

MS

CODERED NEXT SERVICES AGREEMENT
DeltAlert/ECN Transition Services Agreement

This CodeRED® NEXT Services Agreement ("Agreement") is made and effective as of **November 14, 2015** (the "Effective Date") by and between Emergency Communications Network, LLC, a Delaware Limited Liability Company ("Licensor") located at 780 W. Granada Boulevard, Suite 200, Ormond Beach, FL 32174 and **Brown County**, a body politic and corporate of the State of **Texas** ("Licensee") located at **200 S. Broadway, Brownwood, TX 76801**. The parties agree as follows:

1. Definitions:

a) "Service" means Licensor's CodeRED® Emergency Notification System, which is designed to allow authorized licensed users to have access 24 hours a day, 7 days a week for the purpose of generating high-speed notifications regarding matters of public interest and concern to targeted groups via an Internet-hosted software application.

b) "Message" means any notification transferred through the Service by Licensor which is: (i) a verbal communication sent by telephone equal to one minute or less of connection time; or (ii) a text message having one hundred forty (140) characters or less. Any notification which exceeds these limits will count as more than one Message. By way of example: (i) a verbal communication sent via telephone which results in a connected call of three minutes shall equal three Messages; (ii) a verbal communication sent via telephone which results in a connected call of three minutes and one second shall equal four Messages; (iii) a text message which consists of 140 characters shall equal one Message; and (iv) a text message which consist of 141 characters shall equal two Messages.

2. License: Licensor grants Licensee a non-exclusive and non-transferable license (the "License") to use the Service for Licensee's own purpose, in accordance with the terms of this Agreement. Licensor reserves the right to either charge additional fees or terminate this Agreement if other parties not contemplated in this Agreement are granted access to the Service by Licensee. Licensee assumes full and complete responsibility for the use of the Service by anyone whom Licensee permits to use the Service or who otherwise uses the Service through Licensee's access codes. Licensee may not assign, license, sublicense, rent, sell or transfer the License, the Service, those codes used to access the Service, or any rights under this Agreement. To access the Service, Licensor will provide Licensee with up to **five (5)** unique System Administrator user name(s) and password(s).

3. Functionality:

a) The Service provides Licensee the ability to access pre-defined geographically selected calling areas or listed databases via an Internet-based software application. Licensee's database(s) shall be limited by Licensor to the geographic boundaries (determined by Lat/Lon coordinates) of **Brown County, Texas (the "Calling Area")**. The Service will also allow Licensee to utilize an interactive voice response telephone service to record messages and initiate call out projects. Licensee may only place calls via the system to telephone numbers assigned within the 48 contiguous United States of America. International call rates may be set by separate agreement. Any additional Service functions will be charged at the rates on Exhibit A.

b) Licensee acknowledges and agrees that Licensor has already transferred contact data previously supplied by Licensee to DeltAlert for use in the Service. As an added benefit to the Licensee, the Service has the ability to transmit Messages at double the capacity of Licensee's prior DeltAlert system. In the event Licensee desires to double its capacity, it may send Messages using the Turbo feature included in the Service. Licensee understands and agrees that any Messages sent through the Service using the Turbo feature will use 2x the standard amount of Messages, as defined in paragraph 1.b.

4. Costs for the Service: During the Term of this Agreement, Licensee agrees to pay all costs and fees for utilizing the Service, as described in Exhibit A, and as set forth in this paragraph. Licensee understands and agrees that it will purchase prepaid Messages for the Service. Licensee further understands and agrees that whenever Licensee utilizes the Service, those Messages sent by Licensee, as set forth in 1.b, will be deducted from the balance of Messages remaining in Licensee's Messages account or bank. Payment for the Service or additional Messages is due and payable upon receipt of invoice (ROI). Finance charges at a rate of 1% per month (12% per annum) will be charged on all balances outstanding beyond 60 days. All payments due under this Agreement shall be paid to: Emergency Communications Network, LLC at 780 W. Granada Boulevard, Suite 200 Ormond Beach, FL 32174.

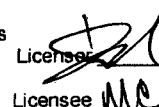
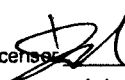

5. Term: This Agreement, and the License extended herein, will continue for a period of **two (2) years** (the "Initial Term") commencing on the Effective Date. Upon termination of this Agreement, whether by expiration of the Initial

Licensor *[Signature]*
Licensee *[Signature]*

February 16, 2016
(Exhibit #1)

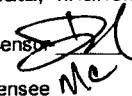
Term, any Renewal Term (as hereinafter defined) (the Initial Term and all Renewal Terms, collectively, the "Term") or as otherwise set forth herein, Licensee's access to the Service will be terminated and all Messages remaining on account shall transfer solely to Licensor.

6. **Initial Term Message Bank:** During the first year of the Initial Term, Licensee will have access to **60,000** Messages. Upon the one-year anniversary of the Effective Date, any Messages remaining in Licensee's Message bank will carry over to the following year. Licensee may purchase additional Messages from Licensor at any time by contacting Licensor. Messages are not transferable.
7. **Discount Contract Extension:** Upon completion of the Initial Term or any Renewal Term (as hereinafter defined), the Term of this Agreement will automatically extend for an additional **two (2) year** period (each a "Renewal Term"), except as otherwise set forth herein. This contract extension provision will continue to extend the Agreement by two (2) additional years at the end of the Initial Term and each Renewal Term. **Either party may cancel this renewal provision by submitting written notice to the other no less than 30 days prior to the end of the Initial Term or then current Renewal Term.** In the event the Agreement is extended:
 - a) Licensee's Message Bank will be re-set to **60,000** Messages for the first year, with any Messages unused during the first year available to carry over to the second year;
 - b) Licensor will update its systems to extend the active software License and associated access codes for two (2) additional years of use;
 - c) Licensor will invoice Licensee for additional year(s) of Service at the rate of **fourteen thousand seven hundred fifty dollars (\$14,750) per two-year Renewal Term which may be paid in annual installments of seven thousand three hundred seventy-five dollars (\$7,375) per year.** and
 - d) Licensee agrees to pay the fees set forth in this paragraph for all years in the Renewal Term upon receipt of invoice from the Licensor, subject to the terms as set forth in paragraph 4.
8. **Message Bank Refill Feature:** The parties recognize that Licensee may utilize the Service in a manner that results in Licensee exceeding the amount of prepaid Messages in Licensee's Message bank. In the event that Licensee exhausts its remaining Messages, Licensor will immediately refill Licensee's Message bank with a block of **6,000** Messages, and will invoice Licensee for this block of Messages at the Additional Message price as indicated in Exhibit A. Licensee shall pay Licensor for all Additional Message blocks upon ROI, subject to the same terms as set forth in paragraph 4. Licensee understands and agrees that it is required to maintain a Message balance in its Message bank at all times, and agrees to purchase Additional Message blocks as needed in order to maintain a positive Message balance. The purpose of this refill feature is to ensure that calls being placed via the Service are not interrupted as the result of Licensee's depletion of its Messages.
9. **Termination:** Licensee or Licensor may terminate this Agreement at the completion of the Initial Term or the then-current Renewal Term by providing the other with no less than 30 days advance written notice prior to the end of the Term. Licensee understands and agrees that failure to provide notice as set forth herein shall result in automatic renewal. Upon termination of this Agreement, Licensee will return all Confidential Information (as hereinafter defined) and copies to Licensor. Licensor, in its sole discretion, may also terminate this Agreement: a) for any reason by providing no less than 30 days advance notice, and in such case, Licensor will refund to Licensee an amount equal to the lesser of the monthly-prorated balance of the annual fee based on the number of days left in the term of the Agreement or the value of the balance of Messages in Licensee's account, as calculated by multiplying the remaining Messages by the Additional Message rate set forth on Exhibit A; or b) immediately, and without further notice, as a result of Licensee's breach of this Agreement, and in such case, no fees paid hereunder shall be refunded. Upon termination, Licensee agrees to remove from Licensee's computer(s), and any computers within Licensee's control, any and all files and documents related to the Service.
10. **Disclaimer:** Licensor warrants that the Service, or any materials provided by Licensor in association with the Service, does not infringe on any valid and enforceable intellectual property rights of any third party. In no event (even should circumstances cause any or all of the exclusive remedies to fail their essential purpose, and even if Licensor has been advised of the possibility of such damages) shall Licensor, its officers, directors, managers, members employees or agents, be liable for any indirect, punitive, special, incidental or consequential damages of any nature (regardless of whether such damages are alleged to arise in contract, tort or otherwise), including, but not limited to, loss of anticipated profits or other economic loss in connection with or ensuing from the existence, furnishing, function, or Licensee's use of any item or products or services provided for in this Agreement. Licensee


Licensor 
Licensee 

understands that the cumulative liability of Licensor for any and all claims relating to the Service provided by Licensor shall not exceed that total amount paid by Licensee for the most recent payment made by Licensee to Licensor. Except as otherwise set forth in this paragraph, the Service is provided as-is, and Licensor disclaims all warranties, express or implied, and does not warrant for merchantability or fitness of a particular purpose. Licensee recognizes that once email and text messages have been released from Licensor's equipment, the ultimate delivery of the messages depends on the message recipient's local network. As a result Licensor cannot guarantee the delivery of email and text messages to a recipient.

11. **Appropriate Use of The Service:** Licensee agrees to: maintain its user name(s) and password(s) as private and confidential information; to use the Service in a way that conforms with all applicable laws and regulations; and to ensure that no calls are initiated such that the same call is delivered to two (2) or more lines of a business. Licensee specifically agrees not to make any attempt to gain unauthorized access to any of Licensor's systems or networks. Licensee controls message creation, content and delivery; accordingly, Licensee agrees that Licensor shall not be responsible or liable for the content of the message(s) created by Licensee, or by those who access the Service using Licensee's codes, or otherwise delivered by the Service on behalf of Licensee, and Licensee agrees to defend, indemnify and hold harmless Licensor and its affiliates, employees, officers, directors, managers, members and agents from any and all liabilities, costs, and expenses, including reasonable attorneys' fees, whether brought by a third party, arising from any violation of this Agreement by Licensee; from the content, placement, or transmission of any messages or materials sent or maintained through Licensee's accounts, or use of the Service through Licensee's account. Licensee shall be responsible for compliance with all applicable federal, state, and local laws, and any rules or regulations promulgated thereunder, regarding outbound telemarketing, including but not limited to the Telephone Consumer Protection Act, the Telemarketing and Consumer Fraud Abuse and Prevention Act, and laws regarding prerecorded messages and automated dialing. Licensee will be solely responsible and liable for any such violations and shall defend, indemnify and hold Licensor harmless from all lawsuits, demands, liabilities, damages, claims, losses, costs or expenses, including attorneys' fees (whether by salary, retainer or otherwise), arising out of or resulting from, in whole or in part, a violation of such laws.
12. **Security:** Licensor will use commercially reasonable practices and standards to secure and encrypt data transmissions. Licensee understands and acknowledges that Licensor is providing the Service on the World Wide Web through an "upstream" third party Internet Service Provider, utilizing public utility services which may not be secure. Licensee agrees that Licensor shall not be liable to Licensee in the event of any interruption of service or lack of presence on the Internet as a result of any disruption by the third party Internet Service Provider or public utility. Licensee agrees that Licensor cannot guarantee the integrity of any Licensee supplied or user supplied data. Any errors, duplications, or inaccuracies related to Licensee or user supplied data will be the responsibility of the Licensee.
13. **Ownership and Copyright:** Licensee also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with the Service or any software provided. The Licensee's License confers no title or ownership in the Service or its underlying technology. Licensee understands and agrees that United States copyright laws and international treaty provisions protect the Service. Except for the limited License provided for herein, Licensor reserves all rights in and to the Service and all underlying data, compilations, and information maintained by Licensor relating to the Service, including but not limited to, the source or object code. Licensee shall not make any ownership, copyright or other intellectual property claims related to the Service or data processed through the Service.
14. **Confidentiality:** Licensor acknowledges the confidential nature of Licensee and user supplied data and files that it is to prepare, process or maintain under this Agreement, and agrees to perform its duties in such a manner as to prevent the disclosure to the public or to any persons not employed by Licensor, any confidential data and files. Data collected by Licensor will remain secured on Licensor's equipment and will only be released upon mutual agreement by both parties or a court order of sufficient jurisdiction. Licensee understands and agrees that private citizens and other persons in the Calling Area may voluntarily contribute their contact information to be used in the Service, and that Licensor shall develop and maintain a database of such information, along with other information privately developed by Licensor (the "Data"). Licensee acknowledges and agrees that Licensor desires to maintain the privacy of the Data, and that Licensee shall take no steps to compromise the privacy of the Data. Licensee further acknowledges that Licensor shall disclose to Licensee certain confidential, proprietary trade secret information of Licensor (along with the Data, "Confidential Information"). Confidential Information may include, but is not limited to, the Service, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, user data, Calling Area data, financial information or


The Licensor signature is a stylized, illegible scribble. The Licensee signature is the initials "Mc" written in a cursive style.

business plans. Licensee agrees that, at all times during and after the termination of this Agreement, Licensee will not, without the express prior written consent of Licensor, disclose any Confidential Information or any part thereof to any third party. Nothing in this Agreement will be deemed to require Licensor to disclose any Confidential Information to Licensee or to prohibit the disclosure of any information in response to a subpoena or other similar order by a court or agency. The Licensee will promptly notify the Licensor of the receipt of any subpoena or other similar order and of any request under the Public Information Act or any other similar law, and will assist Licensor in preventing the disclosure of the Confidential Information pursuant to same to the extent required by Licensor.

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

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

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

As to Licensor: Emergency Communications Network, LLC, 780 W. Granada Boulevard, Suite 200, Ormond Beach, FL 32174

As to Licensee: Brown County, Attn: Brent Bush/Emergency Management, 200 S. Broadway, Brownwood, TX 76801.

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

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

19. Interpretation, Severability and Survival: In the event any provision of this Agreement is determined by an arbitrator or court of competent jurisdiction to be void, the remaining provisions of this Agreement shall remain binding on the parties hereto with the same effect as though the void provision(s) had been limited or deleted, as applicable. Certain obligations set forth herein represent independent covenants by which either party hereto may

11/15

CodeRED Weather Warning® Service Addendum

This is an Addendum to that certain CodeRED® NEXT Services Agreement effective **November 14, 2015** (the "Agreement") entered into by and between **Brown County** (hereinafter "Licensee"), a body politic of the State of **Texas** located at **200 S. Broadway, Brownwood, TX 76801**, and Emergency Communications Network, LLC (hereinafter "Licensor"). In consideration of the promises set forth herein and outlined in the Agreement, Licensee and Licensor agree to amend the Agreement in the following manner:

1. Terms used herein which are not otherwise defined shall have the meanings given to them in the Agreement. The following terms shall be added to the Agreement:

CodeRED Weather Warning® Service: Licensor's CodeRED Weather Warning® Service ("CRWW") expands the benefits of the Service to include the automatic launching of prerecorded CRWW notifications to members of Licensee's Calling Area who opt-in to CRWW (each a "Subscriber" and collectively, the "Subscribers"). These automated notifications are initiated by the issuance of severe weather alerts by the National Weather Service ("NWS"), with no intervention on the part of Licensee or Licensor. Subscribers to be notified are determined by matching the geographic location associated with each Subscriber against the geographic polygon(s) associated with severe weather alerts issued by NWS. CRWW is available only as an add-on module for the Service. CRWW will not be provided under the terms of this Addendum unless the Agreement is in effect.

Subscribers: Severe weather events can occur at any time of day or night. Accordingly, CRWW notifications will automatically be launched in response to the issuance of NWS severe weather alerts at any time, 24 hours/day. CRWW will notify ONLY those Subscribers that have CHOSEN to participate through the opt-in process. CRWW will be limited to Subscribers located within **Brown County, Texas** who have added their name and geographic location to the CRWW Subscriber database via the Licensee's community notification enrollment site. This site is hosted by Licensor for the purpose of allowing Subscribers to add their contact information to both the CodeRED® database and the CRWW database via the Internet. Subscribers shall be subject to the terms and conditions for CRWW, which can be reviewed at: <http://ecnetwork.com/privacy-policy>. ONLY THOSE SUBSCRIBERS WHO OPT-IN TO CRWW WILL BE ELIGIBLE TO RECEIVE CRWW NOTIFICATIONS. LICENSEE MAY BE REQUIRED TO APPROVE SUBSCRIBER ENTRIES PRIOR TO THE SUBSCRIBERS BEING ACTIVATED AND ENTERED INTO THE DATABASE.

CodeRED® System Minutes: Notifications placed automatically via CRWW have no effect on the System Minutes associated with the Service.

Cost for CRWW: As a value added service to the Agreement, Licensor will include CRWW at **NO COST** for the Initial Term. The cost for each Renewal Term is **NO COST**. Payment terms shall be identical to the terms contained in the Agreement. Pricing for CRWW is separate and independent from the Agreement pricing. CRWW can be removed from the Service by Licensee or Licensor by providing 30 days written notice prior to the commencement of any Renewal Term. This Addendum will automatically renew unless Licensee or Licensor provides notice as set forth herein. Licensee will be notified of any price change for CRWW a minimum of 90 days in advance of any Renewal Term.

Term: The term of this Addendum shall commence as of the Effective Date and shall be for so long as Licensee maintains the Agreement and has paid the fees listed above. Upon termination of the Agreement, access to CRWW will terminate and Licensor shall terminate all individual Subscriber accounts.

2. This Addendum shall not modify any terms and conditions of the Agreement, except as set forth herein.

Licensee:
Brown County, Texas
Signature: *Michael Cox*
Printed Name: Michael Cox
Title: Brown County Emergency Management Coordinator
Date: 8-18-15

Licensor:
Emergency Communications Network, LLC
Signature: *David DiGiacomo*
Printed Name: David DiGiacomo
Title: President
Date: 08/18/2015



SHARED MESSAGES
56228 messages remaining

Technical Support

Welcome, Mechail
LOG OUT

EDIT MY STATISTICS

Enter Launch ID

For more search options use the report generator.

?

Name : Scenario
02/15/2016-15:47:25

Launched: 2/15/2016 3:47:36 PM

Message: CodeRed Test 02/15/2016-15:47

Launched By: Mechail Cox

0 Calls Attempted

2134 Emails Sent

1886 Text Messages Sent

0 TDD Messages Sent

?

Launch # 324973	2/15/2016 3:47:36 PM
Numbers Attempted:0	Connection Rate:0%
Emails Sent: 2134	Text Messages Sent: 1886
Launch # 121954	4/10/2014 8:00:11 AM
Numbers Attempted:44	Connection Rate:77%
Emails Sent: 0	Text Messages Sent: 4
Launch # 121929	4/9/2014 8:00:05 PM
Numbers Attempted:44	Connection Rate:84%
Emails Sent: 0	Text Messages Sent: 4
Launch # 121905	4/9/2014 8:00:03 PM

Registered
CALLS 10,281
Emails 2,134
Text 1,886

Follow us 2.20.0.0