



## Terms and Conditions

These Standard Terms and Conditions govern all purchases of Equipment, Software, Installation, Implementation, and other products and services from 34ED, LLC, a Georgia limited liability company doing business as CENTEGIX (“CENTEGIX”). In the event of a conflict between the terms of an Order and these Standard Terms and Conditions, these Standard Terms and Conditions shall govern the rights and obligations of the Customer and CENTEGIX.

### 1. Definitions

The following capitalized terms are used in these Standard Terms and Conditions with the meanings thereafter ascribed.

“**Affiliate**” means any entity directly or indirectly controlling, controlled by, or under common control with Customer, where “control” means ownership of at least 50% of the equity or beneficial interests of such entity or the right to vote for or appoint a majority of the board of directors or other governing body of such entity.

“**Anniversary Date**” means the last day of the month that is thirty (30) days after Heartbeat.

“**Confidential Information**” means all business or technical information of the Disclosing Party that is not generally known to the public and that derives value from not being generally known, whether such information is disclosed orally or in writing. Confidential Information may include any software, documentation, flow-chart, logic diagram, design proposal, screen shot, screen shot concept, algorithm, device, compilation of information, method, technique, or process. The Licensed Materials constitute Confidential Information of CENTEGIX and its licensors.

“**Contractor**” means an independent contractor performing services for Customer or an Affiliate.

“**Customer**” means the person or entity that issued an Order the receipt of which by CENTEGIX has been acknowledged by an Order Acknowledgement of Centegix.

“**Customization**” means any modification or addition to the Software that changes its utility, efficiency, functional capability, or application, that is requested by Customer and is not an Error Correction or a New Module. Customization is not included in Support Services and is subject to a separate charge.



“**Documentation**” means the on-line information and materials, relating to the use of the Software made available to Customer in connection with the license of the Software.

“**Electronic Device**” means each computer or other device into which the Software is downloaded and/or installed.

“**Equipment**” means the CrisisAlert™ Hubs, the CrisisAlert™ Beacons, the CrisisAlert™ Gateways, the CrisisAlert™ Solar Kits, the CrisisAlert™ Badges, and any other devices, equipment, Equipment listed on the Order Detail Attachment and, if applicable, on the Special Terms (collectively, the “**Equipment**”).

“**Error**” means a program or logic error or other defect in the Software which causes the Software to operate incorrectly or otherwise not in conformity with the Documentation that can be reproduced or observed by CENTEGIX.

“**Error Correction**” means either a modification or addition that, when made or added to the Software, brings the Software into conformity with the Documentation in all material respects or a procedure or routine that, when observed in the regular operation of the Software, avoids the practical adverse effect of such nonconformity.

“**Heartbeat**” means that the CrisisAlert™ Gateway has been installed at the first Site and CENTEGIX certifies that the CrisisAlert™ Gateway communicates with the Cloud Service.

“**Implementation**” means the services performed by CENTEGIX for Software configuration, the loading of a standard set of protocols, and training..

“**Installation**” means placement of Equipment on Site.

“**New Module**” means computer programs related to the Software which contain business logic not offered or contained in the then current version of the Software that are offered by CENTEGIX only as a separate option or feature. New Modules are not included in Support Services and are subject to a separate charge.

“**Order**” means Customer’s Purchase Order identified in an Order Acknowledgement.

“**Order Detail Attachment**” means *Exhibit A* to the Order Acknowledgement which lists Equipment, Software, Implementation, and Installation purchased by Customer.



“**Party**” means CENTEGIX or Customer, individually, and “**Parties**” means CENTEGIX and Customer, collectively.

“**Person**” means any individual, general partnership, limited liability partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, or any foreign trust or foreign business organization, and the heirs, executors, administrators, legal representatives, successors, and assigns of such Person where the context so permits.

“**Release**” means a new version of the Software made available as a part of Support Services that includes prior Updates and Error Corrections, and may include improvements to the efficiency, functional capability, or application of the Software.

“**Site**” means each physical location specified by Customer prior to the commencement of Installation at which Equipment will be placed and Software will be used .

“**Special Terms**” means the terms and provisions on **Exhibit B** to an Order Acknowledgement, if an **Exhibit B** initialed by CENTEGIX is attached to an Order Acknowledgement, which supplement or modify these Terms and Conditions.

“**Software**” means the CENTEGIX mobile app, the CENTEGIX background Device crisis app, Equipment software and firmware, analytics, 24/7 monitoring, remote access support, and the Cloud Service.

“**Update**” means any update to a Release of the Software made available as a part of Support Services.

## **2. General**

### **2.1 Customer Point of Contact.**

Customer shall designate one or two individuals as the representatives of Customer (the “**Customer Representatives**”), whose names are set forth on each Order, and who shall be authorized to make decisions, approve plans, grant requests on behalf of Customer, and receive notices from CENTEGIX. Customer hereby authorizes CENTEGIX to rely on all communications from and decisions of the Customer Representatives.

### **2.2 Configuration Information.**

The Customer Representatives shall promptly complete Install Sheets for each Site, assist CENTEGIX in scheduling Installation at each Site, and performing the other obligations of Customer as outlined in the



Order Acknowledgement. Customer acknowledges and agrees that the schedule for Installation and Implementation as mutually agreed to by the Customer Representatives and CENTEGIX is dependent upon the prompt and accurate completion of Install Sheets and the other obligations of Customer as outlined in the Order Acknowledgement. Customer is responsible for any out of pocket costs incurred by CENTEGIX as a result of delays in the timely and accurate performance of Customer Responsibilities outlined in the Order Acknowledgment and these Terms and Conditions.

### **2.3 Independent Contractor.**

CENTEGIX will be in an independent contractor relationship to Customer at all times, and neither CENTEGIX nor any employee or subcontractor of CENTEGIX will be, or be deemed to be, an employee or agent of Customer.

### **2.4 Limitations.**

The CRISIS ALERT System is not a life-saving system and no part of the CRISIS ALERT System is a life safety device. The CRISIS ALERT System is a communications systems designed to allow Customer personnel to signal an alert if there is an emergency in the classroom or provide other safety and security functions. Emergencies and the resulting confusion, errors in judgment, interruption of power and communications, and other issues surrounding emergencies may result in the failure of systems or in inappropriate or less than optimal actions or inactions by persons reacting or responding to emergencies. The CRISIS ALERT System may not be operational or work properly as a result of environmental factors and weather conditions beyond human control, unmaintained, stolen, or damaged equipment, the failure of the internet and other communications systems, or the failure of electrical grid, therefore CENTEGIX does not represent, warrant, or guarantee that the CRISIS ALERT System will be operational or work properly if or when an emergency occurs.

### **2.5 Equipment End of Term.**

Customer acknowledges that the Equipment is specially programmed for Customer. Upon the expiration of the Term or other termination of the License to the Software, the Equipment will be inoperable. **Customer** may decommission the Equipment and return the Equipment to CENTEGIX or an authorized recycler. In no event shall Customer resell or transfer the Equipment to a third



party. Equipment that is transferred to a third party will not register with CENTEGIX Cloud Service or the CrisisAlert™ Gateway and could possibly signal an alert for the Site and room at which the Equipment was originally installed. Customer upon written notice to CENTEGIX may transfer Equipment from one Site to another Site.

### **3. FEES AND PAYMENT**

#### **3.1 Fees.**

Customer agrees to pay to CENTEGIX the amount specified in Customer's Order and the related Order Detail Attachment.

#### **3.2 Payment Terms.**

Unless CENTEGIX otherwise agrees in writing, all amounts are billed in US Dollars. Unless otherwise provided in the Order Acknowledgement, 25% of the total amount due CENTEGIX reflected on the Order Detail Attachment will be invoiced upon shipment of Equipment, 45% will be invoiced on the Anniversary Date, 20% upon completion of Installation at all Sites, and 10% on the completion of Implementation at all Sites. Invoices are payable in full without deduction or setoff, in US Dollars on net 30 day terms or such later date as may be specified in the invoice (the "Due Date"). Interest shall accrue from the Due Date on all undisputed amounts unpaid more than 30 days after the Due Date at the rate of one percent (1%) per month. If Customer believes an invoice or charge is incorrect, Customer must contact CENTEGIX in writing within 45 days of the invoice date or charge to be eligible to receive an adjustment or credit.

#### **3.3 Taxes.**

If applicable, Customer is responsible for, and must pay, any and all federal, state, or local taxes (other than taxes based on CENTEGIX's income), including sales taxes imposed in connection with the sale of Equipment, Integration services, and the license of the Software. Customer will promptly reimburse CENTEGIX for the amount of any taxes that CENTEGIX is required to pay as a result of Customer's failure to pay such amount.

### **4. Terms and Conditions**

#### **4.1 Equipment.**



- (a) CENTEGIX agrees to sell and Customer agrees to purchase the Equipment listed on the Order Detail Attachment at the prices on the Order Detail Attachment (the “**Equipment Price**”).
- (b) Unless otherwise noted on the Order Detail Attachment, Equipment is sold F.O.B. Destination. CENTEGIX shall have the absolute right to deliver the Equipment at one time or in portions from time to time. The delivery of non-conforming Equipment or a default of any nature, in relation to one or more installments of the Equipment shall not substantially impair the value of the Equipment as a whole, or these Standard Terms and Conditions as a whole and shall not constitute a total breach of these Standard Terms and Conditions as a whole.
- (c) Acceptance of the Equipment (“**Acceptance**”) shall occur upon delivery. Customer shall have no right to revoke acceptance of the Equipment, if the Equipment conforms to the Order.
- (d) Installation of the Equipment will be provided by CENTEGIX only if Installation is specified on the Order Detail Attachment. Customer is responsible compliance with all ordinances, fees, and licenses required by the county, municipality, or region related to the installation of the Equipment. If Installation is not specified on the Order Detail Attachment, CENTEGIX is not providing installation of Equipment and all arrangements for the installation of Equipment shall be the responsibility of Customer.
- (e) Customer is responsible for maintenance of the Equipment, the proper operating environment for the Equipment, and all cabling and communications facilities for the Equipment, unless CENTEGIX otherwise agrees in writing for a specific Site or Order.
- (f) CENTEGIX warrants all Equipment provided by CENTEGIX shall for a period of twelve (12) months from the Anniversary Date (the “**Warranty Period**”) shall be free of defects in material and workmanship. In the event of a breach of this warranty, Customer shall contact CENTEGIX Customer service at (800) 950-9202 or support@centegix.com to report the defect. If the issue cannot be resolved, CENTEGIX shall ship a replacement unit at no cost to Customer. Customer shall at the request of CENTEGIX, return the defective unit to CENTEGIX. During the Warranty Period CENTEGIX will use commercially reasonable efforts to remote monitor Equipment, subject to availability of real-time access to Customer’s environment, and if CENTEGIX detects a failure CENTEGIX will provide notification to Customer to initiate the RMA Process. Except as provided in Section 4.1(f) CENTEGIX MAKES NO



WARRANTIES TO CUSTOMER WHATSOEVER WITH RESPECT TO THE EQUIPMENT. ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON INFRINGEMENT AND ALL SUCH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

(g) After expiration of the Warranty Period, by mutual agreement of Customer and Centegix and payment of an additional annual fee, CENTEGIX will provide Extended Warranty Service and remote monitoring of Equipment.

(h) Customer hereby grants and transfers to CENTEGIX a purchase money security interest in and a security title to the Equipment to secure payment by Customer of the unpaid portion of the Purchase Price of the Equipment and related operating system software, and such security interest and title shall attach to the Equipment and be enforceable at the earliest time permitted by law. Customer hereby authorizes CENTEGIX to file a UCC financing statement to perfect the security interest granted in this Section 4.1(h).

#### **4.2 Installation, Implementation, and Other Services.**

(a) If the Order Detail Attachment includes Installation, CENTEGIX will perform Installation services at each Site, for the price reflected in the Order Detail Attachment (the “**Installation Services Fees**”).

(b) If the Order Detail Attachment includes Implementation, CENTEGIX will perform Implementation services at each Site, for the price reflected in the Order Detail Attachment (the “**Implementation Services Fees**”).

(c) If the Special Terms provide for the any other professional services, CENTEGIX will perform such professional services for the price reflected in the Special Terms or in a statement of work (“**SOW**”) if one is referenced in the Special Terms or is entered into between Customer and CENTEGIX (the “**Professional Services Fees**” and with the Installation Services Fees, and the Implementation Services Fees (the “**Services Fees**”).

(d) If the Order Detail Attachment specifies that Customer is obligated to pay Service Provider’s expenses for travel, meals, and lodging, Customer will reimburse CENTEGIX for actual, necessary, and reasonable expenses for expenses for travel, meals, and lodging incurred by CENTEGIX personnel performing Integration services.



(e) CENTEGIX warrants that Installation, Implementation, and other professional services (collectively, “**Services**”) shall be performed in a workmanlike, professional manner by qualified personnel. In the event of a breach of this warranty, Customer shall notify CENTEGIX of the breach and CENTEGIX shall promptly re-perform the deficient Services at no cost to Customer. THIS SECTION 4.2(c) STATES CENTEGIX’S ENTIRE OBLIGATION TO CUSTOMER AND CUSTOMER’S EXCLUSIVE REMEDY FOR breach of the warranty in this SECTION 4.2(e).

(f) If the scope of Services changes, the changes shall be described in a change order to be signed by both parties. The change order shall also set forth any changes to delivery dates and/or prices in light of the changed scope or assumptions.

(g) Services provided at the written request of a Customer Representative which are not Installation or Implementation and not provided for in the Special Terms or an SOW are out of scope and will be invoiced at CENTEGIX’s then prevailing time and material rates.

#### **4.3 Software License Terms.**

(a) If Software is indicated on an Order Detail Attachment, CENTEGIX grants to Customer and Customer accepts from CENTEGIX, a non-exclusive, and non-transferable license for the Term to: (i) Install the Software in machine-readable form at each Site on an unlimited number of Electronic Devices owned or controlled by Customer, and (ii) Use the Software and Documentation (collectively, the “**Licensed Materials**”) for the Term, for Customer’s internal business purposes and not as a service bureau, ASP, or other service provided to third parties. Customer may (A) make a reasonable number of copies of the Software (in object code form) for backup and archival purposes, and to support Customer’s Use of the Software as permitted by these Standard Terms and Conditions, and (B) make additional copies of the Documentation, solely for Customer’s internal training and support purposes. The Software may not be used at any location that is not a Site. “**Use**” means that Customer, Affiliates, and Contractors may, during the Term, access, run, or otherwise interact with the Software at the Sites in accordance with the Documentation and the rights granted herein by CENTEGIX. Site Contractors may Use the Licensed Materials at any Site solely for the benefit of Customer or an Affiliate and not for the





benefit of any other customer or client of Contractor and only for as long as Contractor is providing services to Customer or an Affiliate. The Software shall be delivered to Customer electronically.

(b) Customer's right to Use the Licensed Materials will commence upon the Anniversary Date and will continue for the number of months in the Order Detail Attachment or the Special Terms (the "**Initial Term**"). After the Initial Term, Customer may renew Customer's right to Use the Licensed Materials for additional one-year terms (each a "**Renewal Term**") by placing an Order for a Renewal Term or paying the renewal invoice for a Renewal Term by the Due Date. As used in these Standard Terms and Conditions, "**Term**" means the Initial Term and any Renewal Term. Customer acknowledges that failure to renew the Software will render the CRISIS ALERT System unusable.

(c) The Annual License Fee for the Software (the "**Annual License Fee**") for the Initial Term for all Sites is set forth on the Order Detail Attachment. The Annual License Fee for any Renewal Term shall be based upon the number of Sites and CENTEGIX's then effective list prices. CENTEGIX reserves the right to adjust the length of any Renewal Term to permit coterminous termination of the license term for all Sites..

(d) Customer is not acquiring any right or interest in the Licensed Materials except the license to Use the Licensed Materials on and subject to these Standard Terms and Conditions. CENTEGIX reserves all rights not expressly granted to Customer and retains title and full ownership of the Licensed Materials and all intellectual property rights therein, under all applicable laws of the United States and any other applicable state, federal, or foreign law. Except as expressly permitted by these Standard Terms and Conditions, Customer may not: (i) sublicense, transfer, or otherwise assign its rights in the Licensed Materials to any third-party nor allow any third-party to access or use the Licensed Materials; (ii) modify, create derivative works of, translate, reverse engineer, de-compile, or disassemble the Licensed Materials to develop any other computer program or for any other reason; or (iii) copy the Licensed Materials, in whole or in part, without the prior written consent of CENTEGIX. The original and all copies of the Licensed Materials remain the sole property of CENTEGIX, subject to all of the confidentiality and other restrictions set forth in these Standard Terms and Conditions. Customer must retain all legends relating to copyright, trademarks, patents, or confidentiality on all copies of the Licensed Materials or any print of



a screen display from the Licensed Materials. CENTEGIX EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING THE LICENSED MATERIALS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. CENTEGIX DOES NOT WARRANT THAT THE SOFTWARE WILL BE ERROR FREE OR WILL MEET CUSTOMER'S SPECIFIC NEEDS OR THAT USE OF THE SOFTWARE WILL BE UNINTERRUPTED.

(e) In consideration of the Annual License Fee CENTEGIX will furnish Support Services ("**Support Services**") as follows:

(i) **Help Desk.** CENTEGIX will provide the Customer Representatives commercially reasonable access to its technical support personnel between the hours of 7:00 a.m. and 7:00 p.m. eastern time, Monday through Friday, excluding national holidays. Outside of normal technical support hours, CENTEGIX will provide Customer Representatives reasonable access to its technical support staff via e-mail and voice mail. The Help Desk can be reached by calling (800) 950-9202 or support@centegix.com.

(ii) **Error Correction.** CENTEGIX will keep the Software performing in conformity with the Documentation in all material respects and will correct verifiable and reproducible Errors related to the Software when reported to CENTEGIX in accordance with the published Technical Support Procedures.

(iii) **Exclusions.** Support Services exclude the following:

(iv) **New Modules.** CENTEGIX may, from time to time, offer New Modules to its customers for an additional charge.

(v) **Customization.** If Customer requests Customization of the Software or services such as special integration, report formatting, and similar services), such services, if provided, would be provided pursuant to a written statement of work for an additional fee and would be subject to the terms and conditions applicable to Consulting.

(vi) **Other Exclusions.** Any problem resulting from: (i) the misuse, improper use, unauthorized alteration, or damage of the Software; (ii) modifications in any version of the Software not made or authorized by CENTEGIX; (iii) combination of the Software with other programs or equipment not supported by CENTEGIX; (iv) unauthorized access to, or use of, the CRISIS ALERT System; or (v) Errors



in any version of the Software other than the Current Release and the Release of the Software immediately preceding the Current Release. Customer will be responsible for and will pay CENTEGIX's normal charges and expenses for time or other resources provided by CENTEGIX to diagnose or attempt to correct any problem described in this Section 4.3(e)(ix). In addition, Customer is responsible for procuring, installing, and maintaining all equipment, networks, telephone lines, communications interfaces, and other Equipment necessary to operate the Software. CENTEGIX will not be responsible for delays caused by events or circumstances beyond its reasonable control.

(vii) Customer agrees to notify CENTEGIX promptly following the discovery of any Error. Further, upon discovery of an Error, Customer agrees, if requested by CENTEGIX, to (a) submit to CENTEGIX a listing of output and any other data that CENTEGIX may reasonably require in order to reproduce the Error and the operating conditions under which the Error occurred or was discovered, and (b) provide screen shots, and initiate a video conference or similar presentation that will permit CENTEGIX personnel to observe the Error and the operation of the Software in Customer's environment.

(f) **Cloud Access.** During the Term, CENTEGIX will provide replication of the database at each Site and the aggregation of all locations' data to the CENTEGIX data center (the "**Cloud Service**").

(i) Except as otherwise provided in an Order Detail Attachment or the Special Terms, Customer is solely responsible for obtaining and maintaining the Equipment, software, and telecommunications equipment needed to access the Cloud Service. To facilitate access to the Cloud Service, CENTEGIX will supply default administrator login credentials ("**Login Credentials**") for Customer to assign user names and passwords to all personnel that will access the Cloud Service. Customer assumes sole responsibility for use of the Login Credentials. If Login Credentials are misappropriated, Customer shall notify CENTEGIX support staff by telephone and shall concurrently provide written notice to CENTEGIX whereupon CENTEGIX will disable the Login Credentials reported by Customer and issue replacement Login Credentials.

(ii) CENTEGIX does not own any data, information, or material that Customer submits to the Cloud Service in the course of using the Software ("**Customer Data**"). Customer shall have sole responsibility



for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data.

(iii) CENTEGIX shall take commercially reasonable precautions to preserve the security and integrity and prevent any corruption, loss, damage or destruction of the Customer Data. Customer is responsible for maintaining current backups of all Customer Data and securing Customer Data stored and processed at the Sites.

(iv) Customer grants CENTEGIX an irrevocable, perpetual, worldwide license to: (A) use Customer Data to provide the Cloud Service during the Term, and (B) process Customer Data to create a deidentified subset of Customer Data (the “**CENTEGIX Compiled Data**”). Customer acknowledges and agrees that: (x) CENTEGIX owns the CENTEGIX Compiled Data and all intellectual property rights in the CENTEGIX Compiled Data, and (y) that CENTEGIX is free to use CENTEGIX Compiled data for any lawful purpose including without limitation creation of statistical analysis, trend analysis, creation of data models, and creation of statistical rules, for resale.

## **5. INDEMNIFICATION**

### **5.1 By Centegix.**

CENTEGIX shall indemnify, defend, and hold harmless Customer and its officers, director, and employees (collectively the “**Customer Indemnitees**”) against any losses, liabilities, damages, and expenses, including without limitation reasonable attorneys’ fees (collectively, “**Losses**”) arising out of or related to any third party claim that is based upon or alleges that the CENTEGIX CRISIS ALERT System or any Equipment or Software component thereof infringes any patent, or a copyright, trade secret, trademark or other proprietary right of a third party (an “**IP Claim**”).

### **5.2 By Customer.**

Customer shall indemnify, defend, and hold harmless CENTEGIX and its Affiliates, and its and their directors, managers, officers, employees, members, and shareholders (collectively, the “**CENTEGIX Indemnitees**”) from and against all Losses arising out of or related to any third party claim that is based upon or alleges personal injury or property damage in any way related to Customer’s use of, or the failure of, the CRISIS ALERT System (a “**Customer Indemnifiable Claim**”).



### **5.3 Definitions.**

“**Claim**” means any IP Claim and any Customer Indemnifiable Claim. “**Indemnitor**” means a party that is required to provide indemnification pursuant to these Standard Terms and Conditions. “**Indemnitee**” means a party seeking indemnification pursuant to these Standard Terms and Conditions and includes Customer Indemnitees and Centegix Indemnitees.

### **5.4 Procedures for Claims.**

Indemnitee agrees to give Indemnitor prompt written notice of any Claim for which Indemnitee seeks indemnification, *provided however*, any failure by Indemnitee to timely provide such notice will not relieve Indemnitor of its indemnification obligations except to the extent Indemnitor can demonstrate actual prejudice as a result of such failure. Within thirty (30) days after receiving Indemnitee’s notice of a Claim, but no later than ten (10) days before the date on which any formal response to the Claim is due, Indemnitor will notify Indemnitee in writing acknowledging its indemnification obligation and assuming control of the defense and settlement of the Claim (a “**Notice of Election**”). If Indemnitor delivers a timely Notice of Election to Indemnitee, Indemnitor shall have sole control over the defense and settlement of the Claim. Indemnitee shall cooperate with Indemnitor in the defense of the Claim. Indemnitee will have the right to participate with Indemnitor in the defense or appeal of any Claim, at Indemnitee’s option and at Indemnitee’s own expense (such expense not being indemnified by Indemnitor), but Indemnitor will have sole control and authority with respect to any such defense, compromise, settlement, appeal, or similar action, provided that Indemnitor obtains Indemnitee’s prior written consent to any settlement that requires Indemnitee to make any admission of fault or pay any amounts in connection with such settlement. If Indemnitor does not deliver a timely Notice of Election or does not conduct the defense of a Claim after delivering a timely Notice of Election, Indemnitee may defend and/or settle the Claim in such manner as it may deem appropriate, at the cost and expense of Indemnitor, including payment of any settlement, judgment or award and the costs of defending or settling the Claim. Indemnitor will promptly reimburse the Indemnitee upon demand for all Losses suffered or incurred as a result of or in connection with the applicable Claim.

### **5.5 IP Claims.**



In the event a Claim is an IP Claim, in addition to its obligations as the Indemnitor, CENTEGIX may, at CENTEGIX's option, (i) modify or replace the Equipment or Software so that it performs comparable functions without infringement; **or** (ii) obtain a royalty-free license for Customer to use the Equipment or Software. If neither alternative (i) or (ii) is available to CENTEGIX on commercially reasonable terms, CENTEGIX may terminate all Orders upon a refund to Customer of an amount equal to the Annual License Fee paid for the unexpired portion of the then current annual term, and (b) the purchase price of the infringing Equipment paid pursuant to all Orders **minus**, with respect to each Order, the portion of the Equipment Price attributable to the period between the Anniversary Date of each Order for Equipment and the date CENTEGIX notifies Customer of its election to terminate the Agreement, assuming full amortization of the Equipment purchase price over a period of two (2) years.

SECTION 5.1 STATES CENTEGIX'S ENTIRE OBLIGATION TO CUSTOMER AND CUSTOMER'S EXCLUSIVE REMEDY FOR any INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHT OF ANY OTHER PERSON and FOR ANY breach of any express or implied warranty of non-infringement.

## **6. INSURANCE**

CENTEGIX will maintain in full force and effect: (a) Commercial general liability insurance, with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million dollars (\$2,000,000) general aggregate for bodily injury and property damage.

## **7. LIMITATION OF LIABILITY**

IN NO EVENT WILL EITHER PARTY, ITS SUBSIDIARIES OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AFFILIATES BE LIABLE TO THE OTHER PARTY, ITS SUBSIDIARIES OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AFFILIATES FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, without limitation, LOST PROFITS, LOST REVENUE, BUSINESS INTERRUPTION, LOSS OF DATA, OR LOSS OF USE, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, IN ANY WAY RELATED TO THESE STANDARD TERMS AND CONDITIONS, THE PERFORMANCE OF ANY SERVICES PURSUANT TO THESE STANDARD TERMS AND CONDITIONS, OR USE OF THE



SOFTWARE, WHETHER IN AN ACTION IN CONTRACT, BREACH OF WARRANTY OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF, OR COULD HAVE REASONABLY FORESEEN, THE POSSIBILITY OF SUCH DAMAGES.

Customer agrees that CENTEGIX shall not be liable for any claims, actions, suits, liabilities, damages or losses related to or associated with the personal injury, death, or real or personal property damage arising from or related to any emergency situation or any other use of the CRISIS ALERT System, whether in tort, contract, arising from a course of conduct, usage in trade or otherwise. the client acknowledges and agrees that the fees charged for the crisis alertsystem and other products are established as a result of the allocations of risk and responsibility described in this section (limits of liability) and that centegix would not have entered into these Standard Terms and Conditions without the client's agreement to the allocation of risk and responsibility set forth in this section (limits of liability).

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF CENTEGIX FOR ANY CLAIM, LOSS, OR DAMAGE EXCEED THE AMOUNT PAID TO CENTEGIX PURSUANT TO AN ORDER FOR THE PARTICULAR Equipment, SERVICES, OR SOFTWARE WHICH GAVE RISE TO THE CLAIM DURING THE SIX MONTH PERIOD ENDED ON the DATE THE CLAIM AROSE. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO THE OBLIGATIONS OF CENTIGEX IN SECTION 5.1 (INDEMNIFICATION).

THE LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THESE STANDARD TERMS AND CONDITIONS HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

## **8. Confidentiality**

### **8.1 Confidential Information.**

Except as may be provided by State or Federal Law, including open records requests made pursuant to the Georgia Open Records Act (O.C.G.A. §50-18-70 *et seq.*) and requests made pursuant to the Freedom of Information Act (FOIA) (U.S.C. §522 *et seq.*), each recipient of Confidential Information (the "**Recipient**") agrees that it will not disclose, provide, or otherwise make available any Confidential Information of the other party (the "**Disclosing Party**") during the term of these Standard Terms and



Conditions and for a period of 7 years thereafter, and in the case of Confidential Information that constitutes a trade secret under applicable law, for as long as such Confidential Information remains a trade secret. Each Recipient agrees that it will obtain a written confidentiality agreement from each third party (consultant or any other person) not governed by these Standard Terms and Conditions who is provided access to the Confidential Information of the Disclosing Party. In addition, each Recipient agrees that it will **not**:

- (a) Use the Disclosing Party's Confidential Information for any purpose beyond the scope of these Standard Terms and Conditions;
- (b) Copy any part of the Disclosing Party's Confidential Information or disclose any part of the Disclosing Party's Confidential Information to any person other than Recipient's employees or consultants who need the Disclosing Party's Confidential Information to perform their duties;
- (c) Authorize or permit any such employee or consultant to use or disclose any part of the Disclosing Party's Confidential Information in violation of these Standard Terms and Conditions;
- (d) Reverse engineer, de-compile, or disassemble any of the Disclosing Party's Confidential Information nor use any of the Disclosing Party's Confidential Information for the purpose of reverse engineering, de-compiling, or disassembling the Software; or
- (e) Produce any product nor offer any service of any nature whatsoever based in whole or in part on the Disclosing Party's Confidential Information nor cause or assist any other Person in doing so.

## **8.2 Exclusions.**

The Recipient's obligations under these Standard Terms and Conditions will not apply to any portion of the Disclosing Party's Confidential Information that:

- (a) At the time of disclosure to Recipient, was in the public domain or subsequently becomes a part of the public domain through no breach of these Standard Terms and Conditions;
- (b) Recipient had in its possession at the time of disclosure by the Disclosing Party, as established by written documentation in existence at that time, and that was not acquired directly or indirectly from the Disclosing Party or with knowledge of confidentiality restrictions;





- (c) Recipient subsequently acquires by lawful means from a third-party who is under no obligation of confidentiality or non-use owed to Disclosing Party;
- (d) Recipient subsequently independently develops without any use of or reference to the Disclosing Party's Confidential Information; or
- (e) Becomes a part of CENTEGIX Compiled Data.

### **8.3 Disclosure Pursuant to Legal Process.**

If Recipient is legally compelled (including pursuant to open records requests and FOIA requests) to disclose any portion of the Disclosing Party's Confidential Information, Subject to the time constraints of open records requests and FOIA requests, Recipient will give Disclosing Party prompt notice of that fact, including in its notice the legal basis for the required disclosure and the nature of the Disclosing Party's Confidential Information that must be disclosed. Recipient will disclose only that portion of the Disclosing Party's Confidential Information that is legally required to be disclosed.

### **8.4 Enforcement.**

Recipient acknowledges that Disclosing Party may have no adequate remedy at law should Recipient breach its obligations under this Section 8 and agrees that Disclosing Party will be entitled to enforce its rights under this Section 8 by seeking appropriate equitable relief including a temporary restraining order and an injunction. No delay or failure by Disclosing Party in exercising any right under these Standard Terms and Conditions will be construed to be a waiver of that right or of the right to assert a claim with respect to any future breach of these Standard Terms and Conditions.

### **8.5 Return of Confidential Information.**

Upon request by the Disclosing Party, the Recipient will return the Disclosing Party's Confidential Information, including all copies of the Disclosing Party's Confidential Information, and all abstracts, summaries or documents produced using the Disclosing Party's Confidential Information, or, if so directed by the Disclosing Party in writing, the Recipient will destroy all copies of the Disclosing Party's Confidential Information (including abstracts, summaries or documents produced using the Disclosing Party's Confidential Information) and will certify to the Disclosing Party in writing that all copies, abstracts, summaries, and documents have been destroyed.



## 9. TERMINATION

### 9.1 Termination.

CENTEGIX may terminate Customer's access to the Software and Cloud Service if Customer shall breach Section 3 (payment), Section 4.3 (license obligations), or Section 8 (confidentiality) and fail to cure such breach within thirty (30) days after Customer receives written notice of such breach from CENTEGIX.

### 9.2 Effect of Termination.

(a) Within thirty (30) days of the termination of an order or within thirty (30) days after the expiration of the Term of an order, Customer must reduce its use of the Software by the number of Sites specified in the order or, if Customer has only a single Site, Customer shall cease all Use of the Licensed Materials and delete the Licensed Materials from all Electronic Devices and media on which the Licensed Materials are then resident. Customer shall certify to CENTEGIX in writing that it has complied with the preceding sentence.

(b) **No Refunds.** Except as expressly set forth in these Standard Terms and Conditions, amounts paid to CENTEGIX for Equipment, Software, and Integration are non-refundable.

## 10. GENERAL PROVISIONS

### 10.1 No Assignment.

Neither Party may assign or transfer its rights and obligations under these Standard Terms and Conditions without prior written approval of the other, any attempted assignment shall be void, except that either Party may assign these Standard Terms and Conditions to an Affiliate of such Party or to any successor to all or substantially all of such Party's business and assets upon written notice to the other Party.

### 10.2 Force Majeure.

Neither Party shall be in default by reason of any failure in performance of these Standard Terms and Conditions if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control or foreseeability of such Party, including but not limited to, acts of God or of the public enemy, U.S. or



foreign governmental acts in either a sovereign or contractual capacity, fire, flood, epidemic, restrictions, strikes, and/or freight embargoes.

**10.3 No Waiver.**

Any failure by either Party to detect, protest, or remedy any breach of these Standard Terms and Conditions shall not constitute a waiver or impairment of any such term or condition, or the right of such Party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition. A waiver may only occur pursuant to the prior written express permission of an authorized officer of the other Party.

**10.4 Notices.**

All notices, communications, and deliveries under these Standard Terms and Conditions (other than routine support calls) must be made in writing, signed by the Party making the same, must specify the Section under these Standard Terms and Conditions pursuant to which it is given or being made (if applicable), and will be given or made to the address(s) specified as the "Address for Notices" on the signature page to these Standard Terms and Conditions.

**10.5 Severability.**

If any provision hereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of these Standard Terms and Conditions will continue in full force and effect.

**10.6 Governing Law.**

These Standard Terms and Conditions and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to conflicts of laws provisions thereof. The Parties expressly exclude all application of the United Nations Convention on the International Sale of Goods to these Standard Terms and Conditions. No actions, regardless of the form, arising out of these Standard Terms and Conditions may be brought by the Customer more than one (1) year after the occurrence of the events that gave rise to the cause of actions. Any dispute, controversy, or claim arising out of, in connection with, or relating to, these Standard Terms and Conditions, the breach or alleged breach these Standard Terms and Conditions, or the termination, enforcement,



interpretation, or validity of these Standard Terms and Conditions, including extra-contractual claims and any determination of the scope or applicability of this provision to arbitrate, shall, upon the request of any party involved, be submitted to, and settled by, arbitration in the City of Atlanta, State of Georgia, before one (1) arbitrator. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. Any award rendered shall be final and conclusive upon the parties and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, **provided** that each Party shall pay for and bear the cost of its own experts, evidence, and counsel's fees, and **provided further**, that in the discretion of the arbitrator, the arbitrator may, in the award, allocate all or part of the costs of the arbitration, including the fees of the arbitrators and the reasonable attorneys' fees of the prevailing party. This clause shall not preclude Parties from seeking provisional remedies for breach of intellectual property rights pending the conclusion of arbitration.

#### **10.7 Entire Agreement.**

The Orders, the Order Acknowledgements, and the Order Detail Attachments constitute the complete and entire understanding between the parties with respect to the purchase and Use of Equipment, Software, and Integration, and supersede all previous written or oral agreements, proposals, RFP responses, and representations. Additionally, the parties acknowledge that there are no contemporaneous side-letters, or oral or other arrangements that contradict, alter, or otherwise serve to modify any of these Standard Terms and Conditions. Customer acknowledges and agrees that Customer has not relied on the potential availability of any future product, functionality, or feature, or any statement or representation by CENTEGIX or its employees concerning the potential availability of any future product, functionality, or feature, in placing Orders. These Standard Terms and Conditions will control over any terms and conditions in any solicitation, request for proposal, proposal, purchase order, acknowledgment, or other written form. These Standard Terms and Conditions may be modified only in a writing which expressly references these Standard Terms and Conditions and is executed by both of the Parties to these Standard Terms and Conditions. These Standard Terms and Conditions may be executed in several



counterparts, all of which taken together will constitute one single Agreement between the Parties. These Standard Terms and Conditions has been accepted by CENTEGIX in Atlanta, GA.

#### **10.8 Enforcement.**

Customer acknowledges that, in the event of Customer's breach of Section 8 of these Standard Terms and Conditions, CENTEGIX may not have an adequate remedy in money or damages. CENTEGIX will be entitled to seek an injunction against such breach from any court of competent jurisdiction. CENTEGIX's right to obtain injunctive relief shall not limit its right to seek further remedies.

#### **10.9 Interpretation.**

The following rules of interpretation must be applied in interpreting these Standard Terms and Conditions:

- (a) the section and subsection headings used in these Standard Terms and Conditions are for reference and convenience only, and will not enter into the interpretation of these Standard Terms and Conditions,
- (b) all references to Sections and Exhibits are to the Sections in these Standard Terms and Conditions and Exhibits to these Standard Terms and Conditions, as the case may be, (c) the provisions of the Exhibits are incorporated in these Standard Terms and Conditions, and (d) as used in these Standard Terms and Conditions, the term "including" will always be deemed to mean "including without limitation".

#### **10.10 Non-Solicitation.**

During the term of this Agreement, and for a period of twelve (12) months thereafter, neither Party shall directly for itself, or indirectly by, through, or for others, solicit for employment or attempt to employ any person that performs services pursuant to this Agreement or any statement of work issued pursuant to his Agreement or is otherwise or is materially involved in the services contemplated by this Agreement. Nothing in this section preclude a Party from hiring personnel that respond to advertising or job postings directed at the general public or submit unsolicited resumes.