

**ARCHER FIRST RESPONSE SYSTEMS AND ORANGE COUNTY,  
FLORIDA PILOT PROGRAM EQUIPMENT LEASE AND OPERATING  
SERVICES AGREEMENT**

This Equipment Lease and Operating Services Agreement (the "Agreement"), effective as of the latest date of execution (the "Effective Date"), is entered into by and between Archer First Response Systems LLC, a Delaware limited liability corporation (hereinafter "Archer"), and Orange County, a charter county and political subdivision of the State of Florida (hereinafter "the County"). Archer and County may sometimes be referred to individually as "Party" and collectively as "Parties."

**RECITALS**

**WHEREAS**, Archer is in the business of employing multi-rotor unmanned aerial vehicles ("UAV"s) to transport emergency medical equipment to sudden cardiac arrest victims or other persons in need, in situations in which time is of the essence, to prevent a fatality; and

**WHEREAS**, Archer represents that it is capable of providing the infrastructure, applications, equipment, and maintenance services ("Services") necessary to transport and deposit emergency medical equipment within a surveyed coverage area; and

**WHEREAS**, Archer owns an Unmanned Aircraft System ("UAS"), which includes a UAV, ground control hub, and communications systems, as further identified and specified in Exhibit "A" attached hereto and hereinafter referred to collectively as the "Archer System Equipment"; and

**WHEREAS**, County's Emergency Communications Center ("ECC") is the primary 9-1-1 call center for all wireless callers within County; and

**WHEREAS**, in response to 9-1-1 calls, ECC dispatches County's Emergency Medical Services (EMS) Ambulances and Quick Response Vehicles in response to medical emergencies in unincorporated areas of County; and

**WHEREAS**, County and Archer wish to participate in a pilot program to augment County's current emergency medical service model (the "Pilot Program") by integrating the Archer System Equipment to transport time sensitive and potentially life-saving medical devices and pharmaceuticals to individuals who have activated the County's 9-1-1 response system; and

**WHEREAS**, as part of the Pilot Program, County will lease the Archer System Equipment on an exclusive basis and engage Archer to install, service, and program the Archer System Equipment to transport and deposit time sensitive and potentially life-saving medical supplies to individuals who have activated the 9-1-1 response system;

and

**WHEREAS**, as part of the Pilot Program, Archer will lease the Archer System Equipment on an exclusive basis to County and perform services for County pursuant to the terms and conditions set forth in this Agreement; and

**WHEREAS**, contemporaneously with this Agreement, Archer is entering into a System Sponsorship Program and Financing Agreement (the "Sponsorship Agreement") with Orlando Health, Inc., a Florida not-for-profit corporation ("Orlando Health"), pursuant to which Orlando Health will be responsible to pay the costs of the Pilot Program; and

**WHEREAS**, all references herein to County payment of costs of the Pilot Program shall mean and refer to any amounts paid by County that do not include payment by Orlando Health to Archer, pursuant to the Sponsorship Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

## **1. DEFINITIONS.**

- 1.1. "Archer System Equipment" means the Unmanned Aircraft System and associated equipment and technology as further identified and specified in Exhibit "A" attached hereto and incorporated by reference.
- 1.2. "County" means Orange County, a charter county and political subdivision of the State of Florida.
- 1.3. "ECC" means the Emergency Communications Center operated by County.
- 1.4. "EMS" means Emergency Medical Services provided by County.
- 1.5. "FAA" means the Federal Aviation Administration.
- 1.6. "Intellectual Property" means all proprietary rights, whether now existing or later created, in any form or format, including all (i) inventions, patents, patent applications, improvements, or modifications, (ii) computer software (including both source and object code), code segments, and all derivativeworks of the foregoing, (iii) data, databases, algorithms, objects, routines, templates and documentation, (iv) trade secrets and other confidential information, including ideas, processes, formulas, research and development information, specifications, designs, plans, proposals, technical data, and other information with respect to the Services, and (v) all licenses and rights to royalties, damages, and payments under and with respect to all of the foregoing.

- 1.7. "Medical Equipment" means time-sensitive medical devices, supplies and/or pharmaceuticals to be transported by the Archer System Equipment, such as, but not necessarily limited to, an Automated External Defibrillator ("AED"), Naloxone ("Narcan"), and a tourniquet.
- 1.8. "Medical Payload" means a drop box capable of carrying Medical Equipment while being transported by a UAV and deposited on the ground.
- 1.9. "Public Aircraft Operation" has the same meaning as that phrase is defined by 49 U.S.C. §§ 40102(a)(41) and 40125, and 14 CFR § 1.1, as may be amended from time to time.
- 1.10. "Site(s)" means the area(s) within County's EMS, located as depicted in the attached and incorporated Exhibit E.
- 1.11. "Third Party" means any person other than Archer, County, or any of their respective employees, agents, elected officials, or affiliates.
- 1.12. "Trade secret" has the same meaning as that phrase is defined by Section 812.081(1)(c), Florida Statutes, as may be amended from time to time, which is, as of the Effective Date, defined as follows:

"Trade secret" means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information, which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. "Trade secret" includes any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be: 1. secret; 2. of value; 3. for use or in use by the business; and 4. of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it, when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

- 1.13. "Unmanned Aircraft System" ("UAS") means an aircraft operated without the possibility of direct human intervention from within or on the aircraft and its associated elements (including communication links and the components that control the aircraft) that are required for the safe and

efficient operation of the aircraft in the national airspace system.

- 1.14. "Unmanned Aerial Vehicle" ("UAV") is an aircraft without a human pilot and is a component of an Unmanned Aircraft System.

## **2. CONTRACT MANAGERS AND NOTICES.**

- 2.1. Each Party hereby designates the individual set forth below as its primary contact for matters relating to this Agreement. Any notices to be given hereunder by either party to the other must be in writing and delivered by personal delivery, by overnight courier, or by mail, registered or certified, postage prepaid, with return receipt requested. Mailed notices must be addressed to the parties at the addresses shown below, but each Party may change its address by written notice in accordance with this section. Notices delivered personally will be deemed communicated as of actual receipt; notices sent by overnight courier will be deemed communicated on the following business day; and notices sent by mail will be deemed communicated three (3) business days after mailing:

Archer's Contract Manager:

Gordon Folkes  
Archer First Response Systems, LLC.  
6300 Edgelake Dr.  
Sarasota, FL 34240

County's Contract Manager:

Orange County Fire Rescue Department  
6590 Amory Court  
Winter Park, FL 32789  
Attn: Fire Chief

- 2.2. County's Contract Manager is authorized to approve requests to extend a task deadline set forth in this Agreement. Such approval must be in writing. County's Contract Manager is not authorized to make changes to the Scope of Work set forth in Exhibit "B" and is not authorized to approve any increase in the amounts set forth in Exhibit "C" of this Agreement.

## **3. EQUIPMENT LEASE.**

- 3.1. Archer hereby leases to County and County hereby leases from Archer the Archer System Equipment, as fully set forth in Exhibit "A" hereto.

- 3.2. While this Agreement remains in effect, the UAV identified in Exhibit "A" shall be available for County's exclusive use and shall not be used by Archer or any other party, except pursuant to the terms of this Agreement.
- 3.3. County shall use the Archer System Equipment, including the UAV, for and in conjunction with the County's responses to emergency calls to the ECC that meet the definition of a Public Aircraft Operation (defined in 49 U.S.C. § 40102(a)(41) and §40125). County will not use the Archer System Equipment, including the UAV, for the purpose of transporting cargo in air commerce for compensation or hire, or for any illegal purposes.
- 3.4. County will use the Archer System Equipment in accordance with operational directions and/or manuals provided to County by Archer and with applicable laws and regulations.

#### **4. OPERATING SERVICES.**

Upon the Effective Date of this Agreement, Archer shall perform the Scope of Work for the County as set forth in Exhibit "B" attached hereto and incorporated herein by reference.

#### **5. MONTHLY FEE.**

Archer has entered, or is entering into, the Sponsorship Agreement contemporaneously with this Agreement. The Sponsorship Agreement accounts for payment of all of Archer's costs for the duration of the Pilot Program with Orange County. Upon any failure by Orlando Health to make payment to Archer pursuant to the Sponsorship Agreement, the Parties may meet in good faith to negotiate an amendment to this Agreement to address payment to Archer of Archer's costs for the Pilot Program. In no case will County be responsible to make payments to Archer unless and until an amendment to that effect is negotiated and executed by both Parties. Notwithstanding the foregoing, County's obligation for payment under any such amendment to this Agreement shall be subject to prior appropriation by County's Board of County Commissioners of legally available funds.

#### **6. TERM; TERMINATION; SURVIVAL.**

- 6.1. Term. This Agreement commences on the date that the Scope of Work, including installation of the Archer System Equipment, and training of County staff are complete, as documented by County's Fire Rescue Department, and shall continue for twelve (12) months unless terminated earlier pursuant to Section 6.2 of this Agreement.
- 6.2. Termination. Either Party may terminate this Agreement for any reason by

providing the other Party ninety (90) days' prior written notice. If either Party elects to terminate this Agreement, then upon the other Party's receipt of notice to terminate, Archer will provide written notice to County of its intent to remove the Archer System Equipment from the Site. This Agreement shall thereafter terminate, with such termination to become effective upon the earlier of (1) complete removal of the Archer System Equipment from the Site, or (2) ninety (90) days from the date of the termination notice.

6.3. Survival. Sections 11, 14, 17, and 18 of this Agreement will survive the termination or expiration of this Agreement and will remain in full force and effect.

6.4. Effect of Termination or Expiration. Following the effective date of termination of this Agreement, for any reason, Archer will have no further obligation to perform services under this Agreement. Termination of this Agreement will not affect any accrued rights or liabilities of either Party. Upon the expiration or termination of this Agreement, County will return to Archer any property, Intellectual Property, or Confidential Information of Archer that Archer has not already retained and that remains in the possession of County. The Parties agree to reasonably cooperate to effectuate an orderly and systematic termination of this Agreement. This Section 6.4 shall survive any termination or expiration of this Agreement.

## **7. ARCHER'S OBLIGATIONS.**

7.1. Archer will uniquely tailor the Archer System Equipment to the designated area(s) served by the Site and install the Archer System Equipment at the Site. In the event complications render the Site unusable after such installation, Archer and County will work together to choose an alternative location site for Archer System Equipment installation. Archer shall work with County to ensure that the Site has access to an appropriate power source and Archer shall coordinate and ensure performance of the electrical work necessary to connect the Archer System to that power source, along with the necessary consents, permissions, and utilities requirements, as acceptable to and approved by County.

7.2. The Archer System Equipment will be completed and installed by Archer and operational on a date specified in Exhibit "B" hereto. Once operational, the Archer System Equipment will provide services meeting the specifications for quality as set forth in Exhibit "B," provided the electrical power meeting specifications set forth in Exhibit "B" is provided.

7.3. For the duration of this Agreement, Archer will perform the services set forth in Exhibit "B."

- 7.4. Archer will maintain, repair, and replace the Archer System Equipment except and to the extent the cost of repairs or replacement of equipment damaged is due solely to the negligent acts or omissions of County, its agents, officers, or employees acting within the scope of this agreement, which will be County's responsibility. Repairs, parts, and services that are County's responsibility may be performed by Archer at County's sole discretion and request and if so will be billed to County at Archer's reasonable and actual incurred costs, only to the extent such is not subject to reimbursement by, or covered by, the insurance coverages required by this Agreement and any other applicable insurance coverage(s).
- 7.5. Archer will provide the initial Medical Equipment to be loaded within the Medical Payload (the "Initial Load").

## **8. COUNTY'S OBLIGATIONS.**

- 8.1. County will, at no cost to Archer and for the duration of this Agreement, provide the following items and/or utilities to allow Archer to fulfill its obligations under this Agreement:
- a. A cleared and level location with a foundation suitable for the Archer System Equipment located at the Site, taking into account the weight of various Archer System Equipment components. Archer will have reasonable access to the Site as reasonably necessary for Archer to install and maintain the Archer System Equipment.
  - b. Electrical power, as required by the Archer System Equipment.
- 8.2. County will operate the Archer System Equipment in accordance with Archer's instructions and/or the operation and maintenance manual supplied with the Archer System Equipment.
- 8.3. After the Initial Load, County will supply the replacement Medical Equipment to be reloaded within the Medical Payload.

## **9. MAJOR DAMAGE TO THE ARCHER SYSTEM EQUIPMENT.**

If the Archer System Equipment suffers any major damage or loss that is legally required to be reported to the FAA or recorded in the aircraft's logbooks under FAA regulations governing the aircraft's use, Archer (i) shall provide notice to County of the damage or loss and (ii) shall be responsible for determining the amount of loss in value, and whether the aircraft may be returned to service. The Parties may agree to use a substantially similar UAS to fulfill the purposes of this Agreement by executing a written amendment to this Agreement. Neither Party shall be obligated to continue to be bound by the terms of this Agreement if the

Archer System Equipment is unable to be returned to service.

## **10. TITLE AND DEFENSE OF ARCHER SYSTEM.**

- 10.1. Archer will at all times have legal ownership of and rights to the Archer System Equipment, subject to the terms of this Agreement, and all items of equipment, inventory, spare parts, supplies, and other assets, both tangible and intangible, that comprise the Archer System Equipment. While the Archer System Equipment is located at the Site, the County will take no action that is inconsistent with Archer's ownership of and title to the Archer System Equipment and will take no action that would cause title to the Archer System Equipment to be encumbered by levies, liens, security interests, or other encumbrances. County will act as reasonably requested by Archer to prevent any person or entity other than Archer from acquiring any right, title or interest in or to the Archer System Equipment, including making reasonable efforts to obtain consents or waivers from County's lenders. County will execute documents and public filings as Archer may reasonably request for Archer to evidence its ownership interest. County agrees to reasonably cooperate with Archer to execute financing statements pursuant to the Uniform Commercial Code or any comparable statute, rule, or regulation, and other documents reasonably necessary for Archer to affirm its ownership of the Archer System Equipment. For the duration of this Agreement, County will keep the Archer System Equipment free and clear from claims, liens, and processes of creditors of County.
- 10.2. County will use reasonable precautions to prevent persons other than County's authorized employees or Archer's authorized employees or agents from entering the Site. County will not permit the Archer System Equipment to be serviced, repaired, or maintained by anyone other than Archer and its employees or agents.

## **11. INTELLECTUAL PROPERTY.**

- 11.1. All right, title, and interest in and to the Archer System Equipment, including Archer System testing, are and will remain the property of Archer.
- 11.2. County has no right, license, or authorization with respect to any of the Operating Services or Archer's Intellectual Property, and County agrees not to reverse-engineer, disassemble, decompile, interfere with the operation of, or otherwise attempt to derive the trade secrets embodied by or contained in any of Archer's Intellectual Property.
- 11.3. Subject to its obligations pursuant to Chapter 119, Florida Statutes, County agrees that it will not disclose, divulge, reveal, report or use, for any purpose, any Intellectual Property which the County has obtained, except



as authorized by Archer or as required by law. The obligations of Section 11 shall apply during the term of this Agreement and will survive indefinitely upon expiration or termination of this Agreement.

## **12. ARCHER SYSTEM EQUIPMENT RELOCATION OR CHANGE.**

Except as contemplated by Section 7.1, if County for any reason requests Archer to relocate the Archer System Equipment after it has been installed at the Site to another location on the County's real property, the County will bear all costs in connection with such relocation, including any additional service costs incurred by Archer or additional equipment required to meet the standards hereunder.

## **13. INSURANCE.**

13.1. For the duration of this Agreement Archer will obtain and maintain, at its sole expense, the following minimum insurance coverages to meet the obligations created by this Agreement, the Archer System Equipment, the Operating Services, and by law. Archer shall name "Orange County, a charter county and political subdivision of the State of Florida" as an additional insured on all insurance policies related to the Archer System Equipment and the Operating Services, excluding Workers' Compensation and Employer's Liability. Archer understands that the stipulated limits of coverage listed herein shall not be construed as a limitation of any potential liability to the County, or to others.

Commercial General Liability Archer shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$1,000,000 per occurrence. Archer further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

### **Required Endorsements:**

Additional Insured- CG 20 26 or CG 20 10/CG 20 37 or their equivalents.

Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations

Waiver of Transfer of Rights of Recovery- CG 24 04 or its equivalent.

Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number.

Business Automobile Liability Archer shall maintain coverage for all owned; nonowned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 (five hundred thousand dollars) per accident. In the event Archer

does not own automobiles they shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation – Archer shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$500,000 each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis.

**Required Endorsements:**

Waiver of Subrogation- WC 00 03 13 or its equivalent

Professional Liability- with a limit of not less than \$1,000,000 per occurrence/claim.

Cyber Liability- to the extent that Archer has access to the County's network or personally identifiable information Archer shall maintain insurance in an amount not less than \$1,000,000 for Security Breach and \$2,000,000 aggregate, and which shall comply with Florida Statute 501.171 and shall be under a per occurrence policy form.

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of Vendor/ Contractor/Consultant's most recent audit or review of their organizational financial statements certified by a CPA. Compiled financial statements will not be accepted. For policies written on a "Claims-Made" basis the Consultant agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Consultant agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the Consultant of the obligation to provide replacement coverage.

Upon execution of this Agreement, and thereafter upon County's or its insurance compliance provider's request, Archer will provide Certificate(s) of Insurance and Endorsements evidencing all coverages and applicable additional insured status. Archer understands that the County's failure to request evidence of this insurance coverage shall not be construed as a waiver of Archer's obligation to provide and maintain the insurance coverages specified.

- 13.2. For the duration of this Agreement County will maintain a self-insurance program with such limits and such terms and conditions deemed

necessary by the County to meet the obligations created by this Agreement. Archer understands and agrees that County does not waive its immunity. Moreover, nothing herein is intended to nor shall be interpreted as a waiver of County's rights, including the provisions of Florida Statutes, Section 768.28, or any other law, regulation, or statutes, and County expressly reserves these rights to the full extent allowed by law.

Upon execution of this Agreement, and thereafter upon Archer's request, County will provide Archer with Certificate(s) of Insurance evidencing the required coverage, or where coverage is not available, a letter verifying County's self-insurance status signed by the Risk Manager. County understands that Archer's failure to request evidence of this insurance coverage, or self-insurance, shall not be construed as a waiver of County's obligation to provide and maintain the insurance coverage specified.

#### **14. INDEMNIFICATION.**

14.1. Indemnification by Archer. Archer shall indemnify, defend, save, and hold harmless County and its officers, employees, elected officials, and agents ("County Indemnitees") harmless from and against any and all liabilities, fines, losses, costs and expenses (including reasonable attorney and legal fees, expenses, and court costs) ("Losses") suffered by any County Indemnitee(s) in connection with any Third Party claim(s) to the extent arising from: (i) any breach of Archer's representations, warranties, and/or obligations under this Agreement, (ii) any acts, omissions, gross negligence, or intentional misconduct of Archer, its employees, and/or agents, and (iii) any claim that the Archer System Equipment or Operating Services (excluding any Third Party products or Third Party services), or County's use thereof for their intended purposes and in accordance with the terms of this Agreement, infringe or misappropriate any Third Party Intellectual Property rights, or (iv) any combination thereof; provided, however, that Archer shall have no liability to County for any such Losses to the extent arising solely from (a) any breach of County's representations, warranties, or obligations under this Agreement, (b) any gross negligence or intentional misconduct of the County or its employees or agents, or (c) any modification of the Archer System Equipment by County.

14.2. Indemnification by the County. Without waiving the provisions of Section 768.28, Florida Statutes, County shall indemnify, defend, save, and hold Archer and its officers, employees and agents ("Archer Indemnitees") harmless from and against any and all liabilities, fines, losses, costs and expenses (including (including reasonable attorneys' or legal fees, expenses, and court costs) ("Losses") suffered by Archer Indemnitees in connection with any Third Party claims to the extent arising from: (i) except as otherwise provided in this Agreement, any breach of the County's representations, warranties or obligations under this Agreement, or (ii) any

gross negligence or intentional misconduct of the County or its employees or officials acting within the scope of their employment ; provided, however, that the County shall have no liability to Archer for any such Losses to the extent arising from (a) any breach of Archer's representations, warranties or obligations under this Agreement, or (b) any gross negligence or intentional misconduct of Archer or its employees or agents. Nothing herein shall be interpreted as a waiver of the County's rights or of the provisions of Section 768.28, Florida Statutes, or any other statutes, laws, rules, or regulations, and County expressly reserves these rights to the full extent allowed by law.

- 14.3. Indemnification Procedure. Any indemnification claims under Section 14.1 or 14.2 by a Party shall be asserted by such Party ("Indemnitee") in accordance with this Section 14.3. Indemnitee shall provide the other party ("Indemnitor") with prompt written notice of the Third-Party claim giving rise to such indemnification claim and forward all related documents to Indemnitor. No failure to so notify Indemnitor shall relieve Indemnitor of its obligations hereunder except to the extent that Indemnitor can demonstrate damages or prejudice attributable to such failure. If Indemnitor acknowledges its indemnification obligation in writing, then Indemnitor shall defend the case at its own expense; provided, however, that Indemnitee reserves the right to be represented by counsel at its own expense at any proceeding or settlement discussions related thereto. Indemnitor may settle any claim subject to its indemnification obligations hereunder without Indemnitee's written consent only if such settlement (i) includes a release of all covered claims pending against Indemnitee or its applicable affiliated person or entity; (ii) contains no admission of liability or wrongdoing by Indemnitee or its applicable affiliated person or entity; and (iii) does not impose any obligations upon Indemnitee or its applicable affiliated person or entity other than an obligation to stop using any infringing items.
- 14.4. Actions in Response to claim of Infringement. Without limiting any obligations of Archer under Section 14.1, if Archer reasonably determines that any Archer System Equipment or Operating Services, or the County's use thereof for their intended purposes and in accordance with the terms of this Agreement, infringe or misappropriate any Third Party Intellectual Property rights, Archer may, in its discretion and at no cost to the County, (i) modify the applicable Archer System Equipment or Operating Services so that they no longer infringe or misappropriate such Third Party Intellectual Property rights, (ii) obtain a license for the County's continued use of the applicable Archer System Equipment or Operating Services, or (iii) terminate the County's lease, access, or use rights with respect to the applicable Archer System Equipment or Operating Services upon thirty (30) days' written notice to the County and refund to the County of a prorated portion of any fees paid by the County with respect thereto.

## **15. DEFAULT.**

A default under this Agreement will be deemed to have occurred (i) when one of the Parties has materially breached a provision of this Agreement and, such Party having first received written notice setting forth the nature of the alleged breach, has not cured said breach within thirty (30) days after notification thereof (ii) if a Party voluntarily commences bankruptcy, insolvency or reorganization proceedings, is adjudicated as bankrupt, is declared insolvent or enters into a composition agreement with its creditors, or if a receiver is appointed for it or a substantial portion of its properties (a "Bankruptcy Event"). In the event of a Bankruptcy Event, the other party will have the right to immediately terminate this Agreement upon written notice to the party involved in a Bankruptcy Event and Archer will remove the Archer System Equipment pursuant to Section 17 and Subsection 6.2. In the event of a material uncured breach of this Agreement by one party, the aggrieved party will have the right to immediately terminate this Agreement and the Archer System Equipment will be removed pursuant to Section 17 and Subsection 6.2. The aggrieved party will also be entitled to any other remedies that may be available to it at law or in equity, as a result of a party's breach of this Agreement.

## **16. FORCE MAJEURE EVENTS.**

In the event either party is rendered unable, wholly or in part, to carry out its respective obligations under this Agreement, except for the obligation to make payment, due in whole or in part, directly or indirectly, to circumstances beyond its reasonable control, including, without limitation, acts of God, floods, labor disturbances, fires, accidents, wars, acts of terrorism, delays of carriers, inability to obtain or shortage of raw materials, supplies or components, retooling, upgrading of technology, embargoes, government order or directive, or terrorist activities, then the obligations of the parties will be suspended for the duration of the Force Majeure event. Archer may at its option suspend service while such event or circumstance continues, apportion available inventory between its customers as it determines, or terminate this Agreement with immediate effect by written notice to County. Notwithstanding any provision to the contrary, if Archer opts to suspend operations or otherwise modify or suspend its performance of the Agreement, County's obligations to make payments shall also be suspended. The foregoing notwithstanding, no suspension or termination due to force majeure will affect County's EMS operations.

## **17. ARCHER SYSTEM EQUIPMENT REMOVAL.**

Upon expiration or termination of this Agreement, Archer will take possession of the Archer System Equipment, and will remove the Archer System Equipment from the Site, at no charge to the County. Archer will coordinate with County and have reasonable access to the Site to permit such removal. Archer will not be

responsible for restoration of the Site to its original condition. Notwithstanding the foregoing, as part of any Archer System Equipment removal, Archer shall be responsible for removing all tools, construction equipment, machinery and surplus materials from and about the Site.

## **18. CONFIDENTIAL INFORMATION; PUBLIC RECORDS**

18.1. The term "Confidential Information" shall mean all information, data and specifications furnished by a party (the "Disclosing Party") to the other party, whether before or after the date hereof and whether in oral, written, electronic or graphic format, which is reasonably and appropriately designated in writing by the Disclosing Party as a "trade secret," which, under the circumstances taken as a whole, would reasonably be deemed to be confidential and exempt from disclosure by Section 815.045, Florida Statutes, as amended from time to time, in compliance with Chapter 119, Florida Statutes.

18.2. Information which is disclosed orally shall not be considered "Confidential Information" unless (i) it is identified as Confidential Information prior to or at the time of such disclosure, and (ii) it is memorialized in writing within fifteen (15) days following such disclosure by the Disclosing Party. Such confirmation shall describe in detail the information which qualifies as Confidential Information under this Agreement. Information which is disclosed visually or in tangible form (whether by document, electronic media or other form) shall not be considered Confidential Information unless and until it is clearly identified and marked as Confidential Information at the time of receipt. Information whether disclosed orally, visually or in tangible form (whether by document, electronic media or other form), shall not be considered Confidential Information if such information is non-confidential pursuant to Section 18.3 below. All copies of such Confidential Information, or parts thereof, made by either party shall also be considered Confidential Information.

18.3. "Confidential Information" shall also include information made confidential and exempt from disclosure under Chapter 119, Florida Statutes, Florida's Public Records Act, as may be amended from time to time. Such exempt information includes, but is not limited to, social security numbers, bank account numbers, and debit, charge and credit card numbers. Exempt information under Section 119.071(5), Florida Statutes, shall be considered "Confidential Information" regardless of whether such information is marked "Confidential Information." The Parties agree that social security numbers shall only be disclosed in accordance with Section 119.071(5)(a)7, Florida Statutes, as may be amended.

18.4. Non-Confidential Information. The obligations of this Agreement shall not apply to any information, data and materials that:

- (a) either party agrees in writing is not proprietary or confidential to that party; or
- (b) is or becomes publicly available, other than unauthorized disclosure, by the Receiving Party; or
- (c) is independently developed by the Receiving Party without use of any Confidential Information; or
- (d) is received from a Third Party who has lawfully obtained such Confidential Information without a confidentiality restriction; or
- (e) such information, data and materials are a public record subject to mandatory disclosure under Chapter 119, F.S.

18.5. Nondisclosure and Limitations on Use. Neither party shall disclose Confidential Information of the other party to any Third Parties, including, but not limited to, independent contractors and consultants, without the prior written consent of the Disclosing Party; provided, however, that each party may provide use of and access to the Confidential Information to its bona fide employees, agents, officers, directors, attorneys and accountants (individually, a "Receiving Party" and collectively, the "Representatives") who have a need to know such Confidential Information for purposes of conducting the party's review and to determine whether it desires to pursue a business relationship with the other party. Each party shall by appropriate instruction or agreement inform its Representatives of such party's obligations under this Agreement. Each party shall be responsible for any unauthorized use, reproduction or disclosure of Confidential Information by any of its Representatives. A Receiving Party shall not use the Confidential Information of the Disclosing Party for any purpose other than evaluating the proposed Potential Transactions and in no event shall use the Disclosing Party's Confidential Information, in whole or in part, in developing any product or service or component thereof, other than for carrying out the Potential Transactions, whether for the Receiving Party's benefit or for the benefit of or on behalf of any third party, without the prior written consent of the Disclosing Party. Under no circumstances may either party decompile, disassemble, reverse engineer or "unlock" any products (including computer programs), prototypes or models furnished to such party by the other party.

18.6. Disclosures Required By Law. If the Receiving Party is required by law, rule or regulation, or requested in any judicial or administrative proceeding or by any governmental or regulatory authority, to disclose Confidential Information, the Receiving Party may disclose to such authority data,

information or materials involving or pertaining to Confidential Information to the extent required by such order, provided that if reasonably practical and permitted by law, the Receiving Party shall give prompt notice of such order or request so that the Disclosing Party may seek or obtain an appropriate protective order or similar protective measure at its own expense.

- 18.7. Litigation Cooperation. If the Receiving Party receives any letter, action, suit or investigation from a non-party to this Agreement regarding the withholding of the Disclosing Party's Confidential Information pursuant to this Agreement, the Disclosing Party shall reasonably cooperate and assist the Receiving Party in defending claims to such Confidential Information upon request of the Receiving Party. The parties agree that neither party shall be entitled to any additional fees and/or compensation for their cooperation and assistance under this section of the Agreement.
- 18.8. Release of Information. The parties agree not to initiate any oral or written media interviews or issue press releases on or about the Archer System Equipment or the Operating Services provided under this Agreement without providing notices or copies to the other party no later than three (3) business days prior to the interview or press release. This provision shall not be construed as preventing the parties from complying with the public records disclosure laws set forth in Chapter 119, Florida Statutes.
- 18.9. HIPAA. The parties shall comply with the applicable federal and state requirements for protected health information, to include the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder ("HIPAA") and the Health Information Technology for Economic and Clinical Health (HITECH) Act. Pursuant to FSection 119.0701, Florida Statutes, to the extent Archer is performing services on behalf of the County, Archer shall:
1. Keep and maintain public records required by County to perform the service;
  2. Upon request from County's custodian of public records, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;
  3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of the Agreement if Supplier does not transfer the records to County; and



4. Upon completion of this Agreement, transfer, at no cost, to County all public records in possession of Archer or any retained public records required by County to perform the service. If Archer transfers all public records to County upon completion of this Agreement,

Archer shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If Archer keeps and maintains public records upon completion of this Agreement, Archer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from County's custodian of public records, in a format compatible with County's information technology systems.

**IF ARCHER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ARCHER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT COUNTY'S CONTRACT MANAGER**

**19. NON-DISCRIMINATION.**

Archer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability or age. No person shall be excluded from participation in or be denied the benefits of this Agreement on the grounds of race, color, religion, sex, national origin, disability or age. In accordance with Section 287.134(2)(a), Florida Statutes, Archer warrants that it is not currently on the discriminatory Contractor list and agrees to notify the County if placement on the discriminatory Contractor list occurs. If subcontracting is allowed under the Agreement, Archer agrees to include this provision in all subcontracts issued as a result of the Agreement.

**20. GENERAL PROVISIONS.**

1. Assignment. Neither party shall assign or transfer this Agreement or any rights or duties under this Agreement to any other person (by assignment, stock sale, merger or otherwise) without the written consent of the other party.
2. No Implied Waiver. Neither this Agreement nor any portion of it may be modified or waived orally or by implication. However, each party (through its governing body or properly authorized officer) shall have the right, but not the obligation, to waive, on a case-by-case basis, any right or condition herein reserved or intended for the benefit or protection of such party without being deemed or considered to have waived such right or condition for any other case, situation, or

circumstance and without being deemed or considered to have waived any other right or condition. No such waiver shall be effective unless made in writing with an express and specific statement of the intent of such governing body or officer to provide such waiver.

3. Disclaimer of Third-Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or for the benefit of any third party. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof.
4. Independent Contractor. In the performance of their obligations under this Agreement, the parties shall be independent contractors, and shall have no other legal relationship, including, without limitation, joint ventures, or employees. Neither party shall have the right or power to bind the other party and any attempt to enter into an agreement in violation of this section shall be void.
5. Publicity/Marketing. Neither party shall, without the prior written consent of the other party, use any logo(s), brands, trademarks, service marks, or names of the other party, its affiliates, its suppliers or any of their respective shareholders on any website, in any public communications, marketing collateral or other materials (other than any materials that are used solely internally as necessary to exercise rights or perform obligations under this Agreement).
6. Equal Construction. The parties agree that they have each participated in the drafting of this Agreement and both parties have been represented by counsel, such that no provision of this Agreement shall be strictly construed against one party as the drafter thereof.
7. Disputes; Governing Law; Venue; Attorney Fees. This Agreement and any claim, dispute or controversy between County and Archer arising from or relating to this Agreement, its interpretation, or the breach, termination, or validity thereof, will be governed by and construed in accordance with the laws of the State of Florida, without regard to conflicts-of-law rules. Any dispute resolution constituting a material change in this Agreement shall not be final until an amendment to this Agreement has been approved and executed by the County's Purchasing Official. Any action filed regarding this Agreement will be filed only in Orange County, Florida, or if in Federal Court, the Middle District of Florida, Orlando Division. In the event of

any litigation arising under the terms of this Agreement, each party shall be responsible for their own attorney and legal fees, including appellate fees, regardless of the outcome of the litigation.

8. Severability. Should any term, provision, covenant, condition, section, paragraph, sentence or portion of this Agreement be held invalid or unenforceable by any court of competent jurisdiction, the remaining terms, provisions, covenants, conditions, sections, paragraphs, sentences and portions shall, nevertheless, remain in full force and effect. Notwithstanding the preceding sentence, if the absence of the eliminated provision is contrary to the original intention of the parties, Archer will have the right to terminate this Agreement and remove the Archer System from the Site, with each party to bear its own costs as a result of such termination.
9. Amendments. No subsequent alterations, amendments, changes or additions to this Agreement shall be binding upon the parties unless reduced to writing and approved and executed by Archer and the County with the same formality as this Agreement.
10. Attorneys' Fees and Costs. Each party hereto shall be solely responsible for paying its own attorneys' fees and costs in any dispute, litigation, dispute resolution proceeding, settlement negotiation or pre-litigation negotiation arising under this Agreement.
11. Validity. Each of Archer and the County warrants to the other its respective authority to enter into this Agreement and waives any defense against the enforcement of this Agreement based upon invalidity of, or lack of authority to enter into, this Agreement.
12. Headings and Captions. The headings and captions of articles, sections, and paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or be taken into consideration in interpreting this Agreement.
13. Entire Agreement. This Agreement sets forth all covenants, promises, agreements and understandings between the parties concerning the subject matter of this Agreement, and there are no covenants, promises, agreements or understandings, either oral or written, between the parties except as herein set forth.
14. Exhibits. This Agreement consists of a primary contract and four (5) exhibits, which are as follows:

**Exhibit A Archer System Equipment**

**Exhibit B** Operating Services Scope of Work

**Exhibit C** Compensation Schedule

**Exhibit D** Business Associate Agreement

**Exhibit E** Site(s)

These Exhibits are attached hereto and are incorporated into this Agreement. In the event of a conflict between the terms and conditions provided in the Articles of this Agreement and any Exhibit, the provisions contained within these Articles shall prevail unless the Exhibit specifically states that it shall prevail.

15. Sovereign Immunity. Nothing herein shall be interpreted as a waiver by County of its rights, including the limitations of the waiver of immunity as set forth in Florida Statutes § 768.28, or any other statutes or immunities. County expressly reserves these rights to the full extent allowed by law.

[Signature pages and Exhibits follow]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date indicated below.

**THE COUNTY:**

**ORANGE COUNTY, a charter county and  
political subdivision of the State of Florida**

By: its Board of County Commissioners

By: \_\_\_\_\_  
Jerry L. Demings  
Mayor

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

ATTEST:

Phil Diamond, CPA, Comptroller,  
as Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

**ARCHER:**

**Archer First Response Systems LLC, a Delaware limited liability corporation,**

By:  \_\_\_\_\_  
Name: Gordon Clinton Folkes III

Title: CEO / Founder

Date: 3-28-25

## EXHIBIT A

### ARCHER SYSTEM EQUIPMENT

1. **The Archer System Equipment will include the following physical components.**

- a. Unmanned Aerial Vehicle (“UAV”): The Archer System aircraft vehicle is a FreeFly Systems Alta X (the “UAV” or “Vehicle”). The UAV will utilize LTE networks to enable 24/7 monitoring by Archer, proactive maintenance by Archer, and deployment by the County.
- b. Ground Control Hub: The Archer System includes a Ground Control Hub (the “Hub”), which is a network connected housing unit that monitors and maintains a stable environment for the UAV. The Hub protects the UAV from weather conditions, ensures the UAV is fully charged, and monitors the System’s deployment readiness.
- c. Medical Payload: The Archer System will be equipped with a Medical Payload that is capable of safely transporting and depositing Medical Equipment to pre-determined emergency response locations. The Medical Payload is a drop box that will include an Automated External Defibrillator (AED) and any other Medical Equipment the County desires to include, such as Naloxone (Narcan), and a tourniquet, so long as it can fit within the physical dimensions of the Medical Payload drop box. Archer shall have the discretion to arrange the contents of the Medical Payload as it sees fit. The County shall be responsible for supplying, storing and physically reloading the Medical Equipment in the Medical Payload drop box.

2. **Site and Systems Specifications.**

The Ground Control Hub will be located at the County’s EMS Fire Station 58, 2900 Deerfield BV, Orlando, FL 32837. The Ground Control Hub will be installed in the northeastern corner of the parcel inside an area enclosed either by fencing and/or shrubbery. Archer will supply documentation to the County specifying operational characteristics, of the Archer System Equipment, that will include at a minimum, LED color codes, pre- and post-flight notifications, and other notifications or codes necessary or useful to the County.

3. **Activation Method.**

Archer will design the Archer System Equipment to assess the UAV’s readiness for deployment taking into account the system’s requirements, local weather conditions, and other factors deemed necessary or appropriate by Archer. The

County's Emergency Communications Center ("ECC") dispatchers will assess the nature of an emergency to determine whether the Medical Payload could prevent a fatality based on protocols developed by the County. If ECC activates the Archer System Equipment based on the nature of the emergency, Archer will provide all appropriate County personnel with access to Archer's computer-aided dispatch system ("CADS") and/or Archer's integration into RapidSOS Portal. ECC dispatchers will be able to access Archer's CADS and/or Archer's integration into RapidSOS Portal through an Internet connected browser. ECC dispatchers will input the coordinates or address of the applicable medical emergency into Archer's CADS in order to activate the System and/or activate via Archer's integration into RapidSOS Portal. ECC dispatchers will have the ultimate discretion to determine when to activate the Archer System in a medical emergency. Archer may also work with third-party CAD system service providers to enable activation of the Archer System Equipment through third-party CAD systems.

**4. Deployment Method.**

Archer will uniquely tailor the Archer System Equipment to the geographic area designated by Orange County (the "Coverage Area"). Archer will survey the target Coverage Area and collect unobstructed Medical Payload emergency response coordinates. When the Archer System is activated by an ECC dispatcher, the location of the medical emergency will be collected and analyzed to determine the nearest emergency response coordinate to the victim. Upon activation by the ECC dispatcher, the UAV will be deployed to the closest possible emergency response coordinate to transport and deposit the Medical Payload.

## **EXHIBIT B**

### **OPERATING SERVICES SCOPE OF WORK**

#### **Archer System Equipment Testing.**

Archer will perform various systems tests to evaluate the performance of the Archer System Equipment and ensure the Archer System Equipment readiness for deployment. These tests will include, but are not limited to: EMS deployment tests, emergency medical scenario simulations, equipment tests, Archer programming tests, multi-rotor unmanned aircraft flight simulations, weather conditions tests, Archer user interface tests, Ground Control Hub tests, and any other tests, simulations, research or procedures Archer and/or the Federal Aviation Administration may deem necessary to evaluate the Archer System Equipment. All rights in know-how, trade secrets, confidential or proprietary information, research in progress, algorithms, data, processes, formulae, drawings, schematics, blueprints, flow charts, models, strategies, prototypes, techniques and Test procedures will be the exclusive property of Archer. Upon request, Archer will provide the County quarterly reports detailing Archer System Equipment test results and quarterly reports detailing Archer System Equipment deployment in a medical emergency.

#### **Archer System Equipment Inspections**

Archer will perform routine physical inspections of the Archer System Equipment and address any maintenance or performance identified as a result of such inspections. These inspections will occur monthly or after every 15 flights, whichever comes first

Archer will have primary responsibility for identifying and resolving maintenance issues, and Archer and County will work together to ensure that the Archer System Equipment remains operational and available to ECC dispatchers. The County will promptly inform Archer of any service or maintenance issues that come to County's attention, and Archer will respond to such notice as soon as is reasonably possible, and in no case will respond within 48 hours of such notice.

Archer will provide the County with documentation for service support to assist the County with trouble-shooting service and/or maintenance issues with the Archer System Equipment and expectations for troubleshooting and turn-around time for repairs (as a function of time-of-day / weekday / weekend / holiday).



### **Archer System Equipment Reset.**

Archer will be responsible for coordinating Archer System Equipment reset following a deployment of the UAV. As part of the Archer System Equipment reset, Archer will coordinate with Archer's affiliated entities, if necessary, to perform Archer System Equipment inspection and evaluation. Archer System Equipment reset procedures will ensure Archer System Equipment readiness for future deployment. Prior to declaring the Archer System Equipment available for future deployment, Archer will perform a remote pre-flight checklist to verify the Archer System Equipment reset was successful. The County or its affiliated entities, as directed by the County, will provide additional medical supplies to replenish the Medical Payload items used in a medical emergency. Upon each Archer System Equipment reset, the County, at the direction of Archer, shall be responsible for physically re-loading the Medical Equipment in the Medical Payload. The UAV will not be operational while the Archer System Equipment is being reset.

### **Additional Support Services**

Archer will review and provide feedback to the County on its ECC and EMS procedures documents to assist with successful use and deployment of the Archer System Equipment.

Archer will actively support efforts to secure FAA approval for the operation of the Archer System Equipment by assisting in drafting applications and disclosures required by the FAA.

Archer will provide documentation to the County that will describe supplies and/or spare parts needed for the proper maintenance of the Archer System Equipment. Also, Archer will provide system documentation (user manual) to assist Orange County in troubleshooting and leveraging all system capabilities on the dispatch and medical deployment.

Archer will provide multiple and periodic training classes for County personnel. At a minimum Archer will provide training within two-weeks of go-live.

Archer will provide the County monthly reports on UAV operations in Orange County, to include, but not limited to the following information:

- total number of UAV flights (missions)
- number of successful UAV flights (missions)
- number of unsuccessful UAV flights (missions)
- reasons for unsuccessful UAV flights (missions) (e.g., weather, flight path obstruction/traffic, Medical Payload not ready, Medical Payload not dropped, loss of battery life).

Archer will continue to work with the County to analyze its use of the Archer System Equipment and identify potential new locations for similar Archer System Equipment.



**EXHIBIT C**  
**COMPENSATION SCHEDULE**

Monthly Fee: County will pay to Archer a Monthly Fee of One Dollar (\$1.00) per month for the duration of this Agreement (the “Monthly Fee”), beginning on the first of the month after the Effective Date of the Agreement as compensation for the lease of the Archer System Equipment and the services provided by Archer pursuant to this Agreement.

## **EXHIBIT D**

### **BUSINESS ASSOCIATE AGREEMENT (BAA) FOR HIPAA**

**THIS BUSINESS ASSOCIATE AGREEMENT** (this “Agreement”) is made and (“Business Associate”) and Orange County, a charter county and political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida 32801 (“Covered Entity”), each a “Party” and collectively the “Parties.”

#### **WITNESSETH:**

**WHEREAS**, Business Associate performs functions, activities, or services for, or on behalf of covered Entity, and Business Associate receives, has access to or creates Protected Health Information; and

**WHEREAS**, the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder (“HIPAA”), including but not limited to, the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health information in 45 C.F.R. Parts 160-164 require that Covered Entity receive adequate assurances that the Business Associate will comply with certain obligations with respect to the Protected Health Information used in the course of providing these services to or on behalf of the Covered Entity; and

**WHEREAS**, HIPAA requires Covered Entity to enter into a contract with Business Associate to provide for the protection of the privacy and security of Protected Health Information.

**NOW THEREFORE**, in consideration of the foregoing and of the covenants and agreements set forth herein, the Parties, intending to be legally bound, agree as follows:

#### **ARTICLE 1. RECITALS.**

The Parties agree that the foregoing recitals are true and correct and are incorporated herein by this reference.

#### **ARTICLE 2. DEFINITIONS.**

*Breach* shall have the same meaning as set forth in 45 C.F.R. § 164.402.

*Business Associate* shall generally have the same meaning as the term “business associate” as defined in 45 C.F.R. § 160.103, and in reference to the Party to this Agreement, shall mean West Coast Southern Medical Services, Inc.

*Covered Entity* shall generally have the same meaning as the term “covered entity” as defined in 45 C.F.R. § 160.103 and Florida Statutes § 501.171, and in reference to the Party to this Agreement, shall mean Orange County.

*Data Aggregation* shall have the same meaning as set forth in 45 C.F.R. § 160.501.

*Designated Record Set* shall have the same meaning as set forth in 45 C.F.R. §

160.501. *Disclosure* shall have the same meaning as set forth in 45 C.F.R. § 160.103.

*Electronic Media* shall have the same meaning as set forth in 45 C.F.R. § 160.103.

*Electronic Protected Health Information (“ePHI”)* shall mean PHI transmitted or maintained in Electronic Media.

*Health Information* shall have the same meaning as set forth in 45 C.F.R. § 160.103.

*HIPAA Rules* shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and 164.

*Individual* shall have the same meaning as set forth in 45 C.F.R. § 160.103.

*Individually Identifiable Health Information* shall have the same meaning as set forth in 45 C.F.R. § 160.103 and Florida Statutes § 501.171(g).

*Privacy Regulations* shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E, as may be amended, modified or superseded, from time to time.

*Protected Health Information (“PHI”)* shall have the same meaning as set forth in 45 C.F.R. § 160.103.

*Security Incident* shall have the meaning as set forth in 45 C.F.R. § 164.304.

*Security Measures* shall have the meaning as set forth in 45 C.F.R. § 164.304.

*Security Regulations* shall mean the Standards for Security of Individually Identifiable Electronic Health Information at 45 C.F.R. Parts 160 and 164, Subparts A, C and E, as may be amended, modified or superseded, from time to time.

*Unsecured Protected Health Information ("Unsecured PHI")* shall have the meaning as set forth in 45 C.F.R. § 164.402.

*Use* shall have the same meaning as set forth in 45 C.F.R. § 160.103.

### **ARTICLE 3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.**

1. Business Associate may only Use or Disclose PHI as permitted by law or this Agreement.
2. Business Associate is authorized to Use or Disclose PHI as necessary to perform Services for, or on behalf of, Covered Entity.
3. Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the law, including without limitation, the HIPAA Rules.
4. Business Associate may not Use or Disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Section 3.1.

### **ARTICLE 4. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.**

1. Business Associate shall only Use or Disclose PHI as allowed under this Agreement or applicable law.
2. Business Associate shall only Use or Disclose PHI in a manner that would not violate the HIPAA Privacy and Security Rule of Florida law if done so by the Covered Entity.
3. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 ("Security Measures") and Florida Statutes § 501.171(2) with respect to ePHI, to prevent Use or Disclosure of PHI other than as provided for by the Agreement.

4. Business Associate shall report any Use or Disclosure of PHI not permitted by this Agreement or applicable law, including a Breach of Unsecured PHI, as required at 45 C.F.R. § 164.410 and Florida Statutes § 501.171(3)-(6), and any Security Incident of which it becomes aware. For purposes hereof, the term “discovery of a Breach” shall mean that Business Associate, an employee, an officer, a director, or other agent of Business Associate who has acquired actual knowledge of a Breach, or through the exercise of reasonable diligence and inquiry, should have acquired knowledge of a Breach. In accordance with Florida Statutes § 501.171(6), the notice shall be within ten (10) days of the discovery of the Breach. Business Associate shall mitigate, to the extent practicable, any known or reasonably known harmful effects of the Breach.
5. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit PHI related to Business Associate’s patients on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
6. In accordance with 45 C.F.R. § 164.524 and within thirty (30) days of a request by Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall make available to Covered Entity such PHI in the form requested by Covered Entity. If the requested PHI is maintained electronically, Business Associate shall provide a copy of the PHI in the electronic form and format requested by the individual if readily producible, or, if not, in a readable electronic form and format as agreed to by the Covered Entity and individual. In the event an Individual requests access to PHI directly from Business Associate, Business Associate shall within ten (10) days forward such request to Covered Entity.
7. In accordance with 45 C.F.R. § 164.526 and no later than sixty (60) days of receipt of a request from Covered Entity for the amendment of an Individual’s PHI in a Designated Record Set, Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. § 164.526. In the event a request for an amendment is delivered directly to Business Associate, Business Associate shall within ten (10) days of receiving such request forward it to Covered Entity.
8. Business Associate shall maintain and make available the information required to provide an accounting of Disclosures to Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. § 164.528. Business Associate shall document Disclosures of PHI and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 C.F.R. § 164.528. Within twenty (20) calendar days of receipt of a request from Covered Entity,

Business Associate shall make available to Covered Entity the information required to provide an accounting of such Disclosures. Business Associate agrees to



implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request (except for Disclosures occurring prior to the Effective Date). At a minimum, such accounting information shall include the information described in 45 C.F.R. § 164.528(b), including, without limitation: (i) the date of Disclosure of PHI; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the Disclosure that reasonably informs the Individual of the basis for the Disclosure, or a copy of the written request for Disclosure.

9. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
10. At the request of Covered Entity or the Secretary of the Department of Health and Human Services, Business Associate shall make its internal practices, books, and records available for purposes of determining compliance with the HIPAA Rules.

#### **ARTICLE 5. COVERED ENTITY'S OBLIGATIONS TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS.**

1. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose PHI, to the extent that such changes may affect Business Associate's Disclosure of PHI.
2. Covered Entity shall notify Business Associate of any restriction on the Use of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

#### **ARTICLE 6. TERM AND TERMINATION.**

1. *Term.* This Agreement shall commence on the Effective Date and shall remain in effect until Business Associate ceases to provide the Services to Covered Entity, unless terminated pursuant to Section 6.2 herein.
2. *Termination.*
  - a. Either Party shall have the right to terminate this Agreement immediately if it determines that the other Party has breached a material provision of this

Agreement and failed to cure such breach within thirty (30) days of written notification.

- b. If the non-breaching Party determines that cure is not possible, such Party may terminate this Agreement effective immediately upon written notice to the other Party.
  - c. Upon termination of this Agreement, the relationship whereby Business Associate performs the Services to and on behalf of the Covered Entity shall automatically terminate.
3. *Obligations of Business Associate Upon Termination.* Upon termination of this Agreement, Business Associate shall either return or destroy, at no cost to Covered Entity, all PHI that Business Associate still maintains in any form. Business Associate shall not retain any copies of such PHI, in any form. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

#### **ARTICLE 7. NOTICE.**

Any and all notices, approvals, claims, consents, demands, requests or other communications between the Parties ("Notices") shall be in writing. All Notices shall be given by hand delivery in person or by registered or certified mail, postage prepaid to the following addresses:

Covered Entity:      Orange County Government  
6590 Amory Court  
Winter Park, FL 32789  
Attn: Fire Chief

Business Associate:

Name: Archer First Response Systems LLC  
Attention: Legal Department  
Address: 6300 Edgelake Dr. Sarasota, FL 34240  
Fax: 407-451-9464  
Email: Gfolkes@archerfrs.com

All Notices shall be deemed effective and received upon actual receipt by the Party to which such notice is given or five (5) days after mailing, whichever occurs first.

**ARTICLE 8. AMENDMENT.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

**ARTICLE 9. REGULATORY REFERENCES.** A reference in this Agreement to a section in the HIPAA Rules or Florida law means the section as in effect or as amended.

**ARTICLE 10. INTERPRETATION.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules and Florida law.

**ARTICLE 11. ASSIGNMENT.** This Agreement and the rights and obligations hereunder shall not be assigned, delegated, or otherwise transferred by the Business Associate without the prior written consent of BUSINESS ASSOCIATE and any assignment or transfer without proper consent shall be null and void.

**ARTICLE 12. GOVERNING LAW; VENUE; JURISDICTION.** This Agreement shall be governed by and controlled by the laws of the State of Florida. The Parties agree that exclusive venue shall be in the courts of Orange County, Florida, for all disputes arising out of this Agreement. The Parties each hereby consent to the personal jurisdiction and venue in such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to them.

**ARTICLE 13. AMENDMENT OR MODIFICATION.** This Agreement may only be amended or modified by mutual written agreement of the Parties; provided, however, that in the event provisions of this Agreement shall conflict with the requirements of the HIPAA Rules or Florida law, this Agreement shall automatically be deemed amended as necessary to comply with such legal requirements.

**ARTICLE 14. WAIVER.** The failure of either Party at any time to enforce any right or remedy available hereunder with respect to any breach or failure shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other Party.

**ARTICLE 15. SEVERABILITY.** In the event that any provision or part of this Agreement is found to be totally or partially invalid, illegal, or unenforceable, then the provision will be deemed to be modified or restricted to the extent and in the manner necessary to make it valid, legal, or enforceable, or it will be excised without affecting any other provision of this Agreement, with the Parties agreeing that the remaining provisions are to be deemed to be in full force and effect as if they had been executed by both Parties subsequent to the expungement of the invalid provision.

**ARTICLE 16. NO THIRD-PARTY BENEFICIARIES.** This Agreement does not confer, and is not intended to confer, any rights or remedies upon any person other than the Parties.

**ARTICLE 17. RELATIONSHIP OF PARTIES.** The relationship of Covered Entity to Business Associate shall be that of an independent contractor. Nothing herein contained shall be construed as vesting or delegating to Covered Entity or any of the officers, employees, personnel, agents, or sub-contractors of Covered Entity any rights, interest or status as an employee of County. County shall not be liable to any person, firm or corporation that is employed by Agreements or provides goods or services to Covered Entity in connection with this Agreement or for debts or claims accruing to such parties. Covered Entity shall promptly pay, discharge or take such action as may be necessary and reasonable to settle such debts or claims.

**ARTICLE 18. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties with respect to the matters contemplated herein and supersedes all previous and contemporaneous oral and written negotiations, commitments, and understandings relating thereto.

**ARTICLE 19. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, including facsimile or an e-mail of a PDF file containing a copy of the signature page of the person executing this document, each of which shall be an original, but all of which together shall constitute one in the same instrument.

IN WITNESS WHEREOF, the Parties, intending to be legally bound hereby, have caused this Agreement to be executed the day and year first set forth above.

**ORANGE COUNTY, a political subdivision of  
the State of Florida**

By: \_\_\_\_\_  
Jerry L. Demings  
Mayor

Print Name & Title of Above Signer

**BUSINESS ASSOCIATE**

\_\_\_\_\_  
Gordon Clinton Folkes III, CEO/Founder  
Print Name & Title of Above Signer

# EXHIBIT E

## OPERATING LOCATION

