



MASTER SUBSCRIPTION AGREEMENT (Agreement) – FIELD AUTOMATED COMMUNICATION SYSTEMS, LLC

THIS AGREEMENT GOVERNS THE USE OF FIELD AUTOMATED COMMUNICATION SYSTEMS (FACS) SERVICES, PRODUCTS, PRODUCT UPGRADES AND RELATED WRITTEN MATERIALS (SOFTWARE). YOUR USE OF THE SOFTWARE INDICATES YOUR ACKNOWLEDGEMENT THAT YOU HAVE CAREFULLY READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

BY CLICKING THE “I ACCEPT” BUTTON OR BY EXECUTING A WRITTEN PURCHASE ORDER THAT REFERENCES THIS AGREEMENT, YOU ACCEPT THIS AGREEMENT AND AGREE TO THE FOLLOWING TERMS AND CONDITIONS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” AND “YOUR” SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST SELECT THE “I DECLINE” BUTTON AND MAY NOT USE THE SERVICE.

Defined terms used herein shall have the meaning as set forth in Section DEFINITIONS or as otherwise defined herein.

This Agreement was last updated on May 29, 2020.

This Agreement applies to all updates, new versions, support services and separate modules, for the Service, unless other terms accompany those items. If so, those other terms apply where there is a conflict with this Agreement.

1. LICENSE

1.1. Grant of License: Subject to the terms and conditions of this Agreement, FACS grants you a nonexclusive, non-transferable right to use the Service and Content, solely for your own internal business purposes during the Term. This Agreement is not a sale and does not convey to you any rights of ownership. FACS alone (and its Primary Account licensors where applicable) own all right, title and interest in and to the Service and Content, including without limitation all updates, enhancements, derivative works and modifications thereto and all Intellectual Property Rights therein and thereto. All rights not expressly granted to you are reserved by FACS and its licensors.

1.2. License Restrictions:

(a) Generally. You may not (1) make the Service or Content available to anyone other than the Users or license, sell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or Content in any way, without express prior written consent from FACS; provided, however, that You may permit third party organizations to use the Service on Your behalf in connection with providing services to or with such third parties, provided, further that You shall be responsible for ensuring compliance with this Agreement by such third parties; (2) modify or make derivative works based upon the Service or the Content other than modifications to the Content made for Your internal businesses purposes; (3) create Internet “links” to the Service or Content or “frame” or “mirror” the Service or any Content on any other server or wireless or Internet-based device; or (4) access the Service or Content in order to build a competitive product or service, build a product using similar ideas, features, functions or graphics of the Service, or copy any ideas, features, functions or graphics of the Service. Any business process unique to You and Your Users incorporated into the Service at Your request is excluded from this section.

(b) User Licenses. Unless otherwise specified on the applicable Purchase Order, Services are purchased as individual User Licenses and may be accessed only by the named users for the named web portal. User Licenses cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Service. User License(s) prohibit the use of concurrent, shared or multiple uses of an individual Software

license. User License(s) include Active (Read/Write and Read Only) Users and Suspended Users. Removal of a User License(s) from a Portal is managed by the Primary Account's Administrator and results in a Deleted User License(s). You shall be responsible for ensuring compliance with this Agreement by Users.

(c) Acceptable Use Policy. You may use the Service only for your internal business purposes and shall not: (i) send messages in violation of any applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the Content or data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks. You agree to review and accept the FACS Acceptable Use Policy (AUP), as updated from time to time, which is located at www.FACSware.com/AUP and to require any other party to accept the terms of the AUP prior to allowing that party access to your account. You agree that FACS has the right to add, delete or modify any provision of the AUP at any time without notice, to become effective upon posting of the modified AUP at www.FACSware.com/AUP.

d) Notice. You agree to use commercially reasonable efforts to prevent the unauthorized access to and use of the Service and Content. You agree to promptly notify FACS of any unauthorized access to or use of the Service and of any breach of these restrictions by You, your Users, or any third party of which You become aware.

1.3. Feedback: With respect to any information, including suggestions, enhancement requests, recommendations, feedback and computer code for modifications to, extensions of, or additional features or functionality for the Service or Content (collectively, "Feedback"), you hereby assign all right, title and interest in and to such Feedback, including without limitation all Intellectual Property Rights therein, to FACS and will take any and all actions reasonably requested by FACS to perfect such assignment. Accordingly, you agree that FACS has an unrestricted right to use such Feedback for its business purposes, including for product support and development. Any business process unique to You and Your Users incorporated into the Service at Your request is excluded from this section.

1.4. Adherence: You agree to abide by these terms and conditions as well as all applicable local, state, national and foreign laws, treaties and regulations in connection with your use of the Service, including, but not limited to, those related to data privacy, international communications and the transmission of technical or personal data. You shall: i) notify FACS immediately of any unauthorized use of any password or account or any other known or suspected breach of security; ii) report to FACS immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and iii) not impersonate another FACS user or provide false identity information to gain access to or use the Service.

2. PURCHASE ORDERS AND PAYMENT; TERM AND TERMINATION

2.1. Purchase Orders; Fees: Purchase Orders must be in writing transmitted to FACS via i) an online store managed by FACS or an authorized third party or ii) mail, facsimile or email to FACS's contact information provided herein or to an authorized FACS sales representative. Once mutually signed by You and FACS, your Purchase Order is non-refundable. By signing a Purchase Order, You represent and warrant that You have not falsely identified yourself nor provided any false information to gain access to the Service and that Your billing information is correct. Fees are due as outlined in your Purchase Order. In no event shall FACS calculate fees based on a partial month. Your charge for the calendar month shall be at the highest level of Your use of the Service at any time during the calendar month.

2.2. Payment: Unless otherwise approved in writing by FACS, within thirty (30) days of FACS's invoice, You shall pay in U.S. dollars all fees and charges due under this Agreement and all related orders. You are responsible for payment of all User Licenses through the Term, whether actively used or not. FACS may charge interest on overdue amounts at the rate of one and one-half percent (1.5%) per month or at the maximum rate then permitted by law, whichever is less. Non-payment of any fees or charges due shall be a material breach of this Agreement and FACS, at its option, may (i) suspend



Your and Your Users' access to and use of the Service until such time as all past due fees and charges have been paid in full or (ii) may terminate this Agreement as provided below. All pricing terms are confidential, and You agree not to disclose them to any third party.

2.3. Taxes: Unless otherwise stated, all fees and charges are exclusive of taxes. You are responsible for taxes associated with Your purchases. If FACS has a legal obligation to pay taxes for which You are responsible, the appropriate amount will be invoiced to and paid by You, unless You provide FACS with a valid tax exemption certificate.

2.4. Term; Termination: This Agreement shall continue until terminated as provided herein (the "Term"). The Term of each User License shall commence on the date specified in the applicable Purchase Order, or when the user License is initiated within the Service and continue until terminated. This Agreement shall terminate on the earlier of (i) the date all User Licenses have expired or terminated, (ii) the mutual written agreement of the parties, (iii) the date FACS terminates this Agreement for Your breach of any of the terms contained herein which breach is not cured by You within ten (10) days of FACS's notice to You. Upon any termination of this Agreement, all User Licenses shall immediately terminate, all remaining fees for the Term, if any, shall become immediately due and payable and You shall cease all use of the Service and Content.

2.5. Renewal: After each Term, the Purchase Order shall automatically renew for the same Term duration as the preceding Purchase Order at FACS's then current pricing for such User Licenses, unless You provide thirty (30) day prior written notice of Your intent not to renew. In any event, if Your User continues to use the Service beyond the Term for their User License, You shall be deemed to have renewed Your User License and shall be responsible for paying FACS's then-current fees for such User License.

2.6. Out-of-Pocket Expenses: In the event that You request and FACS provides physical on-site services such as on-site training, You agree to reimburse FACS for expenses incurred by FACS.

2.7. Customizations: FACS understands that every company is different. FACS Consulting Services offer Customizations which allow the Software to fit Your company's unique needs. Each Customization request made to FACS is reviewed for approval on a case by case basis. Customizations are typically provided Portal wide, adjustments for specific projects within a Portal may increase the overall cost. Approved Customizations are invoiced half (½) of the estimated development fee in advance and the remainder of the development fee upon completion. While Customizations increase the value of FACS to You they also increase the maintenance of FACS over the life of the Portal. To help cover this increase in maintenance FACS may charge a support fee for Customizations.

3. INFORMATION

3.1. Confidentiality: By virtue of this Agreement, You and FACS (each a "Party" and collectively the "Parties") may have access to information that is confidential to one or the other Party. The Parties agree not to permit access to or to disclose the other Party's Confidential Information (defined below), except to their authorized employees and contractors who are bound by confidentiality agreements with terms no less restrictive than those in this section and who need to use or have access to the other Party's Confidential Information as permitted by this Agreement. In no event shall a Party use less than a reasonable degree of care in protecting the Confidential Information of the other Party. "Confidential Information" includes documents, data, software and information, written or verbal, which, when provided by one Party to the other that: a) are clearly identified as "Confidential" or "Proprietary" or are marked with a similar legend, or b) a reasonable person would understand to be confidential or proprietary at the time of disclosure. Notwithstanding the foregoing, the receiving Party shall have no obligation of confidentiality with respect to any information which: (a) is already known to the receiving Party at the time of disclosure; (b) is or subsequently becomes publicly available through no wrongful act of the receiving Party; (c) is disclosed or provided to the receiving Party by a third party without restriction; (d) is developed independently by the receiving Party without use of or access to the

disclosing party's Confidential Information; or (e) required by law to be disclosed. The Parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for a period of five (5) years after termination or, with respect to trade secrets, for the life of the trade secret.

3.2. Your Data: The data You provide to FACS via the Service shall be owned by the Primary Account Owner on which Portal Your Data exists. You grant to FACS, and FACS accepts from You, a non-exclusive, worldwide, royalty free license to copy, display, store, use, transmit and display (including on and via the Internet) all of Your Data, solely to the extent necessary to provide the Service to You in accordance with this Agreement. You, and not FACS, shall have the sole responsibility for the accuracy, quality, integrity, reliability and appropriateness of Your Data. FACS shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any of Your Data. FACS reserves the right to withhold, remove and discard Your Data without notice for any breach of this Agreement by You, including, without limitation, Your nonpayment. Upon termination of this Agreement for any reason, Your right to access or use Your Data via the Service will immediately cease, and FACS shall have no obligation to maintain or forward it, and may, in its sole discretion, unless legally prohibited, delete all of Your Data in FACS's systems or otherwise in FACS's possession or control. Primary Account/Secondary Account Administrator(s) have the right to view, edit and delete all information inputted by Users belonging to their Account and associated Secondary Accounts, respectively. If you are a Secondary Account, You relinquish ownership rights to Your Data to the Primary Account Owner of whose Portal you have been granted access to.

3.3. Use of Your Data: FACS shall not use or distribute Your Data to any third party without your prior written consent other than a) to FACS's subcontractors who are bound by a similar duty of confidentiality as that contained herein and b) in conjunction with providing the Service to You. Notwithstanding the foregoing, in consideration of FACS's performance of its obligations under this Agreement, FACS shall have a non-exclusive, worldwide, royalty free, unrestricted, perpetual license and right to use, distribute, market, sell, create derivative works of and display any of Your Data that has been De-Identified on a stand-alone basis or as aggregated or decompiled, including without limitation information, analyses, statistics, metrics, benchmarks, and other data entered into or generated by the Service (or derived from Your or a User's use of the Service). Unless You provide written notice to FACS pursuant to Section CONTACT INFORMATION, You also grant FACS these rights for Identified data. If you subsequently grant FACS these rights for Identified Data, you agree that such rights are retroactive to the date of Your acceptance of this Agreement.

4. WARRANTY

4.1. Warranty: FACS warrants that the Service as delivered will perform substantially in accordance with the functional description in the applicable documentation. Upon Your written notification of a claimed nonconformity, FACS shall use reasonable efforts to correct the Service to make it substantially conform to the functional description set forth in the applicable documentation. This represents FACS's sole liability and Your exclusive remedy for any breach of the foregoing warranty.

4.2. Disclaimer: EXCEPT AS PROVIDED IN SECTION 4.1 ABOVE, FACS MAKES NO REPRESENTATIONS OR WARRANTIES AND DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, STATUTORY AND OTHERWISE, WITH RESPECT TO THE SERVICE, CONTENT AND SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. FACS DOES NOT REPRESENT OR WARRANT THAT (A) THE USE OF OR ACCESS TO THE SERVICE, CONTENT OR STORED DATA WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (C) ERRORS OR DEFECTS IN THE SERVICE WILL BE CORRECTED, OR (D) THE SERVICE, CONTENT OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

5. AVAILABILITY OF THE SERVICE; CUSTOMER SUPPORT

5.1. Availability: FACS will use commercially reasonable efforts to make the Service available twenty-four (24) hours per day and seven (7) days per week, except for a) planned downtime (of which FACS shall give You at least eight hours advance notice and schedule during weekend hours, as practicable), and b) unavailability beyond FACS' reasonable control including but not limited to acts of God, acts of government, third party network outages, flood, fire, earthquakes, civil unrest, and acts of terror.

5.2. Support: FACS shall provide its basic support for the Service to You at no additional charge. Telephone and or email support services will be available during FACS's normal business hours of Monday through Friday, 6:00am to 6:00pm Pacific Standard Time, excluding national holidays observed by FACS.

5.3. Updates; Supported Platforms. You acknowledge that FACS may issue upgraded or modified versions of the Service from time to time, and may automatically electronically upgrade or modify the version of the Service that You are using on your computer. You consent to such automatic upgrading or modification, and agree that this Agreement (as amended from time to time) will govern all such versions. FACS may modify the Service at any time without notice and may discontinue any feature or functionality of the Service at any time without notice. The Service will operate only on those hardware and software platforms specified in the applicable documentation. It is your responsibility to ensure that you have the appropriate software, hardware and Internet connection to access and use the Service. FACS reserves the right to cease supporting any hardware or software platform at any time, with or without notice.

6. MUTUAL INDEMNIFICATION

6.1. Your Indemnification: You shall indemnify and hold FACS, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that Your Data or the use thereof infringes, misappropriates or violates the rights of, or has caused harm to, a third party; (ii) a violation by You of Your representations and warranties; (iii) the breach by You or Your Users of this Agreement; (iv) Your or Your Users' use of the Service; or (iv) as provided in sub-section 6.2 below; provided in any such case that FACS (a) gives written notice of the claim promptly to You; (b) gives You sole control of the defense and settlement of the claim (provided that You may not settle or defend any claim unless You unconditionally release FACS of all liability and such settlement does not adversely affect FACS's business or Service); (c) provides to You all available information and assistance; and (d) has not compromised or settled such claim without Your consent if such compromise or settlement would be adverse to You.

6.2. FACS's Indemnification: FACS shall indemnify and hold You and Your parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with a third party claim alleging that the Service directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; or breach of contract by FACS, provided that You (a) promptly give written notice of the claim to FACS; (b) give FACS sole control of the defense and settlement of the claim (provided that FACS may not settle or defend any claim unless it unconditionally releases You of all liability); (c) provide to FACS all available information and assistance; and (d) have not compromised or settled such claim without FACS's consent if such compromise or settlement would be adverse to FACS. FACS shall have no indemnification obligation, and You shall indemnify FACS pursuant to this Agreement, for claims arising from any infringement that is the result of: (i) use of the Service or Content in combination with other business processes, products, devices, software or data which are not furnished by FACS, if the infringement would not have occurred but for the combination; (ii) modification or alteration of the Service or Content, if the infringement would not have occurred but for such modification, or (iii) use of the Service after FACS notifies You to discontinue use due to a claim, allegation or proceeding.

6.3. Remedies for Infringement: Should the Service become, or, in the opinion of FACS, will likely become, the subject of a claim of infringement, then FACS shall, at its sole option and expense, either (i) procure for You the right to continue using the Service, or (ii) replace or modify the Service to make their use non-infringing, or (iii) if the options described in clauses (i) and (ii) are not commercially practical, terminate this Agreement and the User Licenses granted hereunder.

6.4. Entire Liability: THIS SECTION STATES THE ENTIRE LIABILITY OF FACS, AND YOUR EXCLUSIVE REMEDY, WITH RESPECT TO THE INFRINGEMENT OF ANY COPYRIGHTS, PATENTS, TRADEMARKS OR OTHER INTELLECTUAL PROPERTY RIGHTS RELATED TO THE SERVICES OR THEIR USE.

7. LIMITATION OF LIABILITY

FACS AND ITS LICENSORS WILL NOT BE LIABLE TO YOU UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, LOSS OF DATA OR USE OF DATA OR INTERRUPTION OF BUSINESS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE SERVICE OR CONTENT REGARDLESS OF CAUSE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. IN NO EVENT SHALL FACS'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SERVICES OR THE CONTENT, WHETHER IN CONTRACT OR TORT, EXCEED THE LESSER OF \$500,000 OR THE FEES ACTUALLY PAID BY YOU FOR THE INDIVIDUAL SERVICE WHICH IS THE SUBJECT OF THE CLAIM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

8. GENERAL

8.1. Governing Law; Jurisdiction: This Agreement shall be governed in all respects by the laws of the State of California, USA, without giving effect to its principles of conflict of laws. UCITA and the United Nations Convention for the International Sale of Goods shall not apply to this Agreement. Each party agrees to the exclusive jurisdiction of the state and federal courts located in San Francisco, California with respect to any dispute arising hereunder.

8.2. Notices: All notices or reports shall be in writing and shall be delivered by personal delivery, facsimile transmission, electronic transmission via e-mail or via the Service (by FACS only), overnight mail or by certified or registered mail, return receipt requested to You at the addresses or email addresses forth in the Purchase Order and to FACS at the addresses or email addresses set forth in Section CONTACT INFORMATION below, and shall be deemed given upon personal delivery, five days after deposit in the mail, upon sender's receipt of delivery notification, or, if given via the Service, upon becoming available via the Service.

8.3. Injunctive Relief: You acknowledge that your breach of this Agreement may cause FACS immediate and irreparable damage for which recovery of money damages would be inadequate. Therefore, You agree that FACS shall be entitled to seek injunctive relief to enforce its rights under this Agreement in addition to any other remedies available to said party.

8.4. Non-joinder: No proceeding arising out of or relating to this Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement and signed by FACS. Consent to involving an additional person or entity shall not constitute consent to the adjudication or arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

8.5. Waiver: If one party fails to enforce a provision of this Agreement, it shall not be precluded from enforcing the same provision at another time.

8.6. Publicity: FACS may include Your and Your company's name and mark or logo in a general list of its customers which may be posted on FACS's website.

8.7. Assignment: This Agreement may not be assigned by You without the prior written approval of FACS but may be assigned without Your consent by FACS to (i) a parent or subsidiary, (ii) an acquirer of FACS's assets, stock or business to which this Agreement relates, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of You that results or would result in a direct competitor of FACS directly or indirectly owning or controlling 50% or more of You shall entitle FACS to terminate this Agreement for cause immediately upon written notice.

8.8. Entire Agreement. This Agreement, including all exhibits and addenda hereto and all Purchase Orders, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Purchase Order, the terms of such exhibit, addendum or Purchase Order shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in other order documentation (excluding Purchase Orders) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

8.9. Export Control: You acknowledge that any Services and Confidential Information provided under this Agreement are subject to U.S. export laws and regulations, and any use or transfer of such Services or Confidential Information must be authorized under those regulations. You agree that You will not use, distribute, transfer, or transmit the Services or Confidential Information in violation of U.S. export regulations. If requested by FACS, You also agree to sign written assurances and other export-related documents as may be required for FACS to comply with U.S. export regulations. FACS will provide a reasonable amount of assistance to You in securing necessary approvals and certifications in a delivery country specified in a Purchase Order, but obtaining such approvals and certifications is Your sole responsibility and failure to obtain such approvals does not affect Your obligations under this Agreement.

8.10. Limitation on Actions: Any litigation by You to enforce this Agreement against FACS must be commenced within two (2) years following the time the underlying cause of action occurred, or else all of Your rights in respect of such cause of action shall terminate.

8.11. Survival: Sections 2, 3, 4.2, 6, 7, 8, 9, and 10 shall survive any termination of this Agreement.

8.12. Severability: If any provision of this Agreement or the application thereof to any party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event the parties shall use their best efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision.

9. CONTACT INFORMATION

Field Automated Communication Systems, LLC
101 Linhares Lane
Alamo, California 94507
Telephone: (415) 391-3959
Email: info@facsware.com

10. DEFINITIONS



As used in this Agreement and in any Purchase Order now or hereafter associated herewith the following terms shall have the following meanings:

“Primary Account” refers to the primary business relationship established via an Order granting access to the FACS Service through a specific web Portal.

“Content” means the information, data, statistics, and other information made available by FACS via the Service.

“De-Identified” means Your Data that does not include any information identifying You or Your specific construction project(s).

“Effective Date” means the earlier of either the date this Agreement is accepted by selecting the “I Accept” option presented on the screen after this Agreement is displayed or the date You begin using the Service.

“Identified” means that Your Data is not De-Identified.

“Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

“Purchase Order(s)” means the form evidencing the initial subscription for the Service and any subsequent Purchase Orders submitted online or in written form, specifying commercial terms that may include, among other things, the number of Users and the number of User Licenses, the subscription period for each User License, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Purchase Order to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Purchase Order, the terms of the Purchase Order shall prevail).

“Portal” means a dedicated web presence where FACS Service can be accessed by licensed Users.

“Service” means the specific edition of FACS’s Web-based software subscription service as specified in the applicable Purchase Order, and unless otherwise specified, the Service includes collecting, transmitting, manipulating and sharing Your Data with third party stakeholders in your projects and businesses who may contract separately and directly with FACS.

“Secondary Account” refers to a Supplementary Account that is granted access to a Portal via invitation from a Primary Account. Secondary Account access and Data is owned by the inviting Primary Account Owner.

“User(s)” means Primary Account and Secondary Account Owner employees, representatives, consultants, contractors or agents who are authorized to use the Service and for whom User Licenses have been purchased and who have been supplied user identifications and passwords by Primary Account and/or Secondary Account Owner (or by FACS at Primary Account or Secondary Account Owner’s request).

“User License” means the right of a User to access and use the Service pursuant to this Agreement and the license grant set forth in the Section LICENSE upon payment by You of all applicable fees.

“You” or “Your” means the company or legal entity for which you are accepting this Agreement, and affiliates of that company or entity.

MSA



"FACS" means Field Automated Communication Systems, LLC, with its contact address at 101 Linhares Lane Alamo, California 94507.