

RESOLUTION TAKING FROM THE TABLE RESOLUTION NUMBER 2024-195 AND APPROVING MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE ASHTABULA COUNTY COMMISSIONERS AND LAKE COUNTY COMMISSIONERS FOR USE OF LAKE COUNTY'S DRONESENSE SUBSCRIPTION SERVICE LICENSE WITH DRONESENSE INC., A PLATFORM STREAMING SERVICE SYSTEM, EMA

WHEREAS, Mike Fitchet, Director of the Ashtabula County Emergency Management Agency (EMA), has presented a Memorandum of Understanding for the approval of the Board, to-wit:

- Parties:** Ashtabula County Commissioners, 25 W. Jefferson St., Jefferson, OH 44047
Lake County Commissioners, 105 Main St., Painesville, OH 44077
- Purpose:** DroneSense is a platform subscription services used to provide drone streaming to emergency response personnel. Lake County has entered into a contract with DroneSense, Inc. and Ashtabula County has been granted a participating county non-exclusive and non-transferable license to use the DroneSense platform. Ashtabula County will reimburse Lake County for the annual cost.
- Cost:** **Not to Exceed**, \$474.04 for year 1 and \$584.36 for years 2 - 5 **for a total amount of \$2,811.48**
- Term:** MOU is in effect for a period of 5 years, and automatically renews for successive five-year periods unless not renewed with 90 days prior notice

WHEREAS, on April 9, 2024 Resolution No. 2024-195 was tabled to allow the County Prosecutor time to review the MOU and it is now time to take said Resolution from the table and approve the MOU; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio that the MOU noted above is approved in accordance with the copy now on file in this office.

BE IT FURTHER RESOLVED that the President of the Board, on behalf of the Board of Commissioners of Ashtabula County, is authorized to execute any and all necessary documents.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2024-195

April 30, 2024

RESOLUTION TAKING FROM THE TABLE RESOLUTION NUMBER 2024-195 AND APPROVING MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE ASHTABULA COUNTY COMMISSIONERS AND LAKE COUNTY COMMISSIONERS FOR USE OF LAKE COUNTY'S DRONESENSE SUBSCRIPTION SERVICE LICENSE WITH DRONESENSE INC., A PLATFORM STREAMING SERVICE SYSTEM, EMA

Upon the motion of Casey R. Kozlowski, seconded by Kathryn L. Whittington.

VOTE:

**Kathryn L. Whittington
J.P. Ducro IV
Casey R. Kozlowski**

**Aye
Absent
Aye**

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

**MEMORANDUM OF
UNDERSTANDING**

-between-

Lake County

-and-

Ashtabula County

For the Use of Lake County's DroneSense subscription service license with DroneSense Inc., a Platform Streaming Service System, hereinafter referred to as "DroneSense."

This Memorandum of Understanding ("MOU") is made this 30th day of APRIL, 2024 ("effective date"), by and between the Lake County Board of Commissioners ("Lake County"), located at 105 Main St., Painesville, OH 44077, on Behalf of the Lake County Emergency Management Agency, and the Ashtabula County Board of Commissioners, located at Jefferson Ohio, on behalf of the Ashtabula County Emergency Management Agency ("Participating County"), pursuant to R.C. 307.15 and R.C. 5502.29.

I. ROLES AND RESPONSIBILITIES

A. Lake County

1. Lake County will enter into a contract with DroneSense, Inc. for a license to use the DroneSense platform streaming service program. A copy of that contract is attached as Exhibit A. DroneSense is a platform subscription service used to provide drone streaming to emergency response personnel.
2. Upon execution of Exhibit A, Lake County grants the Participating County a non-exclusive and non-transferable license to use the DroneSense platform subject to the terms and conditions in Exhibit A.
3. Lake County will provide the Participating County with a chargeback for its share of the cost of the DroneSense platform.
4. Lake County does not warrant and disclaims any liability for the DroneSense platform.

B. The Participating County

1. The Participating County will reimburse Lake County for the cost of its participation in the DroneSense platform on an annual basis.
 - a. The cost of participation in DroneSense platform will be determined using a formula based on county population for each of the participating counties from the most recent census.
 - b. The Participating County will reimburse Lake County for the cost of participating in the DroneSense Platform within 30 days of receiving the

chargeback.

2. The Participating County agrees to comply with the terms and conditions in Exhibit A.

II. TERM AND TERMINATION

- A. This MOU shall be in effect as of the effective date of Exhibit A, and shall continue for a period of five years. This MOU shall automatically renew for successive five year periods unless the Participating County notifies Lake County of its intent not to renew the MOU at least 90 days prior to the expiration of the current term.
- B. Lake County may immediately revoke the sublicense if Lake County determines, in its sole discretion, that the Participating County has breached the terms of the agreement.

III. NOTICE

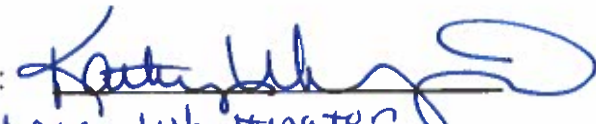
A party giving notice as provided for by this Agreement shall send such notice by United States Postal Service, certified mail, return receipt requested, to the address of the other party which is set forth immediately before Section 1, or to such other address as the party designates in writing. Notice is considered to be given upon return of the requested receipt, or three days after such notice is sent by the United States Postal Service in the event the receipt is not returned.

IV. CHOICE OF LAW

Any dispute arising under this Agreement shall be governed by the laws of Ohio and be brought in a court of competent jurisdiction in Lake County, Ohio. In the event that any portion of this Agreement is deemed unlawful or otherwise unenforceable, it shall be stricken and the remaining provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereby have caused this MOU to be executed.

FOR Ashtabula COUNTY:

By: 
KATHY WHITTINGTON,
President

FOR LAKE COUNTY:

By: _____
Jason Boyd,
County Administrator

Population	County	County Cost	Year 1
1264817	Cuyahoga	\$ 6,144.76	DroneSense Total Cost \$ 11,500.00
232603	Lake	\$ 1,130.04	
95397	Geauga	\$ 463.46	Total Population 2367123
97574	Ashtabula	\$ 474.04	
161791	Portage	\$ 786.02	Cost per person \$ 0.00
312964	Lorain	\$ 1,520.45	
201977	Trumbull	\$ 981.25	
		\$ -	
		\$ -	
		\$ -	
		\$ -	

Total intake \$ 11,500.00

Population	County	County Cost	Years 2-10
1264817	Cuyahoga	\$ 7,747.74	DroneSense Total Cost \$ 14,500.00
232603	Lake	\$ 1,424.83	
95397	Geauga	\$ 584.36	Total Population 2367123
97574	Ashtabula	\$ 597.70	
161791	Portage	\$ 991.06	Cost per person \$ 0.01
312964	Lorain	\$ 1,917.09	
201977	Trumbull	\$ 1,237.23	
		\$ -	
		\$ -	
		\$ -	
		\$ -	

Total intake \$ 14,500.00

PLATFORM TERMS & CONDITIONS

These PLATFORM TERMS & CONDITIONS (“Terms” and together with the order (the “Order”) associated herewith, this “Agreement”) set forth the terms and conditions pursuant to which DroneSense, Inc. (“DroneSense”) shall provide the elements of its platform (including without limitation Pilots, Operations, and Administration, each, a “Platform Element” and together, the “Platform”) contemplated by the Order to Customer. Each Order is subject to these Terms. Capitalized terms used herein but not defined herein have the meanings ascribed to them in the Order. In consideration of the mutual promises contained herein, the parties agree as follows:

1. **SUBSCRIPTION TO THE PLATFORM.** Customer agrees to purchase from DroneSense, and DroneSense agrees to provide to Customer, the Platform subscription (the “Subscription”) as indicated in the Order for the quantity and type as set forth in the Order (the “Authorized Products”). Each Subscription includes Pilots, Operations, and Administration (all as defined herein).
2. **SAAS OFFERING**
 - 2.1. **Provision of Service; Users.** During the Term of any Subscription and subject to the terms and conditions set forth herein, including without limitation Customer’s payment of all Fees due hereunder and any restrictions or parameters set forth in this Agreement, Customer and its Users shall have a limited, non-exclusive, non-transferable, non-sublicenseable, royalty-free right and license to access and internally use Pilots, Operations, and Administration for its intended purpose for the Authorized Products. DroneSense will use commercially reasonable efforts to provide Customer with access to its Platform consistent with its Service Level Agreement (“SLA”) as set forth on DroneSense’s website. Users will be required to abide by the terms of this Agreement. Any breach by a User will be deemed to be a breach by Customer. Customer shall be solely responsible for managing and administering User accounts, including issuing usernames and passwords, provided that DroneSense may terminate or suspend any User’s access to the Platform for any breach without notice. Customer shall be solely responsible for the security and confidentiality of Customer’s account information, including usernames and passwords, and will ensure that no third party uses Customer’s account. Customer shall immediately notify DroneSense in the event that Customer becomes aware of any unauthorized access to the Platform or any violation of the terms of this Agreement by Customer or any User.
3. **OTHER SERVICES**
 - 3.1. **Hosting and System Maintenance.** Customer acknowledges that DroneSense may host any or all Platform Elements, or elements of Platform Elements, using its own infrastructure or it may engage a third party to host on its behalf. DroneSense currently utilizes Amazon Web Services (AWS) GovCloud for hosting of certain Platform Elements. Updates may be provided at DroneSense’s discretion at no additional charge, and DroneSense may, in its sole discretion, make any changes that it deems necessary or useful to maintain or enhance the quality or delivery of the Platform or to comply with applicable law. Scheduled system maintenance shall take place during a normal maintenance window, as reasonably determined by DroneSense. During such time, certain Platform Elements and their interaction with other Platform Elements may be unavailable. Emergency maintenance may be required at other times in the event of system failure.
 - 3.2. **Technical Support.** During the Term of any Subscription, DroneSense will provide Customer with support regarding the Platform as provided in the SLA, found at www.dronesense.com, by phone at (833-DS-HELP-5) or by email at support@dronesense.com.
 - 3.3. **Maintenance Services.** DroneSense will provide periodic updates and bug fixes for Platform Elements at its discretion during the Term of any Subscription (“Maintenance Services”). Any such updates or fixes will be considered DroneSense Software. DroneSense does not warrant that all errors or defects can or need to be corrected. The exclusions from warranty coverage under Section 7.2 are also exclusions from Maintenance Services under this Section. There may be feature charges for update or enhancement releases of Platform Elements.
 - 3.4. **Training.** Initial training for the Platform is available online and should be scheduled directly with DroneSense. DroneSense will provide on-site training if purchased by Customer in the applicable Order.
 - 3.5. **DroneSense Response Team.** DroneSense has developed the DroneSense Response Team (DRT). DRT is a team of DroneSense employees predominately made up of former first responders. DroneSense acknowledges and agrees that standard DRT deployments are included with Customer’s Subscription. Customer can request DRT support for a Public Safety event. DroneSense shall respond to calls made by Customer to DroneSense’s 24/7 support line or submission of DRT request form (both of which are provided on the DroneSense website) and which specifically request DRT within twenty-four (24) hours. DroneSense will work with customer to define scope of mission and ability to support. Based on the agreed to mission scope, they will come with an appropriate set of drones and equipment for the mission. Duration and any applicable additional cost or expenses reimbursements would be mutually agreed to with the customer ahead of deployment.

The DRT role and capabilities can include:

- (a) Providing training on-site to other first responders that have not previously used DroneSense,
- (b) Trouble shooting any software issues that occur and help identify and resolve networking issues,
- (c) Assist in validating and updating correct firmware for agencies drones and controllers,
- (d) Help set up Shared Mission codes and coordinate multiple agencies flying collaboratively,
- (e) Coordinate and build out map layers to insure safe operating space for multiple agency operations,
- (f) Act as a single point of contact for any DroneSense related issues back to our support operation center,
- (g) Assist with After Action Report and documentation of flights, recordings and logging of equipment and personnel,
- (h) Provide operational and logistical support.

4. CUSTOMER ACKNOWLEDGEMENTS AND RESPONSIBILITIES

4.1. **Customer Assistance.** Customer shall provide DroneSense with all information, materials and assistance as reasonably required for DroneSense to activate and operate the applicable Platform Elements for Customer and its Users pursuant to this Agreement.

4.2. **Compliance with Applicable Law.** Customer and each User uses the Platform at its own initiative and is responsible for compliance with any applicable laws, including without limitation any federal, state or local employment and/or tax laws. WITHOUT LIMITING THE FOREGOING, CUSTOMER IS SOLELY RESPONSIBLE FOR ANY AND ALL LAWS AND REGULATIONS PERTAINING TO THE OPERATION AND MAINTENANCE OF ANY

AIRCRAFT. DroneSense may also impose limits on the use or access to the Platform as required by law.

4.3. **Third Party Elements.** Customer acknowledges that one or more Platform Elements may contain data, software or components that are either owned by a third party or in the public domain ("Third Party Elements"). Customer's rights in the Third Party Elements comprised by software are governed by and subject to the terms and conditions set forth in the applicable third party license(s) also set forth therein. Customer acknowledges and agrees to fully comply with such terms and conditions. IN ADDITION TO ANY DISCLAIMERS SET FORTH IN SUCH TERMS AND CONDITIONS, TO THE FULLEST EXTENT PERMITTED UNDER LAW AND THE APPLICABLE THIRD PARTY LICENSES OR OTHER THIRD PART AGREEMENTS, THE DISCLAIMERS SET FORTH AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN SHALL APPLY TO DRONESENSE AND ITS LICENSORS WITH RESPECT TO SUCH THIRD PARTY ELEMENTS.

4.4. **Restrictions.** Customer may not rent, lease, lend, sell, redistribute, reproduce or sublicense any Platform Element, or use any Platform Element as a service bureau. Customer may not copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, create derivative works of any Platform Element, or any part thereof, or use any Platform Element in violation of any law or regulation. If for some reason these restrictions are prohibited by applicable law or by an agreement DroneSense has with one of its licensors, then the activities are permitted only to the extent necessary to comply with such law or license(s). Customer shall not exploit any Platform Element in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity. Customer will comply with reasonable storage guidelines, each as established from time to time by DroneSense. DroneSense reserves the right to limit Customer's storage of Data (defined in Section 5.2) if Customer exceeds reasonable amounts. Customer will be solely responsible for the following: (i) providing all hardware, software, networking and communications capabilities, including any cellular data plans, storage devices, or SIM cards, required for use of the Platform; (ii) at all times using the Platform in accordance with the applicable documentation and any other written instructions provided by DroneSense; (iii) using the Platform in a manner that does not infringe the intellectual property, privacy or other rights of third parties, and (iv) ensuring that Customer and its Users do not upload or transmit viruses or malicious code via the Service. No User shall share his/her username or password with other individuals within or outside of Customer's organization, without DroneSense's written approval.

1.
4.5. DESPITE THE PROHIBITIONS IN SECTIONS 2.1 and 4.4 of the Platform Terms and Conditions, Customer is permitted to provide access to the products and services provided in this agreement to Cuyahoga, Geauga, Ashlabula, Portage, and Lorain counties.

5. INTELLECTUAL PROPERTY

5.1. **Reservation of Rights.** All intellectual property rights in and to the Platform and all Platform Elements remain the sole property of DroneSense and/or its licensors. If Customer or any of its Users submits to DroneSense comments, suggestions, or other feedback regarding the Platform or any Platform Element ("Feedback"), Customer agrees that DroneSense will be free to use such Feedback for product improvement without accounting or obligation.

5.2. **Rights in Data.** As between DroneSense and Customer, Customer shall own all right, title, and interest in and to any data that is collected by DroneSense from Customer and its Users, and in connection with their use of the Platform ("Data"). Customer grants and agrees to grant to DroneSense a non-exclusive, transferable, sublicensable, royalty free license to use such Data in order to provide the applicable elements of the Platform to Customer and as necessary to monitor and improve the Platform. DroneSense shall have the right to use the Data, on an aggregated and non-identifiable basis only ("Blind Data"), to collect, develop, create, extract or otherwise generate statistics and other information and to otherwise compile, synthesize and analyze

such Data, and DroneSense will solely own the Blind Data. It is Customer's sole responsibility to back up its Data, and Customer agrees and acknowledges that post termination or expiration of this Agreement it may not have access to the Data.

6. PAYMENT TERMS.

6.1. **Fees.** Applicable fees and pricing for the Subscription is set forth on the Order. Subscription renewal pricing is specified in Section 11.2 and 11.3.

6.2. **Payment Terms.** Customer hereby agrees to pay DroneSense all Fees on or prior to the Order date or the applicable renewal date, by issuing a check to DroneSense, or using a credit card or other electronic payment method on file with Customer's account. If Customer pays via one of a third party payment vendor (e.g. Stripe or PayPal), Customer agrees to abide by such vendor's then-current terms of use and pay any associated processing fees separate from what appears in the Order. All Fees are non-refundable and are payable in U.S. dollars. Any Fees remaining unpaid for more than fifteen

(15) days past their due date shall accrue interest at a rate of the lesser of one and one-half (1.5%) percent per month or the highest rate allowed by law. DroneSense may also (at its discretion and in addition to other remedies it may have) suspend any pending deliveries or services, and Customer's and its Users' access to the Platform if any invoice remains unpaid for more than fifteen (15) days.

6.3. **Taxes.** The Fees set forth on the Order do not include local, state or federal sales, use, value-added, excise or personal property or other similar taxes or duties, and any such taxes shall be assumed and paid by the Customer except those taxes based on the net income of DroneSense. DroneSense shall have no liability for any taxes owed by Customer or its Users as a result of the Customer's use of the Platform. If Customer is a tax-exempt, or equivalent, entity, Customer shall provide a copy of the tax-exemption certificate to DroneSense upon execution of Order.

7. WARRANTIES AND DISCLAIMER.

7.1. **Mutual Warranties.** Each party represents that it is a public entity, or a corporation that is duly organized, validly existing, and in good standing in the jurisdiction in which it is incorporated, and that it has the requisite power and authority to execute and deliver this Agreement and to carry out the transactions contemplated by this Agreement and that it will do so in accordance with, and acknowledges that this Agreement is subject to, applicable law. Each party represents and warrants that it has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude it from complying with the provisions hereof.

7.2. **Disclaimer.** THE FOREGOING CONSTITUTES DRONESENSE'S ONLY WARRANTIES CONCERNING THIS AGREEMENT AND THE PLATFORM, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, INFORMATIONAL CONTENT, SYSTEMS INTEGRATION, NON-INFRINGEMENT, INTERFERENCE WITH ENJOYMENT OR OTHERWISE. CUSTOMER SHALL NOT AND HAS NO AUTHORITY TO MAKE ANY WARRANTY ON BEHALF OF DRONESENSE TO ANY USER CONCERNING THE SERVICE.

8. CONFIDENTIALITY

8.1. **Definition.** "Confidential Information" means any proprietary information, customer information, product plans, inventions, technical data, trade secrets, know-how, or other business information, in each case disclosed by a disclosing party hereunder. Except as otherwise provided for herein, DroneSense's Confidential Information includes, without limitation, each Platform Element, any DroneSense software comprising the same (if applicable), and the terms and conditions of this Agreement. Customer's Confidential Information includes, without limitation, the Data.

8.2. **Exclusions.** Notwithstanding Subsection 8.1, nothing received by a receiving party shall be construed as Confidential Information which: (a) is now available or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality;

(c) is known to the receiving party prior to such disclosure; or (d) is, at any time, developed by the receiving party independent of any such disclosure(s).

8.3. **Non-Use and Non-Disclosure.** The receiving party shall not disclose Confidential Information to any third party (other than as set forth herein) and may only use the disclosing party's Confidential Information for the intended business purpose related to this Agreement and for the benefit of the disclosing party or as expressly set forth herein. Both parties shall protect Confidential Information from disclosure or misuse by using the same degree of care as for their own confidential information of like importance, but shall at least use reasonable care. It is understood that said Confidential Information shall remain the sole property of the disclosing party unless otherwise expressly set forth herein.

8.4. **Disclosure Required by Law.** Notwithstanding Subsection 8.3 above, a receiving party may disclose the other party's Confidential Information if the information is required by law to be disclosed in response to a valid order of a court of competent jurisdiction or authorized government agency.

provided that the receiving party must give the disclosing party prompt written notice and obtain or allow for a reasonable effort by the disclosing party to obtain a protective order prior to disclosure.

9. LIMITATION OF LIABILITY AND REMEDIES.

9.1. **NO LIABILITY FOR THIRD PARTIES.** DRONESENSE SHALL HAVE NO LIABILITY OR OBLIGATION WITH RESPECT TO THIRD- PARTY ELEMENTS. CUSTOMER'S SOLE REMEDIES WITH RESPECT THERETO SHALL BE BETWEEN CUSTOMER AND THE APPLICABLE THIRD- PARTY.

9.2. **DISCLAIMER OF DAMAGES.** EXCEPT FOR LIABILITIES RESULTING FROM A BREACH OF SECTIONS 4 ("CUSTOMER ACKNOWLEDGEMENTS AND RESPONSIBILITIES"), 8 ("CONFIDENTIALITY") OR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 10, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOSSES OR EXPENSES (INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION, LOST BUSINESS, LOST PROFITS, OR LOST SAVINGS) EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

9.3. **MAXIMUM LIABILITY.** EXCEPT FOR LIABILITIES RESULTING FROM A BREACH OF SECTIONS 4 ("CUSTOMER ACKNOWLEDGEMENTS AND RESPONSIBILITIES"), 6 ("PAYMENT"), 8 ("CONFIDENTIALITY") OR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 10, IN NO EVENT SHALL EITHER PARTY'S LIABILITY HEREUNDER (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE) IN THE AGGREGATE EXCEED THE FEES RECEIVED BY DRONESENSE HEREUNDER.

9.4. **Allocation of Risk.** The allocations of liability in this Section represent the agreed and bargained-for understanding of the parties and voluntary allocation between them of the risk associated with Customer's use of the Platform and, but for this provision, DroneSense would not have made the Service available to Customer hereunder. DroneSense's compensation reflects such allocations, and the limitations and exclusions will apply notwithstanding the failure of essential purpose of any limited remedy contained herein.

10. INDEMNIFICATION.

10.1. **By DroneSense.** DroneSense shall defend Customer from and against any claim, demand, or action in any form brought by a third party against Customer, and indemnify and hold Customer harmless from any damages, liabilities, losses, costs, and expenses, including reasonable attorneys' and experts' fees, in each case that are finally awarded to the third party by a court of competent jurisdiction or otherwise owed in any settlement, in each case to the extent arising from or related to any allegation that any Platform Element, as provided to Customer and used within the scope of this Agreement, infringe any U.S. patent, copyright, or trade secret. Notwithstanding the foregoing, DroneSense will have no liability for any infringement claim of any kind if the claim results from: (a) modifications made other than by DroneSense; (b) unauthorized or unlicensed use; (c) any Third Party Elements; (d) the combination, operation or use of any Platform Element with equipment, devices or software not supplied by DroneSense, to the extent such a claim would have been avoided if the Platform Element was not used in such combination; (e) use of information, materials, Content, Data, or marks provided to DroneSense; or (f) or compliance by DroneSense with designs, plans or specifications furnished by or on behalf of Customer.

10.2. INTENTIONALLY LEFT BLANK

10.3. **Rights Upon Infringement.** If Customer's use of the Platform is, or in DroneSense's opinion is likely to be, enjoined due to the type of infringement specified in Subsection 10.1 above, DroneSense may, at its sole option and expense: (a) procure for Customer the right to continue using the same under the terms of this Agreement; (b) replace or modify the same so that it is non-infringing; or (c) if options (a) and (b) above cannot be accomplished despite DroneSense's reasonable efforts, then DroneSense may terminate Customer's rights and DroneSense's obligations hereunder and refund a pro-rata portion of any pre-paid Fees paid therefore, based upon Customer's use to date.

10.4. **Conditions Precedent.** The indemnifying party will have no obligation under this Section as to any claim, suit, or proceeding unless: (a) the indemnified party promptly notifies the indemnifying party in writing of such claim, suit, or proceeding; (b) the indemnifying party has sole control of its defense and settlement; and (c) the indemnified party, upon request of the indemnifying party, cooperates in all reasonable respects, at the indemnifying party's cost and expense, with the indemnifying party and such attorneys in the investigation, trial and defense of such lawsuit or action and any appeal

arising therefrom; provided, however, that the indemnifying party keeps the indemnified party informed of and consults with the indemnified party in connection with the progress of such litigation or settlement; and (c) the indemnified party may choose to participate in the defense or settlement of the claim at its own expense.

10.5. **Sole Remedy.** The provisions of this Section set forth DroneSense's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement of any industrial or intellectual property rights of any kind.

11. SUBSCRIPTIONS, TERM AND TERMINATION.

11.1. **Term.** This Agreement will commence on the Effective Date and unless terminated as set forth herein, will continue for so long as a Subscription is still in effect hereunder, including any renewal terms.

11.2. **Single Year Subscriptions.** A Single Year Subscription will be for the one-year initial term, and pricing will be at the rate specified in the Order, the DroneSense's then-current pricing. Single Year Subscriptions and any Additional Subscriptions shall automatically renew for successive one-year periods at DroneSense's then current pricing unless a party notifies the other of its intention not to renew at least thirty (30) days prior to the end of the initial term of a Subscription or thirty (30) days prior to the end of the renewal term. The initial term and all renewal terms shall be the "Term" of the applicable Single Year Subscription.

At any time during a Single Year Subscription, Customer may order additional drones to be added at the then current DroneSense price (an Additional Subscription). They will be pro-rated for time remaining in the current Subscription Period. For Additional Subscriptions (a) Customer will be able to use DroneSense software for 15 days, (b) after 15 days customer will need to either archive the new drone(s) or (c) be invoiced for the Additional Subscriptions, (d) the term will be coterminous with the Single Year Subscription, (d) are payable net 30 after invoice, and (e) are subject to auto renewal the same as set forth above for Single Year Subscriptions.

11.3. **Multi-Year Subscriptions.** If Customer enters into a Subscription for a period of two or more years (a Multi-Year Subscription), the license pricing will be as set forth in the Order (Contract Price) and will not increase during the Term of the Subscription. Renewals of a Multi-Year Subscription will also be at the original Contract Price. Payment for each year during the Term will be due annually on each anniversary of the Effective Date. The initial term and all renewal terms shall be the "Term" of the applicable Multi-Year Subscription.

At any time during a Multi-Year Subscription, Customer may order additional drones to be added at the Contract Price (an Additional Subscription). They will be pro-rated for time remaining in the current Multi-Year Subscription period. For Additional Subscriptions (a) Customer will be able to use DroneSense software for 15 days, (b) after 15 days, the customer will need to archive the new drone (s) or DroneSense will invoice customer for the Additional Subscription, (c) the term will run coterminous with the Multi-Year Subscription, (d) the invoice is payable at Customer's option either net 30 of invoice date, or in arrears at the end of the current term, and (d) are subject to auto renewal the same as set forth above for Multi-Year Subscriptions. Customer will notify DroneSense of its payment choice within 10 days of invoice.

11.4. **Termination.** In the event that a party is in breach of the terms of this Agreement applicable to a given Subscription and does not cure such breach within thirty (30) days following notice thereof, then the other party may immediately suspend performance (including delivery and/or access to the applicable Platform Element, in the case of DroneSense) or terminate the applicable Subscription by sending written notice to the breaching party. Unless otherwise expressly specified as applying only to a given Subscription, Customer's obligations under this Agreement shall apply to any and all Subscriptions issued hereunder, and an uncured breach thereof shall entitle DroneSense to terminate any and all other Subscriptions and/or this Agreement. Subject to Section 5.2 of this Agreement, upon termination, DroneSense must promptly return any and all Data collected, maintained, created or used in the course of the performance of this Agreement, in whatever form it is maintained, at the request of the Customer, except for Blind Data.

11.5. **Effect of Expiration or Termination.** Sections 6 (with respect to amounts accrued or payable prior to termination), and 4.3, 4.4, 5, 6, 7.2 and 8-12 shall survive any expiration or termination of this Agreement. All other rights and obligations shall cease and be of no further force or effect.

12. GENERAL.

12.1. **Publicity.** Either party may request a joint press release to announce their relationship, however, any such press release relating to this Agreement will only be announced with the prior written approval of both parties. During the term of this Agreement, either party may include the name

and logo of the other party in lists of customers or vendors and on its website, in accordance with the other party's standard trademark usage guidelines (if any).

12.2. Entire Agreement.

12.3. This Agreement, including the Orders and any schedules and/or attachments referenced herein or issued hereunder constitute the entire agreement of the parties with respect to the subject matter contemplated herein, and supersede any prior representations, agreements, negotiations, or understandings between them, whether written or oral, with respect to the subject matter hereof, provided that with respect to Confidential Information disclosed thereunder this Agreement shall not affect any surviving provision of any NDA or other agreement by and between the parties. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of the parties hereto, or unless and except to the extent Customer accepts a subsequent click-to-accept agreement delivered by DroneSense via the Platform.

12.4. Governing Law and Jurisdiction. The Agreement will be governed by the laws of the state where the delivery of services first occurs under this Agreement. The parties expressly agree to exclude the application of the U.N. Convention on Contracts for the International Sale of Goods (1980) to this Agreement and the performance of the parties contemplated herein, to the extent that such convention might otherwise be applicable.

12.5. Relationship of Parties. The parties are independent contractors, and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent. DroneSense reserves the right to utilize subcontractors. The employees of DroneSense are not public employees for purposes of the Ohio Public Employees Retirement System.

12.6. Attorneys' Fees. In any court action at law or equity which is brought by one of the parties to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, in addition to any other relief to which that party may be entitled.

12.7. Equitable Relief. The parties agree that a material breach of the confidentiality provisions of this Agreement or restrictions set forth herein would cause irreparable injury to DroneSense for which monetary damages alone would not be an adequate remedy, and therefore DroneSense shall be entitled to equitable relief in addition to any other remedies it may have hereunder or at law, without the requirement of posting bond or proving actual damages.

12.8. Force Majeure. Neither party shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, terrorism, energy crises, pandemics, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other accidents or catastrophes, or any other occurrences which are beyond such party's control.

12.9. Government Use. The use, duplication, reproduction, release, modification, disclosure, or transfer of the Platform, no matter how received by the United States Government, is restricted in accordance with the terms and conditions contained herein. All other use is prohibited. Further, the Platform was developed at DroneSense's private expense and is commercial in nature. By using or receiving the Platform, any Government user agrees to the terms and conditions contained in this Agreement including the terms and conditions contained in this paragraph.

12.8. Assignment. Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent, provided that no consent is required in connection with a merger, reorganization, consolidation, amalgamation, sale of assets or similar transaction. Any purported assignment in violation of this Section shall be null and void. The Agreement shall be binding on all permitted successors and assigns.

12.10. Severability. The invalidity or unenforceability of any provision hereof, or any terms thereof, shall not affect the validity of this Agreement as a whole, which will at all times remain in full force and effect.

12.11. Waiver. The failure of either party to enforce at any time the provisions of this Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of either party to enforce each and every such provision thereafter. The express waiver by either party of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

12.12. Order of Preference. If there is a conflict between the terms and conditions of this Agreement and any contracts incorporated by reference, they shall have the following precedence: the Order and then the Terms.

12.13. Notices. All notices required or permitted under this Agreement will be in writing and delivered by confirmed facsimile transmission, by courier or overnight delivery service, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the

addresses set forth below or in the Order or to such other address as may be specified by either party to the other in accordance with this Section.

**ACKNOWLEDGEMENT
SIGNATURE**

By signing this page, Customer hereby acknowledges and agrees to the included DroneSense Platform Terms & Conditions.

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Entity: _____

Entity: _____

Date: _____

Date: _____