

ALERTENTERPRISE, INC.  
4350 Starboard Drive  
Fremont, CA 94538  
RETURN FAX #: 510-897-6785

**CLOUD SUBSCRIPTION AND PROFESSIONAL SERVICE AGREEMENT**

**CUSTOMER:** \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY/STATE/ZIP: \_\_\_\_\_  
  
STATE OF INCORPORATION: \_\_\_\_\_  
  
TELEPHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
AGREEMENT TO BE RETURNED TO: \_\_\_\_\_ Email: \_\_\_\_\_  
INTERNAL TECHNICAL \_\_\_\_\_ Email: \_\_\_\_\_  
REPRESENTATIVE: \_\_\_\_\_

This Cloud Subscription and Professional Services Agreement, is entered into as of the Effective Date indicated below, by and between AlertEnterprise, Inc., a Delaware corporation (“**ALERT**”), and the “Customer” set forth above. In consideration of the terms and conditions contained in this Facing Page, the Standard Terms and Conditions and the attached Schedules (collectively the “**Agreement**”) the parties agree to be bound hereby.

**ATTACHMENTS:**

STANDARD TERMS AND CONDITIONS

**SCHEDULES:**

Schedule 1	Description of Support Services
Schedule 2	Order Schedule
Schedule 3	Statement of Work

IN WITNESS WHEREOF, THE PARTIES LISTED BELOW HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE SET FORTH BELOW.

**ALERTENTERPRISE, INC.**

**CUSTOMER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

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

**Effective Date:** \_\_\_\_\_

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

**ALERT ENTERPRISE, INC.**  
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ALERT provides an internet-accessible service (hosted by ALERT or its service provider) that provides access to certain Software identified in mutually agreed to Order Schedule(s) and made available on a term-use basis (the “**System**”). ALERT also provides professional services related to implementation and installation of the System. The parties have agreed that ALERT will provide the System to Customer, as well as such professional services as the parties may agree, now and pursuant to future Order Schedule(s) or Statement(s) of Work. Therefore, in consideration for the commitments set forth below, the adequacy of which consideration the parties hereby acknowledge, the parties agree as follows:

1. **DEFINITIONS:**

“**Authorized Users**” shall mean those parties authorized by Customer to access the System and is limited to Employees and Business Third Parties.

“**Business Third Parties**” shall mean any third party, including service providers, consultants, systems integrators and the like, whose work for Customer requires access to the System to facilitate Customer’s internal business activities.

“**Customer Affiliate**” shall mean an entity in which Customer owns more than fifty percent (50%) of the voting securities. Any such entity shall be considered a Customer Affiliate for only such time as Customer continues to own such equity interest.

“**Customer Content**” shall mean information, data files, and materials, downloaded, transferred or input by Customer or Authorized Users to the System. Customer retains ownership and intellectual property rights in and to its Customer Content.

“**Documentation**” shall mean the documentation, which will be updated from time to time, provided by ALERT in connection with the System.

“**Employees**” shall mean employees, full or part-time, who are employed by Customer and under its direct supervision.

“**Identities(s)**” shall mean a unique identifier entered into the System that corresponds to an individual, for example, a visitor, contractor, tenant, vendor, etc.

“**Order Schedule**” shall mean a separate ordering document for use and access to the System entered into between Customer and ALERT or an ALERT authorized reseller.

“**Professional Services**” shall mean all technical and non-technical services performed or delivered by ALERT under this Agreement, including, without limitation, implementation services and other professional services, and training but excluding the System and Support Services. Professional Services will be provided on a time and material basis at such times and during such periods, as may be specified in a separate Statement of Work mutually agreed to by the parties.

“**Servers**” shall mean the number of servers or devices authorized to receive access to the System.

“**Service Term**” shall mean that period specified in an Order Schedule during which Customer will have access to the System.

“**Software**” shall mean the object code version of the Software to which Customer is provided access to via the System, including any updates or new versions.

“**Statement or Work**” shall mean a mutually agreed to statement of work describing Professional Services to be provided by ALERT.

“**Support Services**” shall mean the support services as described in Schedule 1 to this Agreement.

2. **ACCESS RIGHTS:**

**A. Use of the System.** Subject to payment of the Fees in the applicable Order Schedule and the terms of this Agreement, during the Service Term, Customer shall have the non-exclusive, non-assignable, royalty free, worldwide right to access and use the System solely for Customer’s internal business operations subject to the terms of this Agreement and for up to the number of Identities and Servers documented in the Order Schedule.

**B. Authorized Users and Passwords.** Customer shall be solely responsible for the acts and omissions of the Authorized Users. Customer is responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the applicable Authorized Users. If Customer wishes to provide access to the System to Customer Affiliates(s) such Customer Affiliate shall enter into a separate Order Schedule with ALERT prior to accessing or using the System. Customer is entirely responsible for any and all activities that occur under Customer’s account and all charges incurred from use of the System accessed with Authorized User’s passwords. Customer shall: (a) notify ALERT immediately of any unauthorized use of any password or user id or any known or suspected breach of security, (b) report to ALERT immediately and use reasonable efforts to stop any unauthorized use of the System that is known or suspected by Customer, and (c) not provide false identity information to gain access to or use of the System. Customer shall indemnify ALERT against losses or damages suffered by ALERT arising from any misuse of the System by Authorized Users.

**C. Support Services.** ALERT shall provide the Support Services described in Schedule 1 for

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any failure of the System listed in Schedule 1. Such remedies are Customer's sole remedy for any failure of the System, and Customer recognizes and agrees that if Schedule 1 does not list a remedy for a given failure, it has no remedy. ALERT is not required to issue credits or refunds under any circumstances, including without limitation after termination of this Agreement.

3. **PAYMENT OF FEES:**

Customer will pay ALERT the then applicable fees described in a mutually agreed to Order Schedule and Statement of Work in accordance with the terms therein (the "**Fees**"). ALERT's invoices are due within 30 days of the date of invoice. For late payments, Customer shall pay interest charges from the time the payment was due at the rate that is the lower of 1.5% per month or the highest rate permissible under applicable law. If Customer's use of the System exceeds the Identities and/or Services set forth on the Order Schedule or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). All amounts payable under this Agreement are exclusive of all sales, use, and other taxes. Customer is responsible for all taxes assessed in connection with this Agreement, including sales, use, excise, value-added or governmental charges imposed on the use of the System or Professional Services. Alert shall be responsible for its own income taxes.

4. **CUSTOMER REPOSIBILITIES:**

Unless otherwise provided in a Statement of Work, Customer is responsible for obtaining, configuring and maintaining all computer hardware, software and communications equipment needed to access and use the System, and for paying all third-party access charges (e.g., ISP, telecommunications, hosting services, etc.) incurred while using the System. Customer shall provide commercially reasonable information and assistance to ALERT to enable ALERT to deliver the System and Professional Services. Customer acknowledges that ALERT's ability to deliver the System in a manner provided in this Agreement may depend upon the accuracy and timeliness of such information and assistance.

5. **USER RESTRICTIONS:**

Except as expressly permitted under this Agreement, Customer and its Authorized Users may not: (i) copy or republish the System, (ii) make the System available to

any person other than an Authorized User, (iii) access the System to build a similar or competitive product, (iv) upload or distribute any data or files that contain viruses, corrupted files or any similar software or programs that may damage the operation of the System, (v) distribute, disseminate, reverse engineer, decompile, translate, disassemble or otherwise attempt to derive the source code of the Software or allow others to do so, (vi) use the System to provide software application services, time-sharing or service bureau services to third parties (vii) disclose any ALERT trade secret or Confidential Information including, non-public System features with any third party, or (viii) remove, modify or obscure any copyright, trademark or proprietary notices contained in the System or contained in the Documentation. No right or license, express or implied, is granted hereunder for the use of any of ALERT or Customer trade names, service marks or trademarks. All rights not expressly granted under this Agreement are reserved by ALERT. There are no implied rights granted herein. Customer agrees to implement reasonable controls to ensure compliance with the intended use of the System authorized by this Agreement.

6. **COMPLIANCE WITH LAWS:**

Customer shall comply with all applicable local, state, national and foreign laws in connection with the System and Professional Services, including the laws related to data privacy, international communications and the transmission of technical or personal data.

7. **ALERT ACCESS:**

During the Service Term, Customer grants to ALERT access to Customer's network, computer systems, and Customer Content (as defined below) as needed to provide the System, Support Services and Professional Services.

8. **CUSTOMER CONTENT:**

Customer acknowledges that ALERT exercises no control over the Customer Content. ALERT will have no responsibility or liability for the accuracy of data uploaded to the System, including without limitation Customer Content and any other data uploaded by Authorized Users. Customer shall not upload, post, reproduce or distribute any information, software, or other material protected by copyright, privacy rights, or other intellectual property rights without first obtaining the permission of the owner of such rights. Customer acknowledges and agrees that ALERT's performance of this Agreement may require ALERT to process, transmit, and/or store personal data of Customer or the personal data of Identities ("**Personal Data**"). By submitting Personal Data to the System, Customer agrees that ALERT may process, transmit, and/or store Personal Data only to the extent necessary for, and for the sole purpose of enabling ALERT to perform its obligations under this

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Agreement. In relation to all Personal Data, Customer will be responsible as the Data Controller for complying with all applicable data protection or similar law such as the EU General Data Protection Regulation 2016/679 and laws implementing that Regulation that regulate the processing of Personal Data and special categories of data as such terms are defined in that Regulation. Customer agrees to obtain all necessary consents and make all necessary disclosures before including Personal Data in Customer Content and confirms that Customer is solely responsible for all Personal Data included in Customer Content. Customer agrees that the specific terms for the processing of Personal Data will be in accordance with the terms of the Customer Data Processing Addendum ("DPA") incorporated into this Agreement. Customer recognizes and agrees that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using the System, Customer assumes such risks.

9. **PROFESSIONAL SERVICES:**

Customer's right of access to the System shall not be dependent upon ALERT's provision of any Professional Services. In the event ALERT performs Professional Services, the Professional Services Fees, time of performance, deliverables, training and any other special terms and conditions shall be described on a separate Statement of Work. Unless otherwise specified in a Statement of Work, the Professional Services shall be performed on a time and materials basis and invoiced monthly or upon completion of the Professional Services if completed prior to such monthly invoicing. Professional Services may depend on the completion of certain tasks or schedules within Customer's exclusive control and, therefore, ALERT's inability to perform, which is based on Customer's failure to complete said tasks or meet time schedules, shall not be deemed a breach of this Agreement by ALERT.

10. **THIRD PARTY SOFTWARE:**

If, in connection with Subscriber's access and/or use of the System, Subscriber uses any third-party software, Subscriber's use of such software shall be governed by the terms and conditions of the agreement under which Subscriber licenses such software from the third party. Subscriber shall defend, indemnify, and hold ALERT and its affiliates and their respective officers, directors, employees, affiliates, subsidiaries, agents, licensors, suppliers, service providers and representatives harmless against any liabilities, losses, damages, claims, demands, fees, expenses and other costs of any kind or nature, including, without limitation, any attorney fees, expert fees, filing fees, judgments, awards and settlement amounts associated therewith, as and when incurred, arising out of or related to Subscriber's use of third-party software in connection with the System.

11. **DISCLAIMER:**

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CUSTOMER ACCEPTS THE SYSTEM "AS IS" AND AS AVAILABLE AND ALERT AND ITS THIRD PARTY SUPPLIERS AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY AS TO ANY ASPECTS OF THE SOFTWARE, SYSTEM DOCUMENTATION, THIRD PARTY SOFTWARE OR ANY SERVICES RENDERED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY DISCLAIMED.

ALERT DOES NOT GUARANTEE THAT THE SYSTEM WILL PERFORM ERROR-FREE OR UNINTERRUPTED. CUSTOMER ACKNOWLEDGES THAT ALERT DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATION FACILITIES INCLUDING THE INTERNET, AND THAT THE SYSTEM MAY BE SUBJECT TO LIMITATIONS AND DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES.

12. **LIMITATION OF LIABILITY:**

THE PARTIES AGREE THAT IN NO EVENT SHALL ALERT OR IT'S SUPPLIERS HAVE ANY LIABILITY TO CUSTOMER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOSS OF DATA, LOSS OF FUNCTIONALITY, INTERRUPTION OF BUSINESS, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE ARISING FROM OR ASSOCIATED IN ANY WAY WITH THE SYSTEM SOFTWARE, DOCUMENTATION, THIRD PARTY SOFTWARE OR PROFESSIONAL SERVICES, EVEN IF ALERT IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY RISK, WHICH IS SET FORTH IN THIS SECTION. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR CERTAIN DAMAGES, AND AS A CONSEQUENCE SOME OF THE ABOVE LIMITATION MAY NOT APPLY TO CUSTOMER.

IN NO EVENT WILL ALERT'S LIABILITY FOR ANY CLAIM, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE OF THE AMOUNTS PAID AND PAYABLE BY THE CUSTOMER TO ALERT FOR ACCESS AND USE OF THE SYSTEM IN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM.

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The provisions regarding limitation of liability and disclaimer shall survive the expiration or termination of this Agreement.

**13. INDEMNIFICATION:**

Customer shall indemnify and defend ALERT against any “**Indemnified Claim**,” meaning any third party claim, suit, or proceeding arising out of or related to Customer’s alleged or actual use of, misuse of the System, including without limitation: (a) claims relating to any breach of this Agreement by Customer, its affiliates, employees, agents or Authorized Users, (b) claims related to unauthorized disclosure or exposure of personally identifiable information or other private information, including Personal Data and other Customer Content; (c) claims related to infringement or violation of a copyright, trademark, trade secret, or privacy or confidentiality right by written material, images, logos or other content uploaded to the System through Customer’s account, including without limitation by Customer Content; and (d) claims that use of the System through Customer’s account, including by Customer’s clients or Authorized Users, harasses, defames, or defrauds a third party or violates the CAN-Spam Act of 2003 or any other law or restriction on electronic advertising.

**14. CONFIDENTIALITY:**

Confidential Information means any non-public information, data or know-how that has been disclosed by a party to this Agreement to the other party in writing, orally or by access to the disclosing party’s premises and either identified by the disclosing party as confidential or proprietary or which should reasonably be expected under the circumstances to be confidential or proprietary. The Software and System (including, the specific design and structure of Software and System) and Documentation are Confidential Information and trade secrets of ALERT. The Order Schedule(s), Statement(s) of Work, prices and terms of this Agreement are Confidential Information of the parties.

With respect to Confidential Information, the receiving party shall (i) use it solely for the purposes specifically provided in this Agreement; and (ii) not disclose it to a third party, other than employees on a need to know basis or consultants, affiliates, agents or subcontractors (third parties) under nondisclosure agreements at least as strict as this Agreement, provided that such third parties are not competitors of the disclosing party, for a period of five (5) years from the date of disclosure or in perpetuity if the Confidential Information constitutes a trade secret under applicable law. The receiving party is liable for any misuse of Confidential Information by third parties. The foregoing obligations do not apply to information that (a) was rightfully in the possession of, or was known by, the receiving party prior to its receipt from the disclosing party, free of any obligation of confidence; (b) is or becomes generally known to the public without violation of this Agreement; (c) is

obtained by the receiving party from a third party, without an obligation to keep such information confidential; or (d) is independently developed by the receiving party without use of the Confidential Information.

This section will not affect any other nondisclosure agreement between the parties. In the event the receiving party is required to disclose Confidential Information, including, but not limited to Customer Content, pursuant to applicable law, judicial or governmental order, or valid subpoena, such party will promptly notify the other party to allow intervention in response to such order. This Agreement does not transfer ownership of Confidential Information or grant a license thereto. Each party will retain all right, title, and interest in and to all of their Confidential Information.

**15. TERM; TERMINATION:**

**A. Term:** The term of this Agreement will commence on the Effective Date and continue unless and until terminated pursuant to this Section 15. Unless otherwise provided in an Order Schedule, the initial Service Term for the System shall be one (1) year commencing on the Effective Date and shall renew for successive 12 month periods unless either party delivers written notice of non-renewal to the other party at least sixty (60) days prior to the expiration of the then-current Service Term.

**B. Termination:**

i. **Termination by ALERT.** ALERT reserves the right to suspend delivery of the System if Customer fails to timely pay any undisputed amount due to ALERT under this Agreement, but only after ALERT notifies Customer of such failure and such failure continues for fifteen (15) days. Suspension of the System shall not release Customer of its payment obligations under this Agreement.

ii. **Cause.** Either party may terminate this Agreement and any Order Schedule and Statement of Work upon written notice if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days written notice specifying the breach in detail. Notwithstanding any contrary provision herein, any termination of this Agreement pursuant to this Section 15 shall not terminate any Order Schedule or Statement of Work mutually agreed to prior to any notice of termination herein and the terms of this Agreement shall continue to apply to such Order Schedule(s) and Statement(s) of Work unless and until such Order Schedule(s) and Statement(s) of Work are terminated.

iii. **Survival.** Sections that by their nature survive expiration or termination shall survive any expiration or termination of this Agreement.

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- iv. **Customer Content:** Upon any termination, ALERT will make all Customer Content available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter ALERT may, but is not obligated to, delete stored Customer Content. Upon termination of an Order Schedule for use of the System, Company shall immediately cease all use of the System and delete, destroy, or return all copies of the Documentation in its possession or control.
16. **TITLE; OWNERSHIP AND EQUITABLE RELIEF:**
- A. Title.** ALERT, or its suppliers or licensors, retains all right, title, interest and intellectual property rights in the Software, System, Documentation, and other deliverables provided by ALERT under this Agreement, including all modifications, improvements, upgrades, derivative works and feedback related thereto (which feedback may include, but not limited to, any suggestion or idea for improving or otherwise modifying any of ALERT'S products or services). Customer agrees to assign all right, title, and interest it may have in the foregoing to ALERT.
- B. Equitable Relief.** Customer acknowledges that any breach of its obligations with respect to the proprietary rights of ALERT may cause ALERT irreparable injury, for which there may be inadequate remedy at law and, therefore, ALERT will be entitled to seek equitable relief in addition to all other rights and remedies available to it.
17. **ASSIGNMENT:**  
Customer may not assign its rights or obligations under this Agreement, without the prior written consent of ALERT. ALERT may freely assign its rights and obligations under this Agreement. Any attempted assignment in derogation of this section will be null and void.
18. **EXPORT:**  
Customer shall not: (a) permit any third party to access or use the System in violation of any U.S. law or regulation; or (b) export any software provided by ALERT or otherwise remove it from the United States except in compliance with all applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the System in, or export such software to, a country subject to a United States embargo.
19. **GOVERNING LAW:**  
This Agreement shall be governed and construed by the laws of the State of California excluding its conflict of law rules.
20. **ENTIRE AGREEMENT:**  
This Agreement, together with the Schedules constitute the entire agreement between the parties regarding Customer's use of the System, Documentation and/or Professional Services. Third party software licensed to ALERT and used in providing the System is subject to applicable licensing agreements posted at <http://www.alertenterprise.com/docs/3rdpartycomponents.html>. No purchase orders, other ordering documentation, email or any hand written or typewritten text which purports to modify or supplement this Agreement shall add to or vary the terms and conditions of this Agreement and ALERT expressly objects to any additional or different terms in any purchase orders or other correspondence submitted by Customer, and any such conflict terms are expressly rejected by ALERT. This Agreement replaces and supersedes any prior verbal understanding, written communications or representations made by the parties regarding the subject matter contained in this Agreement. No inconsistent, additional or different terms in another document will have any force or effect unless such terms are incorporated into a formal amendment to this Agreement signed by both parties.
21. **FORCE MAJEURE:**  
Neither Party shall be responsible for any resulting loss to the other Party if the fulfillment of any of the terms or provisions of this Agreement is delayed or prevented by strikes, work stoppages, labor unrest, transportation stoppages, riots, wars, acts of terrorism, national emergency, floods, fires, earthquakes, tornadoes, acts of God, or by any other similar cause not within the control of the Party whose performance is interfered with (each, an event of "Force Majeure").
22. **GENERAL:**  
Notices shall be in writing, sent to the addresses listed on the Facing Page and sent by overnight mail, courier, first-class mail or facsimile (followed by confirmation copy by mail), and are deemed received upon delivery. The parties shall not be liable for any failure to perform due to causes beyond its reasonable control. The failure to enforce any right will not be deemed a waiver of such or any other right, including the right to enforce a subsequent breach of the same obligation. In the event that any part of this Agreement is found to be unenforceable, the remainder shall continue in effect and such part shall be changed and interpreted so as to best accomplish the objectives of such part to the extent permissible by law and consistent with the intent of the parties as of the Effective Date. The parties are independent contractors and this Agreement will not be construed as a teaming agreement or joint venture. This Agreement may be executed in counterparts, each of which will be considered an original, but all counterparts together will constitute one agreement. A facsimile of a signed copy of this Agreement received from Customer may be relied upon as an original. The parties executing this Agreement represent and warrant they have the authority to enter into this Agreement on behalf of their respective party.

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## SCHEDULE 1 SUPPORT SERVICES

ALERT will use provide Support Services to Customer to resolve Errors reported by Customer in the use of the System via the AlertEnterprise Support Portal accessed at <https://alertenterprise.crm.dynamics.com/main.aspx>.

Support Services will be available between the hours of 8:00 a.m. to 5:00 p.m. local time, Monday through Friday (excluding major holidays) as follows:

### **DEFINITIONS:**

“**Case**” shall mean a report sent by Customer to the TSO regarding an Error.

“**Customer Technical Representative(s)**” shall mean engineers of Customer who serve as the contacts with ALERT on all Support matters.

“**Error**” shall mean a material failure of the System to conform to the Document specifications.

“**Fix**” shall mean, in ALERT’s discretion, a temporary work-around, Patch, or bypass supplied by ALERT in order to diminish or avoid the effect of an Error.

“**Interim Release**” shall mean an interim release version of the Software in which one or more previously identified Errors have been corrected. A new Interim Release typically will be indicated by the addition of one (1) to the third digit of the release number (e.g. v.X.X.2 would be the next Interim Release after v.X.X.1).

“**New Release**” shall mean a System Release, Version Release, or Interim Release of the Software made available via the System.

“**Patch**” shall mean an engineering Fix to a problem to be incorporated into a New Release.

“**Response**” shall mean an acknowledgment from TSO of the receipt of the Case.

“**Software**” shall mean the object code version of the software identified in an Order Schedule to which Customer is provided access as part of the System, including any updates or New Releases.

“**System Release**” shall mean a release of the Software which is designed to operate on designated combinations of computer hardware and operating systems. A new System Release typically will be indicated by the addition of one (1) to the first digit of the release number (e.g. v.2.X.X would be the next System Release after v.1.X.X).

“**Technical Support Organization**” shall mean a team of ALERT product specialists in the technical support organization and may also be referred to as “TSO.”

“**Version Release**” shall mean an updated version of the Software with a limited number of new or enhanced functions and/or features. A new Version Release typically will be indicated by the addition of one (1) to the second digit of the release number (e.g. v.X.2.X would be the next Version Release after v.X.1.X).

### 1. **PRIORITY ERRORS AND RESPONSE TIMES**

To receive Support, a Customer Technical Representative must report a Case to ALERT’s Technical Support Organization. A Case must be reported through the AlertEnterprise Support Portal at <https://alertenterprise.crm.dynamics.com/main.aspx>. Once a Case is received via the Support Portal a Response will be issued by ALERT within four (4) hours. If a Case is submitted after hours, a Response will be issued on the next business day.

ALERT will exercise commercially reasonable efforts to correct any Error reported by Customer according to the procedures set forth herein.

<b>Priority</b>	<b>Description</b>	<b>Resolution</b>
Priority One	System rendered inoperable due to a system software failure	Issue a Fix and provide Customer with regular periodic reports on the status of the Fix
Priority Two	Degrades performance of the System but is not a Priority One Error	Issue a Fix and correct in a future New Release
Priority Three	An Error that is not Priority One or Two Error	Correct in a future New Release



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Upon receipt of a Case, a Technical Support Organization member will communicate with the Customer Technical Representative and report the status of ALERT's efforts to correct the Error. In those instances where: (i) ALERT cannot provide a Fix to a Priority 1 Error within a reasonable period of time after a member of TSO has responded to the Customer, or (ii) Customer is not satisfied with the progress attained, ALERT will review the plan for addressing such Error with Customer. Customer may escalate the matter to ALERT's management if it reasonably determines the plan of action does not demonstrate ALERT is making commercially reasonable efforts to correct the Error in light of its impact on Customer's business.

### 2. **PRODUCT RELEASES**

ALERT may revise System features and functions, including without limitation by issuing a New Release made available through the System.

### 3. **EXCLUSIONS**

Problems caused by or arising from the following will not be considered "Errors" for the purposes hereof and will not be subject to ALERT's obligation to resolve:

- a) failure of server hardware or equipment not owned or directly controlled by ALERT;
- b) failure due to a third party service provider (e.g.: cloud hosting provider);
- c) failure of telecommunications or internet hardware or equipment not owned or directly controlled by ALERT;
- d) failure resulting from errors made by the Customer's system administrator;
- e) irreversible destruction of data caused by direct actions taken by Customer;
- f) Force Majeure.

ALERT Support Services covers support on standard functionality of the System. It does not include the provision of customization advice or consulting services.

**SCHEDULE 2  
ORDER SCHEDULE FOR CLOUD SUBSCRIPTION SERVICES**

**CUSTOMER:** \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY/STATE/ZIP: \_\_\_\_\_  
  
STATE OF INCORPORATION: \_\_\_\_\_  
  
TELEPHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
AGREEMENT TO BE RETURNED TO: \_\_\_\_\_ Email: \_\_\_\_\_  
INTERNAL TECHNICAL \_\_\_\_\_ Email: \_\_\_\_\_  
REPRESENTATIVE: \_\_\_\_\_

INITIAL SERVICE TERM: \_\_\_\_\_

**Service Description:**

Name of Software:

Number of Identities:

Annual Fees:

Other Notes:

**ALERTENTERPRISE, INC.**

**CUSTOMER:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

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

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

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

**By executing this Order Schedule and not indicating above that a separate purchase order is required, Customer agrees that a separate purchase order is not required for this transaction.**

**SCHEDULE 3**

**STATEMENT OF WORK NUMBER [ \_\_\_\_\_ ] FOR PROFESSIONAL SERVICES**

This Statement of Work Number \_\_ (this “**SoW**”) is entered into pursuant to the Cloud Subscription and Professional Service Agreement (the “**Agreement**”) by and between AlertEnterprise, Inc. (“**ALERT**”) and \_\_\_\_\_ (“**Customer**”). This SoW is incorporated into the Agreement. In the event of any conflict with this SoW, the main body of the Agreement will govern. The provisions of this SoW govern only the subject matter hereof and not any other subject matter covered by the Agreement. Capitalized terms not otherwise defined in this SoW will have the meanings given in the main body of the Agreement.

I. Professional Services & Deliverables. Vendor shall provide the following services: [Insert description of professional services. Include technical specifications for any Deliverables, or include reference to specifications attached to this SoW.]

\_\_\_\_\_

II. Customer Cooperation. Customer shall reasonably cooperate with Vendor in the provision of services and shall provide the following assistance: [Insert description of Customer responsibilities, or insert “N/A” if not applicable.]

\_\_\_\_\_

III. Payment. Customer shall pay Vendor as follows: [Insert payment schedule. Insert any payment/invoicing terms not already covered in main body of Agreement.]

\_\_\_\_\_

IV. Additional Provisions. In addition, the parties agree as follows: [Insert additional terms (e.g., termination date) or “N/A” if not applicable.]

\_\_\_\_\_

This SoW is effective as of the latest date of execution set forth below.

\_\_\_\_\_  
**CUSTOMER**

\_\_\_\_\_  
**ALERTENTERPRISE, INC.**

By: \_\_\_\_\_  
(signature)

By: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(print)

Name: \_\_\_\_\_  
(print)

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

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

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

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