# DroneSense

**August 18, 2017**

**To:** Mr. Jamie Moore, Emergency Management Coordinator, Johnson County
**From:** DroneSense, Inc.
**RE:** **Sole Source Letter for DroneSense software platform**

To whom it may concern:

DroneSense, Inc. ("DroneSense" or the "Company") provides an Unmanned Aerial System ("UAS") software platform ("Platform"), with an optional network box component, built for the unique needs of public safety organizations. Our Platform consists of three main offerings: Management, Flight Control and Command Center. This solution is proprietary in its design, and has been developed completely inside the Company. The underlying code of all three offerings, including its interoperability, consist of secret processes created and owned entirely by DroneSense.

The DroneSense solution enables public safety organizations to manage all aspects of its UAS program, control any drone necessary for the mission via a single interface, and allows unprecedented collaboration between all team members on- and off-scene. Our Platform gives UAS operators the ability to do such things as: plan flights, control the drones (with no hardware modification), file NOTAMs, collaborate with other drone operators, upload selected media, review complete flight logs, manage personnel and hardware, track training, enforce compliance with policies and procedures, create custom reports, and maintain a full system of record—addressing asset and risk management needs throughout. The software has been designed to allow seamless transmission of data between the Flight Control application, the Management application and Command Center. On scene, the Platform enables secure real-time collaboration between multiple UAS pilots, and allows video feeds to be viewed and interacted with by any participant with a smart device via the DroneSense network box—all on an offline basis, if needed. However, if a network connection is available, off-site participants can also receive the video feed and collaborate in real-time (*e.g.*, task pilots from a remote EOC via Command Center). Not only is DroneSense unique in making all these offerings available on a single platform, where the components communicate with each other and transmit data without the need for any systems integration, but we are also the sole provider of many of these capabilities in the marketplace today.

Our Platform is also drone-agnostic, meaning it can be used with any type of UAS hardware, so long as the flight controller has an available API or SDK. There is no requirement to buy a certain type (or brand) of hardware in order for the Platform to function. This greatly reduces the training burden on organizations. DroneSense also has filed a provisional patent with the US Patent and Trademark Office entitled "Drone Flight Optimization Platform" which covers such areas as a cloud-based drone flight control platform that can generate flight plans and control the flight of one or more drones in accordance with such plan (or modifications thereof), whereby the flight plan is agnostic to types of flight controllers.

DroneSense is the only software platform available to UAS operators which provides such a unique comprehensive solution available together in a single package from one company. Furthermore, DroneSense is currently the only vendor providing this Platform, and Johnson County can only procure it through our Company.

Thank you.

*A. Rana Biswas*

**Rana Biswas**
**CFO & SVP, Strategic Operations**

# DroneSense
dronesense.com

## ORDER FORM

**General Information:**

| | |
|---|---|
| **Customer:** Johnson County Emergency Management | |
| **Customer Contact:** Jamie R. Moore, CEM | **Billing Contact:** Jamie R. Moore, CEM |
| **Address:** 810 E. Kilpatrick<br>**City, State Zip:** Cleburne, TX 76033 | **Address:**<br>**City, State Zip:** |
| **Phone:** (817) 933-6261 | **Phone:** |
| **E-Mail:** jmoore@johnsoncountytx.org | **E-Mail:** |
| **DroneSense Account Manager:** Chris Eyhorn & Rana Biswas | |
| **Organization Originating Order:** DroneSense, Inc. | |
| **Phone:** (512) 380-1050 | **Email:** chris@dronesense.com or rana@dronesense.com |
| **Effective Date:** September 1, 2017<br>**Initial Term:** 2 years | |

**Management SaaS Offering Subscriptions:**

| Subscription |
|---|
| **User Subscriptions: 12** |
| **Management SaaS Offering Fees:**<br> Annual Subscription........................................$[*Included with Pilot Subscriptions below*]<br><br>  **Total Management Fees......................$0**[+]<br><br>[+][*Total Management Fee is exclusive of any service capacity overage fees and any Renewal Fees that may be payable pursuant to the Platform Terms and Conditions*]. |
| **Initial Service Term:** 2 year(s) |
| **Additional Comments:** *Customer subscriptions do not include any Management-only licenses, but do include 14 Management licenses which are part of the Pilot Subscriptions outlined below.* |

**Flight Control License Subscriptions:**

| |
|---|
| **Pilot Subscriptions: 12 (includes Flight Control User Subscription and Management SaaS Offering Subscription per Pilot user)** |
| **Flight Control Subscription: 12 (Flight Control User Subscription)** |
| **Flight Control Subscriptions (named Users within organization):**<br> 2-year Subscription (10)................................$29,200    Payable on Execution of Order<br>**Flight Control Subscriptions (unnamed Users/"Floaters"):**<br> 2-year Subscription (2)..................................$7,200    Payable on Execution of Order<br><br>  **Total Pilot/Flight Control Fees ............$36,400**[+]<br><br>[+]*[Total Pilot/Flight Control Fee is exclusive of any Renewal Fees that may be payable pursuant to the Platform Terms and Conditions].* |
| **Initial Subscription Term:** 2 years |
| **Additional Comments:** *Pilot Subscriptions include 10 Flight Control and Management license subscriptions for named users within Customer's organization, and additionally 2 Flight Control and Management licenses subscriptions for Customer to share on an as-needed basis with unnamed users within or outside Customer organization. All 12 users are subject to the Terms and Conditions set forth below at all times, regardless of affiliation with Customer.*<br><br>*Pilot Subscription unit prices for named users ($1,460/yr) and unnamed/Floater users ($1,800/yr) will remain valid for 1 year following Initial Subscription Term, and also will be in effect if Customer chooses to add additional license subscriptions during the Initial Subscription Term.* |

# DroneSense
dronesense.com

**Command Center Hardware Purchases and License Subscriptions:**

| Units Purchased: 2 |
|---|

| |
|---|
| **Command Center Hardware:**<br>   Purchase Price (2 units, one-time cost) ......... $5,000   Payable on Execution of Order<br>**Command Center Software:**<br>   2-year Subscription (2 units) ...................... $16,000   Payable on Execution of Order<br><br>      **Total Command Center Fees.............. $21,000**<sup>+</sup> |
| <sup>+</sup>[Total Command Center Fee is exclusive of any Renewal Fees that may be payable pursuant to the Platform Terms and Conditions]. |
| **Initial Subscription Term: 2 years** |
| **Additional Comments:** *Command Center Hardware acquisition cost ($2,500) will remain valid for 1 year following Initial Subscription Term, and also will be in effect if Customer chooses to add additional devices during the Initial Subscription Term so long as the features, design, and components remain the same as the Command Center Hardware are today. Otherwise, the cost will be subject to DroneSense's pricing at the time. Command Center Software license subscription cost per device ($4,000/yr) will remain valid for 1 year following Initial Subscription Term, and also will be in effect if Customer chooses to add additional license subscriptions during the Initial Subscription Term.* |

| **Total Cost: $57,400**   Payable on Execution of Order |
|---|

**Other Options and Services:**

| **Training and Support:** |
|---|
| <u>Training</u>: Includes initial training conducted online or over phone |
| <u>Technical Support</u>: Included with all subscriptions<sup>1</sup> |

| **Configuration:** |
|---|
| <u>Command Center Configuration</u>: Included |
| **Maintenance:** Included with all subscriptions |

| **Additional Fees:** |
|---|
|    Online Training ............................................. Included in annual subscription fees<br>   On-Site Training............................................ [Offered at an extra charge upon request]<br>   Support ......................................................... Included in annual subscription fees<br>   Configuration................................................. Included in annual subscription fees<br>   Maintenance .................................................. Included in annual subscription fees |

Customer's signature below constitutes the placement of an Order under and subject to the Platform Terms and Conditions available at dronesense.com and attached hereto ("**Terms**"), and includes and incorporates such Terms. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Terms. In the event of a conflict between the Terms and the terms of this Order, the Order shall control.

DroneSense, Inc. and Customer have caused their duly authorized representatives to execute this Order as of August 21, 2017.

| DroneSense: | Customer: |
|---|---|
| DroneSense, Inc. by: | Johnson County Emergency Management    8/28/17 |
| By: *Christopher Eyhorn* | By: *[signature]* |
| Name: Chris Eyhorn | Name: Honorable Roger Harmon |
| Title: CEO | Title: County Judge |

---

<sup>1</sup> Support and maintenance descriptions included in attached Terms.
*Confidential*

## PLATFORM TERMS & CONDITIONS

These PLATFORM TERMS & CONDITIONS ("**Terms**") and together with the Order Form(s) ("**Order(s)**") associated herewith, the "**Agreement**") set forth the terms and conditions pursuant to which DroneSense, Inc. ("**DroneSense**") shall provide the elements of its platform (including without limitation the Management SaaS Offering, Flight Control software, Command Center software and/or Command Center Hardware, each, a "**Platform Element**" and together, the "**Platform**") contemplated by the Order to Customer. Each Order is subject to these Terms & Conditions. Capitalized terms used herein but not defined herein have the meanings ascribed to them in the Order. In consideration of the mutual promises contained herein, the parties agree as follows:

### 1.    MANAGEMENT SAAS OFFERING SUBSCRIPTION

1.1. **Provision of Service; Users**. During the Term of any Subscription to the Management SaaS Offering and subject to the terms and conditions set forth herein, including without limitation Customer's payment of all of Fees due hereunder, DroneSense will use commercially reasonable efforts to provide Customer with access to its Management software-as-a-service offering (the "**Management SaaS Offering**") and make the Management SaaS Offering available to Customer's personnel ("**Users**"), in accordance with the parameters set forth in the Order. Users will be required to abide by the terms of this Agreement. Any breach by a User will be deemed to be a breach by Customer. Customer shall be solely responsible for managing and administering User accounts, including issuing user names and passwords, provided that DroneSense may terminate or suspend any User's access to the Management SaaS Offering for any breach without notice. Customer shall be solely responsible for the security and confidentiality of Customer's account information, including user names and passwords, and will ensure that no third party uses Customer's account. Customer shall immediately notify DroneSense in the event that Customer becomes aware of any unauthorized access to the Management SaaS Offering or any violation of the terms of this Agreement by Customer or any User.

1.2. **Hosting and Maintenance**. Customer acknowledges that DroneSense may host the Management SaaS Offering using its own infrastructure or it may engage a third party to host on its behalf. Updates may be provided at DroneSense's discretion at no additional charge, and DroneSense may, in its sole discretion, make any changes that it deems necessary or useful to maintain or enhance the quality or delivery of the Platform or to comply with applicable law. Scheduled system maintenance shall take place during a normal maintenance window, as reasonably determined by DroneSense. During such time, the Management SaaS Offering and its interaction with other Platform Elements may be unavailable. Emergency maintenance may be required at other times in the event of system failure.

### 2.    SOFTWARE LICENSE SUBSCRIPTIONS

2.1 **Limited License**. Subject to the terms and conditions of this Agreement (including without limitation payment of all amounts due and any restrictions or parameters set forth in this Agreement), Customer and its then-subscribed Users shall have a limited, non-exclusive, non-transferable, non-sublicenseable, royalty-free right and license (i) to access and internally use the Management SaaS Offering for its intended purpose during the term of any Management SaaS Offering subscription, (ii) to internally use the Flight Control software application in object code form on an iPad or other DroneSense-approved hardware for its intended purpose during the term of any Flight Control license subscription, (iii) to internally use the Command Center software application in object code form on the Command Center Hardware purchased hereunder for its intended purpose during the term of any Command Center license subscription and (iv) to access and internally use the hosted version of Command Center software for its intended purpose during the term of any Command Center Lite subscription. The Flight Control software application and the Command Center software application shall be collectively referred to herein as the "**DroneSense Software**."

### 3.    OTHER SERVICES

3.1. **Technical Support**. During the term of the applicable subscription, DroneSense will provide Customer with a reasonable amount of support regarding the Platform from 9am-4pm Central Time by phone at (512) 380-1050 or by email at hello@dronesense.com ("**Support Services**").

3.2. **Maintenance**. DroneSense will provide periodic updates and bug fixes for the DroneSense Software at its discretion during the term of the applicable subscription ("**Maintenance Services**"). Any such updates or fixes will be considered DroneSense Software. DroneSense does not warrant that all errors or defects can or need to be corrected. The exclusions from warranty coverage under Section 8.2 are also exclusions from Maintenance Services under this Section. There may be feature charges for update or enhancement releases of software or Management SaaS offerings.

3.3. **Training**. Initial online training for the Platform is available online and should be scheduled directly with DroneSense. DroneSense will provide on-site training if purchased by Customer in the applicable Order.

3.4. **Configuration Services**. DroneSense will provide online configuration support for Command Center Hardware upon Customer's request ("**Configuration Services**"). Configuration Services may include setting up Wi-Fi network name, setting up SIM card access, ensuring appropriate firewall configurations are selected, and configuring general settings. There may be additional charges for Configuration Service requests beyond those listed in this Section or requiring additional support from DroneSense.

### 4.    HARDWARE SPECIFIC TERMS

4.1. **Delivery**. DroneSense will provide estimated shipment dates for Command Center Hardware units upon acceptance of Customer's signed Order. Shipment dates are approximate only and DroneSense will not be subject to liability for late or delayed shipment. In the event Customer is unable to receive the units at the time of delivery, DroneSense, at its sole option and convenience, may deliver such units to storage at any suitable location

including DroneSense's facilities. All costs incurred by DroneSense for the transportation, storage, and insurance of such units shall be borne by Customer.

4.2. **Acceptance**. Customer shall examine all Command Center Hardware units promptly upon receipt thereof. Within ten (10) business days of such receipt, Customer shall notify DroneSense in writing of any manner in which Customer claims that the units fail to conform to their applicable specifications, or as to any claimed shortages, or shipments errors. If no written notification is received by DroneSense within such period, the units delivered hereunder shall be deemed accepted by Customer ("**Hardware Acceptance**"). Units will be deemed conforming if it meets DroneSense's published specifications, and any specifications identified on the applicable Order. Upon Hardware Acceptance, any Customer rights and remedies shall be addressed pursuant to the warranties, if any contained herein.

4.3. **Title and Transportation**. Command Center Hardware units are shipped Ex Works (Incoterms 2010) from DroneSense's designated shipping point. Title transfer and transfer of risk of loss or damage shall be deemed to occur upon DroneSense making such units available to the carrier at DroneSense's designated shipping point. DroneSense reserves the right to select the method and routing of transportation and the right to make delivery in installments unless otherwise specified at the time of quotation acceptance by DroneSense but in no event will the carrier be deemed the agent of DroneSense.

4.4. **Rescheduling and Cancellation**. Except in the event of unreasonable delays beyond the quoted delivery dates or an uncured default of a material term of this Agreement by DroneSense, Customer shall not have the right to change, cancel, or reschedule an accepted quotation in whole or in part without the prior consent of DroneSense. In the event Customer requests a rescheduling of any Hardware Product and such request is accepted by DroneSense, Customer agrees to promptly pay DroneSense's standard reschedule charge. DroneSense may not cancel a quotation after it has accepted Customer's signed submission thereof. Customer may not cancel an order after submission to DroneSense of a signed quotation. Any cancellations following such times will be at the non-cancelling party's sole discretion and upon terms dictated by the non-cancelling party.

5.    **CUSTOMER ACKNOWLEDGEMENTS AND RESPONSIBILITIES**

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

5.2. **Compliance with Applicable Law**. Customer and each User uses the Platform at its own initiative and is responsible for compliance with any applicable laws, including without limitation any federal, state or local employment and/or tax laws.  WITHOUT LIMITING THE FOREGOING, CUSTOMER IS SOLEY RESPONSIBLE FOR ANY AND ALL LAWS AND REGULATIONS PERTAINING TO THE OPERATION AND MAINTENCE OF ANY AIRCRAFT. DroneSense may also impose limits on the use or access to the Platform as required by law.

5.3. **Third Party Elements.** Customer acknowledges that one or more Platform Elements may contain data, software or components that are either owned by a third party or in the public domain ("**Third Party Elements**"). A listing of such Third Party Elements comprised by software will be made available upon written request. [NOTE: DS should update this language and provide the .txt files or link to an online list if required under open source license.] Customer's rights in the Third Party Elements comprised by software are governed by and subject to the terms and conditions set forth in the applicable third party license(s) also set forth therein. Customer acknowledges and agrees to fully comply with such terms and conditions. Customer further acknowledges that to the extent Third Party Elements are comprised of hardware, Customer's sole rights and remedies with respect thereto shall be as specified in any terms (including warranties and indemnities) that the manufacturer thereof permits or requires DroneSense to pass through to Customer. IN ADDITION TO ANY DISCLAIMERS SET FORTH IN SUCH TERMS AND CONDITIONS, TO THE FULLEST EXTENT PERMITTED UNDER LAW AND THE APPLICABLE THIRD PARTY LICENSES OR OTHER THIRD PART AGREEMENTS, THE DISCLAIMERS SET FORTH AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN SHALL APPLY TO DRONESENSE AND ITS LICENSORS WITH RESPECT TO SUCH THIRD PARTY ELEMENTS.

5.4. **Restrictions**. Customer may not rent, lease, lend, sell, redistribute, reproduce or sublicense any Platform Element, or use any Platform Element as a service bureau. Customer may not copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, create derivative works of any Platform Element, or any part thereof, or use any Platform Element in violation of any law or regulation. If for some reason these restrictions are prohibited by applicable law or by an agreement DroneSense has with one of its licensors, then the activities are permitted only to the extent necessary to comply with such law or license(s). Customer shall not exploit any Platform Element in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity. Customer will not exceed the storage limitations and comply with reasonable storage guidelines, each as established from time to time by DroneSense.  DroneSense reserves the right to limit Customer's storage of Content (defined in Section 6.3) if Customer exceeds reasonable amounts.  Customer will be solely responsible for the following: (i) providing all hardware, software, networking and communications capabilities, including any cellular data plans, storage devices, or SIM cards, required for use of the Platform; (ii) at all times using the Platform in accordance with the applicable documentation and any other written instructions provided by DroneSense; (iii) using the Platform in a manner that does not infringe the intellectual property, privacy or other rights of third parties, and (iv) ensuring that Customer and its Users do not upload or transmit viruses or malicious code via the Service.  No User shall share his/her user name or password with other individual within or outside of Customer's organization, without DroneSense's written approval.

6.    **INTELLECTUAL PROPERTY.**

6.1. **Reservation of Rights**. All intellectual property rights in and to the Platform (including the Management SaaS Offering, the Software and the Command Center Hardware) remain the sole property of DroneSense and/or its licensors. If Customer or any of its Users submits to DroneSense comments, suggestions, or other feedback regarding the Platform or any Platform Element ("**Feedback**"), Customer agrees that DroneSense will be free to use such Feedback for any purpose without accounting or obligation.

**6.2. Rights in Data**. As between DroneSense and Customer, Customer shall own all right, title, and interest in and to any data that is collected by DroneSense from Customer and its Users, and in connection with *their use* of the Platform ("**Data**"). Customer grants and agrees to grant to DroneSense a non-exclusive, transferable, sublicensable, royalty free license to use such Data in order to provide the applicable elements of the Platform to Customer and as necessary to monitor and improve the Platform. Additionally, Customer grants and agrees to grant to DroneSense a perpetual, non-exclusive, transferable, sublicensable, royalty free license to use the Data to collect, develop, create, extract or otherwise generate statistics and other information and to otherwise compile, synthesize and analyze such Data ("**Blind Data**"). Notwithstanding anything in this Agreement to the contrary, to the extent that DroneSense collects or generates Blind Data, such Blind Data will be owned solely by DroneSense and may be used for any lawful business purpose without a duty of accounting or obligation, *provided that such data is not personally identifiable and does not identify the source of such data.* It is Customer's sole responsibility to back-up its Data and Customer agrees and acknowledges that post termination or expiration of this Agreement, it may not have access to the Data.

**6.3. Rights in Content**. Customer and its Users are solely responsible for the content submitted to the Platform by Users, including without limitation text, images, videos, photos, other media, documents, manuals, sounds, links, works of authorship, materials, User comments, or User generated content ("**Content**"). Customer is, and shall remain, the owner and/or licensor of all such Users' Content or Content that Users produce. By displaying or publishing ("**posting**") Content on or through the Platform, Customer and its Users hereby grant to DroneSense the right to use, modify, perform, display, reproduce, prepare derivative works of and distribute the Content (in whole or in part) solely in connection with the provision of the Service to Customer and its Users, and Customer and its Users are solely responsible for the consequences of submitting and publishing the Content in conjunction with the Platform. DroneSense reserves the right to remove any Content uploaded to the Service at any time.

## 7. PAYMENT TERMS.

**7.1. Fees**. Applicable fees and pricing for Platform Elements are set forth on the Order. Subscription renewal pricing is specified in Section 12.2.

**7.2. Payment Terms.** Unless otherwise specified on an Order, Customer hereby agrees to pay DroneSense all Fees on or prior to the Order date or the applicable renewal date, by issuing a check to DroneSense, or using a credit card or other electronic payment method on file with Customer's account. If Customer pays via one of a third party payment vendor (e.g. Stripe or PayPal), Customer agrees to abide by such vendor's then-current terms of use and pay any associated processing fees separate from what appears in the Order. Except to the extent otherwise provided in the Order, all Fees are non-refundable and are payable in U.S. dollars. Any Fees remaining unpaid for more than thirty (30) days past their due date shall accrue interest at a rate of the lesser of one and one-half (1.5%) percent per month or the highest rate allowed by law. DroneSense may also (at its discretion and in addition to other remedies it may have) suspend any pending deliveries or services, and Customer's and its Users' access to any Platform Element if any invoice remains unpaid for more than 30 days.

**7.3. Taxes**. The Fees set forth on the Order do not include local, state or federal sales, use, value-added, excise or personal property or other similar taxes or duties, and any such taxes shall be assumed and paid by the Customer except those taxes based on the net income of DroneSense. DroneSense shall have no liability for any taxes owed by Customer or its Users as a result of such use of the Platform.

## 8. WARRANTIES AND DISCLAIMER.

**8.1. Mutual Warranties**. Each party represents and warrants that it has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude it from complying with the provisions hereof.

**8.2. Limited Hardware Warranty**. DroneSense warrants that during the warranty period, the Command Center Hardware purchased by Customer will be free from defects in materials and workmanship and will substantially conform to the performance specifications provided in writing to Customer for the Command Center Hardware applicable at the time of delivery. The warranty period for Command Center Hardware is one year after the shipping date. DroneSense will, at DroneSense's discretion, repair or replace any Command Center Hardware that does not comply with this warranty, at no additional charge to Customer. DroneSense may elect to conduct repairs at Customer's site, DroneSense's facility, or any other location specified by DroneSense. To request warranty service, Customer must contact DroneSense in writing within the warranty period. DroneSense may use new and reconditioned parts in performing warranty repairs and building replacement products. If DroneSense repairs or replaces Command Center Hardware, its warranty period is not extended and will terminate upon the end of the warranty period of the replaced or repaired Command Center Hardware. DroneSense owns all replaced Command Center Hardware and all parts removed from repaired products. Customer acknowledges and agrees that this warranty is contingent upon and subject to Customer's proper use of the Command Center Hardware and the exclusions set forth below. This warranty does not cover any Command Center Hardware that has had the original identification marks and/or numbers removed or altered in any manner. The remedies set forth in this Section are the full extent of Customer's remedies and DroneSense's obligations regarding this warranty. This warranty does not cover defects, errors or malfunctions that are caused by any external causes, including: (a) misuse, neglect or abuse of the Command Center Hardware, (b) modification of a Platform Element, (c) environmental factors (including, power failure, surges or electrical damage, corrosive elements, water damage), (d) force majeure, and (e) Customer negligence.

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

## 9. CONFIDENTIALITY.

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

9.2. **Exclusions.** Notwithstanding Subsection 9.1, nothing received by a receiving party shall be construed as Confidential Information which: (a) is now available or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality; (c) is known to the receiving party prior to such disclosure; or (d) is, at any time, developed by the receiving party independent of any such disclosure(s).

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

9.4. **Disclosure Required by Law.** Notwithstanding Subsection 9.3 above, a receiving party may disclose the other party's Confidential Information if the information is required by law to be disclosed in response to a valid order of a court of competent jurisdiction or authorized government agency, or a request made pursuant to the Texas Public Information Act, provided that the receiving party must give the disclosing party prompt written notice and obtain or allow for a reasonable effort by the disclosing party to obtain a protective order prior to disclosure.

## 10. LIMITATION OF LIABILITY AND REMEDIES.

10.1. **NO LIABILITY FOR THIRD PARTIES.** DRONESENSE SHALL HAVE NO LIABILITY OR OBLIGATION WITH RESPECT TO THIRD-PARTY ELEMENTS OR THE ACTIONS OR OMISSIONS OF THIRD PARTY FULFILLMENT VENDORS. CUSTOMER'S SOLE REMEDIES WITH RESPECT THERETO SHALL BE BETWEEN CUSTOMER AND THE APPLICABLE THIRD-PARTY PROVIDER OR THIRD-PARTY FULFILLMENT VENDOR, AS APPLICABLE.

10.2. **DISCLAIMER OF DAMAGES.** EXCEPT FOR LIABILITIES RESULTING FROM A BREACH OF SECTIONS 5 ("CUSTOMER ACKNOWLEDGEMENTS AND RESPONSIBILITIES") OR 9 ("CONFIDENTIALITY"), IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOSSES OR EXPENSES (INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION, LOST BUSINESS, LOST PROFITS, OR LOST SAVINGS) EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

10.3. **MAXIMUM LIABILITY.** EXCEPT FOR LIABILITIES RESULTING FROM A BREACH OF SECTIONS 5 ("CUSTOMER ACKNOWLEDGEMENTS AND RESPONSIBILITIES"), 7 ("PAYMENT"), 9 ("CONFIDENTIALITY") OR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 11, IN NO EVENT SHALL EITHER PARTY'S LIABILITY HEREUNDER (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE) IN THE AGGREGATE EXCEED THE FEES RECEIVED BY DRONESENSE HEREUNDER.

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

## 11. INDEMNIFICATION.

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

11.2. **By Customer.** Customer shall, subject to the limitations of the Texas constitution and the Texas Tort Claims Act, defend DroneSense from and against any claim, demand, or action in any form brought by a third party against DroneSense, and indemnify and hold DroneSense harmless from any damages, liabilities, losses, costs, and expenses, including reasonable attorneys' and experts' fees, in each case that are finally awarded to the third party by a court of competent jurisdiction or otherwise owed in any settlement, in each case to the extent arising from or related to: (a) unauthorized, negligent or illegal use of the Platform, or any hardware used in conjunction with the Platform, such as, but not limited to, unmanned aerial systems ("Customer Hardware"), by Customer or any User; (b) any Content or Data provided by Customer or a User, or (c) personal injury, property damage or loss of life caused by Customer Hardware.

11.3. **Rights Upon Infringement.** If Customer's use of the Service is, or in DroneSense's opinion is likely to be, enjoined due to the type of infringement specified in Subsection 11.1 above, DroneSense may, at its sole option and expense: (a) procure for Customer the right to continue using the same

under the terms of this Agreement; (b) replace or modify the same so that it is non-infringing; or (c) if options (a) and (b) above cannot be accomplished despite DroneSense's reasonable efforts, then DroneSense may terminate Customer's rights and DroneSense's obligations hereunder with respect to the applicable Platform Element(s) and refund a pro rated portion of any pre-paid Fees paid therefor, based upon Customer's use to date.

11.4. **Conditions Precedent**. The indemnifying party will have no obligation under this Section as to any claim, suit, or proceeding unless: (a) the indemnified party promptly notifies the indemnifying party in writing of such claim, suit, or proceeding; (b) the indemnifying party has sole control of its defense and settlement; and (c) the indemnified party, upon request of the indemnifying party, cooperates in all reasonable respects, at the indemnifying party's cost and expense, with the indemnifying party and such attorneys in the investigation, trial and defense of such lawsuit or action and any appeal arising therefrom; provided, however, that the indemnifying party keeps the indemnified party informed of and consults with the indemnified party in connection with the progress of such litigation or settlement; and (c) the indemnified party may choose to participate in the defense or settlement of the claim at its own expense.

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

## 12.    TERM AND TERMINATION.

12.1. **Term**. This Agreement will commence on the Effective Date and unless terminated as set forth herein, will continue for so long as a Subscription or Command Center Hardware Order is still in effect hereunder.

12.2. **Subscription Renewals and Renewal Pricing**. Unless one party notifies the other of its intention not to renew not less than sixty (60) days prior to the applicable anniversary of the Effective Date, each Management SaaS Offering Subscription, Flight Control License Subscription and/or Command Center License Subscription issued hereunder (collectively, "**Subscriptions**") shall automatically renew for successive periods of one (1) year following the Initial Term specified on the applicable Order at the rate specified in the Order, or if none is specified, at DroneSense's then-current pricing. The Initial Term and any renewal Term shall be the "**Term**" of the applicable Subscription.

12.3. **Additional Users/Subscriptions.** Customer may add Subscriptions at any time during the Term by submitting an additional Order, such additional subscriptions to run coterminous with the applicable Subscription Term. Upon acceptance of such Order by DroneSense, Customer will pay for the applicable fees for such Subscriptions at the prices then in effect under this Agreement on a pro-rata basis based upon the time remaining in the current Subscription term. Such additional Subscriptions will renew at the end of such Subscription term in accordance with Section 12.2.

12.4. **Termination**. In the event that a party is in breach of the terms of this Agreement applicable to a given Subscription or Order and does not cure such breach within thirty (30) days following notice thereof, then the other party may immediately suspend performance (including delivery and/or access to the applicable Platform Element, in the case of Drone Sense) or terminate the applicable Order and/or Subscription by sending written notice to the breaching party. Unless otherwise expressly specified as applying only to a given Order or Subscription, Customer's obligations under this Agreement shall apply to any and all Subscriptions and Orders issued hereunder and an uncured breach thereof shall entitle DroneSense to terminate any and all other Subscriptions, Orders and/or this Agreement.

12.5. **Effect of Expiration or Termination**. Sections 7 (with respect to amounts accrued or payable prior to termination), and 5.3, 5.4, 6, 7, 8.3 and 9-13 shall survive any expiration or termination of this Agreement. All other rights and obligations shall cease and be of no further force or effect.

## 13.    GENERAL.

13.1. **Publicity**. At a mutually agreed upon time, the parties agree to issue a joint press release to announce their relationship, provided that neither party may issue such press releases relating to this Agreement without the prior written approval of the other. During the term, either party may include the name and logo of the other party in lists of customers or vendors and on its website, in accordance with the other party's standard trademark usage guidelines (if any). Customer will act as a reference for DroneSense, except in situations in which the third party is a direct competitor of Customer.

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

13.3. **Governing Law and Jurisdiction**. The Agreement will be governed by and construed in accordance with the laws of the State of Texas applicable to agreements entered into, and to be performed entirely, within Texas between Texas residents. Any legal action or proceeding arising under the Agreement will be brought exclusively in the federal or state courts applicable to Johnson County, Texas, and the parties hereby consent to personal jurisdiction and venue therein. The parties expressly agree to exclude the application of the U.N. Convention on Contracts for the International Sale of Goods (1980) to this Agreement and the performance of the parties contemplated herein, to the extent that such convention might otherwise be applicable.

13.4. **Relationship of Parties**. The parties are independent contractors and the Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent. DroneSense reserves the right to utilize subcontractors.

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

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

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

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

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

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

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

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

13.13. **Notices.** All notices required or permitted under the Agreement will be in writing and delivered by confirmed facsimile transmission, by courier or overnight delivery service, or by certified mail, and in each instance will be deemed given upon receipt. All communications will be sent to the addresses set forth below or in the Order or to such other address as may be specified by either party to the other in accordance with this Section.