beginning of each one-year term of this Agreement. The annual support and maintenance Fee in effect as of the effective date of this Agreement is set forth in Exhibit A hereto. AlertTS shall notify Client prior to the end of a support term of the Software Support fees for the next succeeding annual term. Unless otherwise agreed in writing, Software Support fees shall be due on or before the commencement of each annual support term. AlertTS support fees shall be subject to increase on an annual basis at a rate equal to the current Consumer Price Index for all Urban Consumers ("CPI-U") or 3%, whichever is greater.

Payment shall be due within thirty (30) days of receipt of invoice by Customer. If Customer fails to pay such invoice within thirty (30) days, or the support and maintenance agreement lapses for any other reason, a reinstatement fee may be charged in addition to the annual support and maintenance fee. If this Agreement terminates or Customer discontinues maintenance for any reason, and then subsequently desires (with AlertTS's permission) to purchase or reactivate maintenance in the future, such repurchase or reactivation will be at the prevailing charges at the time of repurchase or reactivation. However, in the event that the Product has been updated or replaced by AlertTS in the interim period, AlertTS will have to install the new/updated Product for which the Customer could incur an installation charge and a license charge.

3.3 Additional Support and Maintenance Fees. If after the effective date of this Agreement, Customer either purchases additional Products or Product licenses from AlertTS, Customer shall pay the applicable additional support and maintenance fee, pro-rated in order to reflect how much is then remaining in the current one year term.

Section 4. Disclaimer Of Warranties. THIS IS A SERVICES AGREEMENT. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

Section 5. Term and Termination.

5.1 Term. The effective date of this Agreement shall be the date it is executed by Customer which must occur no later than the date of expiration of the applicable warranty period, if any, for the Product(s). If Customer does not execute the Agreement before such date, AlertTS shall have the right to inspect the Product(s) at Customer's expense to insure it is in good operating order, or impose other reasonable conditions, before re-offering this Agreement. The term of this Agreement shall be one year. No Agreement will become effective until countersigned by AlertTS.

5.2 Renewal. This Agreement shall automatically renew for successive one-year terms commencing on the anniversary date of the effective date, unless either party provides the other with thirty (30) days prior written notice of its decision to not renew this Agreement.

5.3 Termination. This Agreement will terminate: 1) upon the expiration of the then current term of this Agreement and timely receipt by one party of the other's decision to not renew this Agreement; 2) at AlertTS's election, upon failure of Customer to pay support and maintenance fees when due; or 3) upon thirty (30) days prior written notice if either party has materially breached the provisions of this Agreement and has not cured such breach within such notice period. Termination of this Agreement for any reason shall not relieve Customer from any remaining obligations under this Agreement, including but not limited to, the payment of any amounts due nor shall it affect any additional remedies that AlertTS may have at law or in equity. Upon termination of this Agreement, AlertTS may, at its option, declare the entire amount of the unpaid balance due under this Agreement to be immediately due and payable.

Section 6. Miscellaneous.

6.1 Miscellaneous Provisions. Dispute resolution and other provisions are contained in Schedule 1 to this Agreement.

6.2 Schedules And Exhibits. Each of the exhibits and schedules listed below shall be incorporated into and shall for all purposes be deemed a part of this Agreement:

- Exhibit A - Support And Maintenance Fee Schedule
- Schedule 1 - Dispute Resolution and Other Provisions

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SUPPORT AND MAINTENANCE FEE SCHEDULE

PRODUCT	CURRENT PRODUCT LIST PRICE	SUPPORT AND MAINTENANCE FEE AS OF EFFECTIVE DATE
Responder		
Enforcer		
First Due		
Rescue		
Partner		
Total	\$107,017	\$45,000

Customer shall pay the Support and Maintenance Fees to AlertTS within thirty (30) days of execution of this Agreement.

All annual Support and Maintenance Fees are subject to change at AlertTS’s option.

The above fees do not include any applicable taxes levied or imposed now or hereafter by any governmental authority on the services to be provided hereunder or any component thereof (such as the Releases), which taxes shall be paid by Customer.

DISPUTE RESOLUTION AND OTHER PROVISIONS

- 1. Dispute Resolution.**

 - 1.1 Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to conflicts of laws principles. Any and all disputes allowable under Section 5 shall be filed in and heard before the courts of Delaware County, Ohio.
 - 1.2 Mediation.** In the event of any controversy or claim arising out of or relating to this Agreement or the breach or interpretation thereof, the parties shall, upon five days notice from either one to the other, submit themselves and the subject-matter of the dispute to mediation before an independent mediator to be appointed by the American Arbitration Association. Costs of mediation shall be borne equally between the parties.
 - 1.3 Arbitration.** In the event that the parties remain in dispute following the mediation, the controversy or claim shall be determined by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association by a single, disinterested arbitrator appointed in accordance with such Rules. The determination of the arbitrator shall be final, conclusive and binding. Judgment upon the award rendered may be entered in any court of any state or country having jurisdiction.
 - 1.4 Conduct.** Each party shall ensure that any mediation and arbitration are conducted as speedily as is reasonably possible, and that all and any information disclosed during or in connection with the arbitration is treated by each party with the strictest confidence.
 - 1.5 Interim and Permanent Relief.** Upon the application of either party to this Agreement, and whether or not an arbitration or mediation provision has yet been initiated, all courts having jurisdiction over one or more of the parties are authorized to: (i) issue and enforce in any lawful manner such temporary restraining orders, preliminary injunctions and other interim measures of relief as may be necessary to prevent harm to a party’s interests or as otherwise may be appropriate pending the conclusion of arbitration proceedings pursuant to this Agreement; and (ii) enter and enforce in any lawful manner such judgments for permanent equitable relief as may be necessary to prevent harm to a party’s interests or as otherwise may be appropriate following the issuance of arbitral awards pursuant to this Agreement.
 - 1.6 Venue.** Any mediation or arbitration conducted under or in connection with this Agreement shall take place in Columbus, Ohio at a time and location to be determined by the mediator or arbitrator, as the case may be.
 - 1.7 Legal Expenses.** If any proceeding is brought by either party to enforce or interpret any term or provision of this Agreement, the substantially prevailing party in such proceeding shall be entitled to recover, in addition to all other relief arising out of this Agreement, such party’s reasonable attorneys’ and other experts’ (including without limitation accountants) fees and expenses.
- 2. Excused Performance; Force Majeure.** If the performance of this Agreement is adversely restricted by reason of any circumstances beyond the reasonable control and without the fault or negligence of the party affected, then the party affected, upon giving prompt written notice to the other party, shall be excused from such performance on a day-to-day basis to the extent of such restriction; provided, however, that the party so affected shall use all commercially reasonable efforts to avoid or remove such causes of non-performance and both parties shall proceed whenever such causes are removed or cease.
- 3. Exclusion of Certain Claims.** IN NO EVENT SHALL ALERTTS BE LIABLE (WHETHER IN TORT OR CONTRACT, UNDER STATUTE OR OTHERWISE) FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION AND THE LIKE, ARISING OUT OF ITS PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT OR THE USE, INABILITY TO USE OR RESULTS OF USE OF THE PRODUCTS, EVEN IF ALERTTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 4. Indemnification and Limitation of Liability:** THE LIABILITY OF ALERTTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT IS LIMITED TO THE SUPPORT AND MAINTENANCE FEE PAID TO ALERTTS HEREUNDER. To the extent of that Limitation of Liability, AlertTS shall indemnify and hold harmless the Customer and its employees from damages, injury, costs, expenses, judgments or decrees, or any other liabilities that they may incur as a result of bodily injury or injury to or destruction of tangible property, to the extent caused in whole or part by the negligence of AlertTS, its employees, agents, subcontractors.
- 5. Equitable Relief.** Each of Customer and AlertTS acknowledges that damages will be an inadequate remedy if the other violates the terms of this Agreement, or otherwise fails to perform its obligations hereunder. Accordingly, subject to Section 1 of this Schedule, each of them shall have the right, in addition to any other rights each of them may have, to obtain in any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief to restrain any breach, threatened breach, or otherwise to specifically enforce any of the obligations in this Agreement.

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6. Waiver. No waiver of or with respect to any provision of this Agreement, nor consent by a party to the breach of or departure from any provision of this Agreement, shall in any event be binding on or effective against such party unless it be in writing and signed by such party, and then such waiver shall be effective only in the specific instance and for the purpose for which given.
7. Captions and Headings. The captions and headings are inserted in this Agreement for convenience only, and shall not be deemed to limit or describe the scope or intent of any provision of this Agreement.
8. Severability; Invalidity. If any provision of this Agreement is held to be invalid, such invalidity shall not render invalid the remainder of this Agreement or the remainder of which such invalid provision is a part. If any provision of this Agreement is so broad as to be held unenforceable, such provision shall be interpreted to be only so broad as is enforceable.
9. Assignment. Customer shall not assign any of its rights under this Agreement without the prior written consent of AlertTS. This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.
10. Notices. Any notice or other communication under this Agreement given by either party to the other party shall be deemed to be properly given if given in writing and delivered (i) by facsimile transmission (receipt confirmed) or (ii) mailed (return receipt requested), properly addressed and stamped with the required postage, or (iii) sent by an overnight express courier, to the recipient at the address identified in its signature block to this Agreement or, if no such address is provided, as specified in writing by one party to the other. Either party may from time to time change its address by giving the other party notice of the change in accordance with this Section.

11. Insurance:

- 11.1 General Liability Coverage: AlertTS shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence.
- 11.2 Proof of Insurance: Prior to the commencement of any work under this Agreement, AlertTS shall furnish the Customer with properly executed certificates of insurance for all insurance required by this Agreement. Certificates of insurance shall provide that such insurance shall not be cancelled without thirty (30) days prior written notice to the Customer. AlertTS will replace certificates for any insurance expiring prior to completion of work under this Agreement.
12. Independent Contractor: AlertTS agrees that no agency, employment, joint venture, or partnership has been or will be created between the parties hereto pursuant to the terms and conditions of this Agreement. AlertTS also agrees that, as an independent contractor, it assumes all responsibility for any federal, state, municipal, or other tax liabilities along with workers compensation, unemployment compensation, and insurance premiums, which may accrue as a result of compensation received for services or deliverables rendered hereunder.
13. Findings for Recovery: AlertTS certifies that it has no outstanding findings for recovery pending or issued against it by the State of Ohio.
14. Entire Agreement; Amendments. This Agreement constitutes and embodies the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous written, electronic or oral communications, agreements or understandings between the parties with respect thereto. This Agreement may not be modified or amended except by a written instrument executed by the parties.

Vote on Motion Mr. Ward Aye Mr. Jordan Aye Mr. Evans Aye

RESOLUTION NO. 08-33

IN THE MATTER OF ADJOURNING INTO EXECUTIVE SESSION FOR CONSIDERATION OF APPOINTMENT, EMPLOYMENT, DISMISSAL, DISCIPLINE, PROMOTION, DEMOTION OR COMPENSATION OF A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL AND FOR PENDING OR IMMINENT LITIGATION:

It was moved by Mr. Jordan, seconded by Mr. Ward to adjourn into Executive Session at 10:15AM.

Vote on Motion Mr. Evans Aye Mr. Jordan Aye Mr. Ward Aye

RESOLUTION NO. 08-34

IN THE MATTER OF ADJOURNING OUT OF EXECUTIVE SESSION:

It was moved by Mr. Ward, seconded by Mr. Jordan to adjourn out of Executive Session at 11:30AM.

Vote on Motion Mr. Jordan Aye Mr. Evans Aye Mr. Ward Aye

There being no further business the meeting adjourned.

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Glenn A. Evans

Kristopher W. Jordan

James D. Ward

Letha George, Clerk to the Commissioners