



Welcome Aboard!

We are very excited to have you as a new NightShade Solutions customer and look forward to recovering your incident response and mitigation costs.

Here's all you need to do to complete your contract.

Page 7	Please complete the signature block
Page 9	Exhibit A, Section 7: Please choose a billing option and collection agency information, if applicable
	Please be sure to complete Sections 6 and 7. This is very important information to help us complete the setup of your account in our system.
Authorization To Bill Letter	Please sign your name at the bottom
Business Associate Agreement	Please complete the signature block

Thank you again for becoming a NightShade Solutions customer!

‘ENHANCED PROGRAM’ COST RECOVERY AGREEMENT

This Cost Recovery Agreement (“Agreement”) is made as of the date shown below and between the following parties:

NightShade Solutions
P.O. Box 183
Port Orchard, WA 98366

Central Coast Fire and Rescue District
P O Box 505
Waldport, OR 97394

and is subject to NightShade Solutions Privacy Policy that can be found by visiting <https://www.NightShadeSolutions.com/privacy>.

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **DEFINITIONS.** As used herein, the following terms shall have the following meanings. In addition, other terms are defined elsewhere in the Agreement, in the context in which they arise.
 - 1.1 **“Liable Party” or “Liable Parties”** means negligent parties or their insurer(s).
 - 1.2 **“Services”** means, collectively, the services listed in Exhibit A attached hereto and incorporated herein by this reference
 - 1.3 **“Total Claim Amount”** means the total of all Customer charges for equipment, labor, consumables, administrative costs, processing costs and other costs outlined, defined, and/or authorized by Customer’s jurisdictional law, code, resolution or ordinance, as set forth on Customer reimbursement cost schedule.
 - 1.4 **“Mobile Application”** means a program developed by NightShade Solutions to collect on-scene incident information for use in billing a claim.
 - 1.5 **“Device”** means a compatible mobile telephone, tablet computer or on-board computers that the customer uses to operate the Mobile Application.
 - 1.6 **“Executable Code”** means the fully compiled version of a software program that can be executed by a computer, mobile telephone or tablet computer and used by an end user without further compilation.
 - 1.7 **“Software”** means the Mobile Application, plus any modified, updated or enhanced versions of programs that NightShade Solutions may provide to customer hereunder in Executable Code in its sole discretion from time to time.
 - 1.8 **“Documentation”** means the user manuals provided to Customer along with the software.
 - 1.9 **“Intellectual Property Rights”** means all existing and future worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, moral rights, contract rights and other proprietary rights.
2. **SERVICES.** Customer retains NightShade Solutions as its billing contractor to perform the billing for services from any cost recovery order as directed by Customer and as allowed by law, code, resolution or ordinance to a Liable Party or Liable Parties). Customer also retains NightShade Solutions to perform the Services in accordance with the terms of this Agreement. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the NightShade Solutions and Customer with respect to the subject matter hereof, and any such prior agreements are hereby terminated.
3. **COMPENSATION TO NightShade Solutions.** For each claim that NightShade Solutions provides any Services, Customer shall pay NightShade Solutions the Processing Cost as defined in Exhibit B, plus any additional costs as defined in this Agreement.

4. **COLLECTED FUNDS / TERMS OF PAYMENT.** NightShade Solutions will deposit all collected funds into a bank account administered solely by NightShade Solutions. All recovered funds, less the Processing Costs, as defined in Exhibit B, will be submitted to Customer along with a detailed accounting of funded claims within forty-five (45) days after the funds have been received by NightShade Solutions. NightShade Solutions shall not be responsible for the payment of any billings that a responsible party/entity denies or refuses to pay. Customer's obligations hereunder are absolute and unconditional and not subject to set-off, delay, counterclaim, or termination of performance. Customer shall notify NightShade Solutions of any disputed billings within fourteen (14) days of receipt, but such dispute shall not serve as a basis for withholding of any sums due under this Agreement.
5. **TERM OF AGREEMENT.** The term of this Agreement shall commence on the date set forth above and shall continue until the first anniversary of such date (the "Initial Term"). Thereafter, the Term shall be automatically renewed for succeeding terms of one year each (the "Renewal Term"), unless it is sooner terminated for cause pursuant to Section 6 of this Agreement. Either party may elect to not renew this Agreement by informing the other, in writing, of its intent not to renew; PROVIDED, HOWEVER, that such notice shall be delivered in accordance with this Agreement no later than sixty (60) days prior to the anniversary date of the Agreement. While this Agreement is in effect, Customer shall not retain any individual or entity other than NightShade Solutions to perform the Services.
6. **TERMINATION FOR BREACH.** Except as otherwise set forth in this Agreement, either party may terminate this Agreement if the other party materially breaches this Agreement and does not cure such material breach within thirty (30) days after receiving written notice thereof from the non-breaching party; PROVIDED, HOWEVER, that such notice shall describe the claimed breach in reasonable detail and afford the breaching party an opportunity to cure the default prior to the expiration of such 30 day period. NightShade Solutions may suspend the Services (or any portion thereof) upon notice to Customer in the case of any breach or threatened breach by Customer. In addition to such termination right, the non-breaching party shall have all rights and remedies available for such breach under applicable law/equity.
7. **OBLIGATIONS UPON TERMINATION.** Upon termination or expiration of this Agreement for any reason, the following provisions shall apply.
 - 7.1 **Termination of Services and Obligations.** Neither party shall be under any further obligation or liability under this Agreement to the other from and after the date of termination, except as specifically set forth in this Section. Furthermore, NightShade Solutions will terminate all Services.
 - 7.2 **Obligation to Satisfy Payment of Fees.** Customer understands and expressly acknowledges that termination of this Agreement prior to the expiration of the Initial Term or the Renewal Term for any reason neither suspends, discontinues, diminishes, or in any way alters its continuing obligation to timely satisfy all invoices nor suspends, discontinues, diminishes, or in any way disallows NightShade Solutions from collecting any Processing Cost monies due to NightShade Solutions through the final date of the Initial Term or Renewal Term and that such fees will be immediately due and payable.
 - 7.3 **Obligation to Satisfy Payment of Claims.** Upon termination of this Agreement, NightShade Solutions agrees to pay Customer any claim recovery monies collected but not released to Customer, less any applicable Processing Cost Fee monies owed NightShade Solutions.
 - 7.4 **Copies of Data.** Upon payment of all such Fees, and upon the request of Customer, NightShade Solutions will provide Customer with a single copy of all Customer's content on NightShade Solutions system as of the effective date of expiration or termination in PDF format. Copies of data in non-PDF format will be made available upon the request by Customer at NightShade Solutions then-current rates.
 - 7.5 **Return of Confidential Information.** Customer agrees to deliver or return to NightShade Solutions, at NightShade Solutions request at any time or upon termination of this Agreement or as soon thereafter as possible, all documents, computer tapes and disks, records, lists, data, drawings, prints, notes and written information (and all copies thereof) furnished by NightShade Solutions or prepared by NightShade Solutions in the course of this Agreement and all other Confidential Information in Customer's possession. If, for any reason, such document, material, database, equipment, or software cannot be returned, Customer will destroy all the Confidential Information belonging to NightShade Solutions and delete such Confidential Information from any memory devices, then confirm to NightShade Solutions, in writing, that said Confidential Information has

been destroyed. Customer will not be permitted to continue using the Confidential Information in any way after the Termination Date.

7.6 Return of Equipment. All Hardware, if any, provided by NightShade Solutions is and shall remain the property of NightShade Solutions and will be returned in like new condition except for normal wear and tear upon termination of this agreement.

7.7 Survival Provisions. The provisions of Section 1 Definitions, Section 12 Confidential Information, Section 14 Force Majeure, Section 15 Warranty Disclaimer, Section 16 Limitation of Liability, Section 17 Indemnification, Section 18 Noninterference and Section 19 General Provisions shall survive the expiration or termination of this Agreement.

8. COLLECTION PROCESS. NightShade Solutions agrees that it shall use only lawful means to effect collections and will comply with all provisions of the Fair Debt Collection Practices Act (“FDCPA”) and applicable state statutes in connection with these collections. NightShade Solutions bills the responsible party and/or their insurance company once a month up to three (3) months or ninety (90) days. If the account has not been paid and depending on the selected billing options from Exhibit A by day one hundred eighty (180) after submission of the claim, at Customer’s discretion, NightShade Solutions will either (a) cease collection activity or (b) turn over the account to a collections agency to be specified by Customer, and such account will be deemed uncollectible (the “Uncollectable Account”). NightShade Solutions will make a “best effort” to collect funds from the Liable Party. NightShade Solutions shall not be responsible for the payment of any billings that are deemed an Uncollected Claim Cost.

8.1 Collections Recoveries. Claims referred to a third-party collection agency may be deemed uncollectible for purposes of standard billing activity. However, if funds are subsequently recovered through a collection agency, such funds shall be considered Collected Funds under this Agreement and subject to the Processing Cost as defined in Exhibit B. NightShade Solutions shall remit the remaining balance to Customer in accordance with Section 4.

9. LICENSE GRANT.

9.1 License Grant. Subject to the terms and conditions of this Agreement, NightShade Solutions hereby grants to Customer, only for the Term (as defined in Section 5), a non-exclusive, nontransferable license to (a) install the Software only for purposes of its internal use, and not to market and/or distribute the Software to any third party purposes of resale; (b) make one copy of the Software solely for backup or archival purposes; and (c) copy and reproduce any Documentation provided to Customer solely for the purposes of training Customer’s staff.

9.2 License Restrictions; Reservation of Rights. Except as expressly permitted by this Agreement or except with NightShade Solutions prior written consent, Customer will not, and will not permit any third party, to: (a) reproduce, modify, adapt, alter, translate, or create derivative works from the Software or the Documentation; (b) merge the Software with other software; (c) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer the Software or the Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the Source Code for the Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation; (e) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the Software; or (f) otherwise use or copy the Software. The Software and Documentation and all worldwide Intellectual Property Rights therein, are the exclusive property of NightShade Solutions and its suppliers. All rights not expressly granted to Customer in this Agreement are reserved by NightShade Solutions.

9.3 No Restriction or Exclusivity. During the Term hereof, NightShade Solutions may distribute, market, sell, or act as an agent or representative of any developer, publisher, or manufacturer, of online services or products that are functionally comparable or intended, by applicable marketing and promotional programs directed to such services or products, to compete directly with the Software.

10. DATA & REPORTING. Customer will make available to NightShade Solutions, for use in performance of services under this Agreement, all available reports, studies or any other materials in its possession that Customer deems of use to NightShade Solutions. All materials furnished by Customer will not be disclosed to any party, other than as required under the scope of the Agreement, without Customer's prior written approval. NightShade Solutions shall provide Customer with status reports as set forth in Exhibit “A” and other reports as mutually agreed.

11. INDEPENDENT CONTRACTOR.

- 11.1 Status.** NightShade Solutions is and shall at all times remain an independent contractor of Customer.
- 11.2 Employees.** NightShade Solutions shall retain full control over the employment, direction, compensation and discharge of all persons employed by or assisting in the performance of service by NightShade Solutions. NightShade Solutions shall be fully responsible for all matters relating to payment of employees, including compliance with Social Security, withholding tax and all other laws and regulations governing such matters. NightShade Solutions shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.
- 11.3 Binding of Customer.** NightShade Solutions shall not incur or have the power to incur any debt, obligation or liability for or on behalf of Customer, or bind Customer in any manner, except as to matters specifically delegated in writing by Customer.
- 11.4 Claims.** Customer shall have no claim to the software, computer programs, other technology and/or work product developed/used by NightShade Solutions in its performance of this Agreement. It is understood and agreed that Customer may use NightShade Solutions proprietary software programs in providing the services set forth in this Agreement. Customer agrees that it shall not acquire any proprietary rights to such programs by virtue of this Agreement.
- 11.5 Benefits.** Unless otherwise expressly authorized by Customer, NightShade Solutions will not participate in or receive any of the benefits which Customer extends to its employees, including, without limitation, vacation pay, sick leave and medical insurance. NightShade Solutions agrees to waive all claims to such benefits.
- 11.6 Taxes, Etc.** NightShade Solutions will be solely responsible for payment of all income taxes, self-employment taxes and other items due with respect to NightShade Solutions income hereunder. Except as provided otherwise in Exhibit A, NightShade Solutions will be responsible for payment of any sums due to any persons hired by NightShade Solutions to assist in the performance of the Services.

12. CONFIDENTIAL INFORMATION

- 12.1 Disclosure of Confidential Information.** Each party (the “Disclosing Party”) may from time to time disclose to the other party (the “Recipient”) certain information regarding the business of the Disclosing Party and its suppliers, including technical, marketing, financial, employee, planning, and other confidential or proprietary information that is marked or identified as confidential, or disclosed under circumstances that would lead a reasonable person to believe such information is confidential (“Confidential Information”). The Recipient will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Recipient who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Recipient’s duty hereunder. The Recipient will protect the Disclosing Party’s Confidential Information from unauthorized use, access, or disclosure in the same manner as the Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care. The Recipient will comply with any applicable state law, including the Public Records Act.
- 12.2 NightShade Solutions Confidential Information.** The business practices including, but not limited to, financial information, staffing patterns, HIPAA protected information, business relationships, the Services and System, including without limitation any routines, subroutines, directories, tools, programs, or any other technology included therein, and all other business practices shall be considered NightShade Solutions Confidential Information.
- 12.3 Customer Confidential Information.** The business practices such as financial information, staffing patterns, client numbers, call center operations, HIPAA protected information, transport volumes, business relationships and all other business practices shall be considered Customer’s Confidential Information.
- 12.4 Exceptions.** The Recipient’s obligations under this Section with respect to any Confidential Information of the Disclosing Party will terminate if such information: (a) was already known to the Recipient at the time of disclosure by the Disclosing Party; (b) was disclosed to the Recipient by a third party who had the right to make

such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Recipient has become, generally available to the public; or (d) was independently developed by the Recipient without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Recipient will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) approved in writing by the Disclosing Party; (ii) necessary for the Recipient to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body; provided that the Recipient notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

12.5 Authority to Disclose Confidential Information. In making any disclosure to NightShade Solutions of private patient information, you will comply with all applicable state and federal law regarding protected health care information. In making any disclosure to you of private patient information, NightShade Solutions will comply with all applicable state and federal law regarding protected health care information as agreed to by way of a separately executed Business Associates Agreement (BAA).

13. NOTICES. Either party may notice the other by means of (a) electronic mail to the e-mail address on record, or (b) by written communication sent by nationally recognized overnight delivery service or first class mail to the address shown below, or (c) by letter sent by confirmed facsimile to NightShade Solutions at the fax number shown below. Such notice shall be deemed to have been given upon the expiration of forty-eight (48) hours after mailing or posting (if sent by first class mail or pre-paid post) or twelve (12) hours after sending (if sent by email or fax). Notices will not be effective unless sent in accordance with the above requirements.

Notices to NightShade Solutions:

NightShade Solutions
P.O. Box 183
Port Orchard, WA 98366

Notices to Customer:

Central Coast Fire and Rescue District
P O Box 505
Waldport, OR 97394

14. FORCE MAJEURE. Except for the obligation to pay for the Services, neither party shall be liable for delays in its performance, or failures to perform, hereunder due to strikes, riots, war, fire, acts of God, labor disputes, delays caused by the other party, weather, inability to secure labor or materials, revocation, suspension, denial or modifications of any necessary permit, license or approval or other matters beyond the reasonable control of the affected party as long as such party is taking steps to resume performance.

15. WARRANTY DISCLAIMER. EXCEPT AS MAY BE PROVIDED IN ANY SEPARATE WRITTEN AGREEMENTS SIGNED BY THE PARTIES, THE SERVICES ARE PROVIDED "AS-IS", AND NEITHER WE NOR ANY OF OUR RESPECTIVE LICENSORS MAKE ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THE SERVICES. NightShade Solutions AND THEIR RESPECTIVE LICENSORS SPECIFICALLY DISCLAIM, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, COMPLETENESS, TIMELINESS, CORRECTNESS, NON-INFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE. NightShade Solutions AND THEIR LICENSORS DO NOT REPRESENT OR WARRANT THAT THE SERVICES: (A) WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, OR (C) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THESE DISCLAIMERS CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT. IF IMPLIED WARRANTIES MAY NOT BE DISCLAIMED UNDER APPLICABLE LAW, THEN ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO THE PERIOD REQUIRED BY APPLICABLE LAW. SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO CUSTOMER.

16. LIMITATION OF LIABILITY. IN NO EVENT SHALL NightShade Solutions AND/OR THEIR LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, COSTS, DAMAGES, AND CLAIMS ARISING OUT OF OR RELATED TO DATA SECURITY INCIDENT(S), LOSS OF REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES, INCLUDING WITHOUT LIMITATION THE USE OR INABILITY TO USE

THE SERVICES, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF NightShade Solutions OR THEIR LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL NightShade Solutions AGGREGATE LIABILITY RELATED TO THIS AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID TO NightShade Solutions BY CUSTOMER IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

17. INDEMNIFICATION.

17.1 BY NightShade Solutions TO CUSTOMER. NightShade Solutions agrees to defend and hold Customer, its officers, directors, shareholders, employees and agents harmless from any and all losses, costs, expenses (including reasonable attorney fees), causes of action, causes of suit, claims, demands, damages, awards and other liabilities which any such indemnitee may incur or which may be asserted against it as a result of NightShade Solutions collections activity under this agreement; provided, however, that Customer warrants and guarantees that the information furnished to NightShade Solutions is accurate and complies with all state and federal laws.

17.2 BY CUSTOMER TO NightShade Solutions. Customer agrees defend and hold NightShade Solutions, its officers, directors, shareholders, employees and agents harmless from any and all losses, costs, expenses (including reasonable attorney fees), causes of action, causes of suit, claims, demands, damages, awards and other liabilities which any such indemnitee may incur or which may be asserted against it related to all claims submitted to NightShade Solutions, the accuracy of the information furnished to NightShade Solutions and the use of the Software; provided, however, that NightShade Solutions warrants and guarantees that the billing services provided on behalf of Customer comply with industry-standard best practices and comply with all state and federal laws.

18. NONINTERFERENCE. During this Agreement and for two (2) years thereafter, neither party will, without the express consent of the other party: (a) hire or use the services of any person who was an employee or independent contractor of either party while this Agreement is in effect, or encourage or counsel any such person to leave either party's employ; (b) provide any competing services to or solicit any competing business from any person or entity who was a customer of either party, or to whom either party has submitted any business proposal, while this Agreement is in effect; or (c) be an officer, director, employee or agent of, or own any interest in, or provide any advice or assistance to any person or entity that engages in any of the foregoing. The foregoing will not apply to any person or client once s/he or it has ceased to provide or receive services to or from either party for a period of one (1) year or longer, nor will it be deemed to prohibit either party from accepting employment with any customer of either party, provided such employment does not relate to any product or service provided by either party to such customer (or to the subject matter of such product or service).

19. GENERAL PROVISIONS.

19.1 Governing Law and Jurisdiction. This Agreement shall be construed under the laws of the State of Washington, without regard to its principles of conflicts of law. In the event any litigation arises out of this Agreement, the parties agree that such case shall be heard exclusively in the federal and state courts in Pierce County, Washington. Customer waives an objection on the basis of inconvenient forum or otherwise.

19.2 Relationship. This Agreement does not make either party the employee, franchisee, agent or legal representative of the other for any purpose whatsoever. Neither party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party. In fulfilling its obligations pursuant to this Agreement each party shall be acting as an independent contractor.

19.3 Entire Agreement. This Agreement, along with the Exhibits attached and incorporated in this Agreement, constitutes the final, complete, and exclusive understanding between the parties, and replaces and supersedes all previous oral or written agreements, understandings, or arrangements between the parties with respect to the subject matter of this Agreement. This Agreement may not be modified or amended except in a writing signed by an authorized representative of each party to this Agreement.

19.4 Amendment. This Agreement shall not be deemed or construed to be modified, amended, rescinded, cancelled or waived, in whole or in part, except by written amendment signed by an authorized representative of each party to this agreement party hereto.

- 19.5 Assignment of Agreement.** Customer shall not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of NightShade Solutions. Any prohibited assignment shall be null and void. NightShade Solutions may transfer its rights and obligations hereunder to any company or other legal entity that is controlled by, controls or is under common control with NightShade Solutions. NightShade Solutions may retain subcontractors to perform the Services.
- 19.6 Severability.** In the event that any of the terms of this Agreement are in conflict with any applicable rule of law or statutory provision or otherwise unenforceable under applicable laws or regulations of any government or subdivision thereof, such terms shall be deemed stricken from this Agreement, but such invalidity or unenforceability shall not invalidate any of the other terms of this Agreement and this Agreement shall continue in force, unless the invalidity or unenforceability of any such provisions hereof does substantial violence to, or where the invalid or unenforceable provisions comprise an integral part of, or are otherwise inseparable from, the remainder of this Agreement.
- 19.7 Counterparts.** This Agreement shall be executed in two or more counterparts, and each such counterpart shall be deemed an original hereof. Any translation of this Agreement into any other language shall be for convenience purposes only and shall not be binding on any party.
- 19.8 Delay or Omission Not Waiver.** No delay or failure by either party to take any action or assert any right hereunder shall be deemed to be a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.
- 19.9 United Nations Convention of Contracts.** The application the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded
- 19.10 Controlling Language.** This Agreement is written in English (US), and English (US) is its controlling language
- 19.11 Capitalized Terms.** Capitalized terms used in this Agreement will have the meanings given to them in this Agreement. Any capitalized terms not defined in this Agreement will have their plain English (US) meanings.
- 19.12 Waiver of Breach.** The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach
- 19.13 No Third Party Beneficiaries.** No entities not a party to this Agreement shall be deemed third party beneficiaries hereunder.
- 19.14 Binding Effect.** The signatories to this Agreement each represent that each has the Authority to bind such party to the terms and conditions set forth herein. This Agreement shall inure to the benefit of and shall be binding on the successors and permitted assigns of the parties.
- 19.15 Construction.** This Agreement shall not be construed for or against any Party, regardless of its drafter.
- 19.16 Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe the provisions.

THIS AGREEMENT is executed as of the day and year first above written.

NightShade Solutions

Central Coast Fire and Rescue District

Signature Shawn Quinton
 Name Shawn Quinton
 Title CFO
 Date 1/27/26

Signature _____
 Name Jon MacCulloch
 Title Board President
 Date May 28, 2026

EXHIBIT A
DESCRIPTION OF NightShade Solutions SERVICES, BILLING OPTIONS AND COSTS
“ENHANCED SERVICE PLAN”

1. **SERVICES.** The following represents the complete scope of services to be provided by Customer and NightShade Solutions in connection with this Agreement.
 - Customer may give NightShade Solutions access to its fire reporting system, if any.
 - Customer will install and use the CM Mobile Application or the NightShade Solutions Billing Module of My Fire Rules or provide all required incident response information electronically or in writing to NightShade Solutions.
 - NightShade Solutions, utilizing information provided by customer will create a claim in its entirety, using a reimbursement cost schedule provided to NightShade Solutions by Customer. NightShade Solutions shall calculate an initial Total Claim Amount.
 - Customer will review each claim, make any corrections (including a change to the Total Claim Amount, if applicable) and approve claim using Internet-based software created by NightShade Solutions.
 - If NightShade Solutions determines that there is insufficient incident data such that reimbursement of a claim is unlikely, NightShade Solutions will refer the incomplete claim back to the Customer with a request for additional information. If Customer does not provide the additional information within ninety (90) days after the claim is referred back, the claim will expire and will be removed from the claims management software.
 - Customer agrees to respond to NightShade Solutions requests about incomplete claim information or action requests at a minimum of once per week.
 - If NightShade Solutions determines that there is sufficient incident data that reimbursement is likely, NightShade Solutions will submit the claim to the Liable Party and seek reimbursement per the contact method(s) specified in this Exhibit A.
 - NightShade Solutions will make best efforts to seek reimbursement on each claim submitted to a Liable Party using methods and experience consistent with a billing agency. Customer expressly acknowledges and agrees that NightShade Solutions is not a legal representative of Customer, is not trained to dispute claims on a legal basis and is not a collections agency. As such, NightShade Solutions actions with respect to denied claims specifically precludes legal arguments, aggressive follow-up or excessive number of collection attempts.
 - If a settlement offer is made by the Liable Party to pay less than the Total Claim Amount, Customer will determine, at its sole discretion, whether to accept the settlement offer.
 - NightShade Solutions will submit funds to Customer pursuant to the terms of this Agreement.

2. **CLAIM INFORMATION REQUIRED FROM CUSTOMER.** Customer acknowledges and agrees to provide the following minimum information about each incident for which it seeks reimbursement.
 - The name, address and identification (driver license number, property owner, etc.) of individual(s) involved in the incident. The minimum information required is all information on one involved party.
 - Insurance information of individual(s) involved in the incident or the insurance information of the at fault party as determined by on-scene law enforcement. If insurance information is not provided, NightShade Solutions will bill the individual(s) involved in the incident. Customer expressly acknowledges that collection rates for billing individual directly is significantly lower than collection rates for billing insurance carriers. The minimum information required is insurance information on one involved party. NightShade Solutions will follow the Billing Options Customer selects in Section 7 of this Exhibit.
 - Identification of property involved in the incident (License plate number and state of all involved vehicles, address of property, etc.).
 - Date, time and incident location.
 - Provide NightShade Solutions with fire reporting system incident number, if utilized.
 - A complete and descriptive narrative describing the details of the incident. NightShade Solutions will provide guidance to Customer as to what constitutes a complete and descriptive narrative.

3. **PROCESSING COST.** Customer hereby agrees to pay NightShade Solutions the Processing Cost, as defined in Exhibit B. The Processing Cost will be subtracted from the claim payment(s) received by NightShade Solutions on

behalf of Customer. Customer acknowledges that if it accepts a settlement offer on a claim, NightShade Solutions remains entitled to collect the full Processing Cost, or a portion thereof, at its sole option.

4. **UNCOLLECTED CLAIM COST.** NightShade Solutions will NOT charge a uncollected claim cost. If the Fire Departments do not get paid NightShade Solutions will not.
6. **CONDITIONS.** The following conditions apply to all claims processed by NightShade Solutions on behalf of Customer:
 - A jurisdictional law, code, resolution or ordinance in Customer’s area of service authorizing cost recovery billing must be in place.
 - Customer will designate two (2) points of contact: a primary contact who will respond to NightShade Solutions inquiries in a timely manner, and a secondary contact that will remain knowledgeable about the program.
7. **BILLING OPTIONS.** NightShade Solutions will recover funds based on the collection option selected below. These options and their associated fees may be amended from time to time by written notice pursuant to the terms of this Agreement.
 (Note: Select only one billing choice per column)

Residents		Non-Residents (Out of Area Residents)	
<input type="checkbox"/>	Do Not Bill (unless negligence is determined)	<input type="checkbox"/>	Do Not Bill (unless negligence is determined)
<input type="checkbox"/>	Bill insurance company If not paid, close claim	<input type="checkbox"/>	Bill insurance company If not paid, close claim
<input type="checkbox"/>	Bill insurance company If no insurance, bill liable party If not paid, close claim	<input type="checkbox"/>	Bill insurance company If no insurance, bill liable party If not paid, close claim
<input type="checkbox"/>	Bill insurance company If denied or no insurance, bill liable party If unpaid, take to next step- collections (see below)	<input type="checkbox"/>	Bill insurance company If denied or no insurance, bill liable party If unpaid, take to next step- collections (see below)
Collection Agency Processing			
<input type="checkbox"/>	Mark this box if you wish unpaid claims to be directly sent to a Collection. By choosing this option, you authorize NightShade Solutions staff members to release information related to uncollected claims as requested by the Collection Agency Collection Agency Name: _____ Address: _____ Contact at Agency: _____ _____ Email address: _____ _____ Phone # _____		
<i>If we are billing residents and non-residents in your program, we recommend sending both to collections. Please mark both boxes. If you only want non-residents sent to collections, please mark just that box.</i>			

EXHIBIT B
DEFINITIONS AND COSTS

1. **“Processing Cost”** twenty-two percent (22%) of the Total Claim Amount or the settlement offer accepted by Customer on a claim.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is made as of the date shown below and between the following parties:

NightShade Solutions
P.O. Box 183
Port Orchard, WA 98366

Central Coast Fire and Rescue District
P O Box 505
Waldport, OR 97394

This Business Associate Agreement (“Agreement”) between NightShade Solutions and Customer is executed to ensure that NightShade Solutions will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of Customer in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F - Administrative Simplification, Sections 261, et seq., as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D - Privacy, Sections 13400, et seq., the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

A. GENERAL PROVISIONS

1. Meaning of Terms. The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. Regulatory References. Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. OBLIGATIONS OF THE BUSINESS ASSOCIATE. NightShade Solutions agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law.
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e-PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
3. Report to Customer any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to Customer without unreasonable delay but in no case later than 60 days after discovery of the breach.
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of NightShade Solutions agree to the same restrictions, conditions, and requirements that apply to NightShade Solutions with respect to such information.
5. Make PHI in a designated record set available to Customer and to an individual who has a right of access in a manner that satisfies Customer's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request.
6. Make any amendment(s) to PHI in a designated record set as directed by Customer, or take other measures necessary to satisfy Customer's obligations under 45 CFR §164.526.
7. Maintain and make available information required to provide an accounting of disclosures to Customer or an individual who has a right to an accounting within 60 days and as necessary to satisfy Customer's obligations under 45 CFR §164.528.

8. To the extent that NightShade Solutions is to carry out any of Customer's obligations under the HIPAA Privacy Rule, NightShade Solutions shall comply with the requirements of the Privacy Rule that apply to Customer when it carries out that obligation.
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by NightShade Solutions on behalf of Customer, available to the Secretary of the Department of Health and Human Services for purposes of determining NightShade Solutions and Customer's compliance with HIPAA and the HITECH Act.
10. Restrict the use or disclosure of PHI if Customer notifies NightShade Solutions of any restriction on the use or disclosure of PHI that Customer has agreed to or is required to abide by under 45 CFR §164.522.
11. If Customer is subject to the Red Flags Rule (found at 16 CFR §681.1 et seq.), NightShade Solutions agrees to assist Customer in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Customer's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Customer agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Customer of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Customer of any threat of identity theft as a result of the incident.

C. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE. The specific uses and disclosures of PHI that may be made by NightShade Solutions on behalf of Customer include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by Customer to its patients.
2. Preparation of reminder notices and documents pertaining to collections of overdue accounts.
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by Customer to its patients or to appeal denials of payment for the same.
4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that NightShade Solutions has been engaged to perform on behalf of Customer.

D. TERM AND TERMINATION

1. The Term of this Agreement shall be effective as of the Effective Date and shall terminate on the date covered entity terminates for cause as authorized in paragraph 2 of this Section.
2. Customer may terminate this Agreement if Customer determines that NightShade Solutions has violated a material term of the Agreement and NightShade Solutions has been apprised of the violation in writing and has not cured the violation within thirty (30) days of said written notice.
3. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, it shall notify the other party and that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
4. Upon termination of this Agreement, NightShade Solutions shall return to Customer or destroy all PHI received from Customer, or created, maintained, or received by NightShade Solutions on behalf of Customer that NightShade Solutions still maintains in any

form. NightShade Solutions shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

THIS AGREEMENT is executed as of the day and year first above written.

NightShade Solutions

Central Coast Fire and Rescue District

Signature Shawn Quinton
Name Shawn Quinton
Title CFO
Date 1/27/26

Signature _____
Name _____
Title _____
Date _____