

**Daupler Software
Pilot License Agreement**

Please read this agreement ("Agreement") carefully before using the Daupler web-based Incident Response Management System ("Daupler IRMS") located at www.daupler.com (the "Website"). By accessing or using the Website or the Daupler IRMS, you agree to be bound by this Agreement and all of its terms without change. This agreement is between Daupler Inc. ("Daupler"), you the user, Cheney, WA. ("Client"), and, if you are using Daupler IRMS on behalf of a company or organization, such company or organization will also be considered a party to this Agreement and "Client". You represent that you have the authority to bind your company to this Agreement.

1. Daupler IRMS.

- a. License. Subject to Client's compliance with all of the terms and conditions of this Agreement, Daupler (i) will use commercially reasonable efforts to provide the Daupler IRMS service to Client and (ii) hereby grants Client a non-exclusive, non-transferable, non-sublicensable right and license to access the Daupler IRMS in accordance with any documentation published on the Website. The Daupler IRMS will be delivered using Daupler's proprietary software, processes, user interfaces, know-how, techniques, designs, ideas, concepts, and other tangible or intangible technical material or information "Daupler Technology").
- b. User Support. Daupler will provide error correction, workarounds, and new releases in accordance with its normal practices.
- c. Additional Services. To the extent applicable and utilized, Daupler will provide consulting, integration or other professional services in accordance with a separate statement of work executed by authorized representatives of the parties.

In addition to the Services set forth herein, during the term of this Contract, Contractor, by and through third party answering service ("Daupler Answering Services"), which is hereby acknowledged by the parties hereto, will provide Client live telephone answering services to provide a mechanism for customers of Client with the ability to have contact with professional staff outside of normal business hours of Client (such telephone answering services include, Daupler Answering Services (a) answering all incoming calls on a designated phone line from calls that are forwarded from Client, 24 hours a day, 7 days a week, including all hours on weekends and holidays, or such other scheduled times mutually agreed upon by the parties hereto (the "Service Call Hours"); (b) obtaining the name of the caller, the phone number for the caller, and the message; and (c) notifying Client.

2. Payment of Fees.

- a. Client shall pay Daupler annual subscription fees ("Subscription Fees") as specified herein:

<u>Item</u>	<u>Annual Fee</u>
Daupler IRMS – Cheney, WA Pilot License	\$4,800
Daupler IRMS – Daupler Answering Services	(included)
Total	\$4,800

Client shall pay the annual subscription fees within 30 days of receipt of the invoice for the annual subscription.

- b. Daupler may suspend Client's access to the Daupler IRMS if Client is more than 20 business days late on a payment. Client shall pay a late fee on any amount that is not paid when due that shall be calculated at an interest rate of 1.5% per month on any such outstanding balance, or the maximum permitted by law, whichever is less, from the date due, plus all expenses of collection.
- c. Client will be billed, and payments will be made, in U.S. dollars. All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities. Client shall be responsible for payment of all such taxes, levies, or duties, excluding only taxes based solely on Daupler's net income.

3. Term and Termination.

- a. This Agreement is effective upon first access to or use of the Daupler IRMS and shall continue for a period of one (1) years thereafter. This Agreement will automatically renew for an additional one (1) year period unless either party provides the other party with written notice of its intent not to renew within 30 days of the end of the then current

term. On an annual basis, at least thirty (30) days prior to the expiration of the then-applicable term of this Agreement, the parties shall meet to discuss, in good faith, the Subscription Fees and Additional Compensation for answering services, which may be increased based upon industry standards and practices.

- b. Either party may terminate this Agreement upon 30 days notice if the other party breaches any material term of these Terms and fails to cure such breach within 30 business days after notice of such breach. Material breach by the Client includes any breach of Client's payment obligations or unauthorized use by Client of the Daupler Technology or Daupler IRMS.
- c. Upon termination of this Agreement for any reason, any amounts owed to Daupler under this Agreement before such termination or expiration will be immediately due and payable, all licensed rights granted will immediately cease to exist, and Client must promptly discontinue all use of the Daupler Technology and erase all copies of the Daupler Technology. Client shall be liable to pay Daupler for services performed as of the effective date of termination, but shall not be liable to Daupler for anticipated profits.

4. Permitted Uses, Restrictions, and Ownership.

- a. Client is solely responsible for (i) providing and maintaining the hardware and software necessary to access and use the Daupler IRMS and (ii) making available such personnel and information as may be reasonably required, and taking such other actions as Daupler may reasonably request to provide the Daupler IRMS.
- b. Client shall not (and shall not permit others to) (i) modify or interfere with the Daupler IRMS or the Daupler Technology; (ii) reverse engineer, decompile, or attempt to discover the source code of the Daupler IRMS, or the Daupler Technology; or (iii) resell or otherwise use the Daupler IRMS for timesharing or service bureau purposes or for any purpose other than its own internal non-commercial purposes unless expressly agreed in advance in writing.
- c. As between the parties, Daupler alone (and its licensors, where applicable) own all right, title, and interest, in and to the Daupler IRMS, Daupler Technology, or any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client or any other party relating to the Daupler IRMS, which are hereby assigned to Daupler. Client represents and warrants that Client owns or has the right to use all customer data used by the Daupler IRMS ("Client Data") and that the use of the Client Data in connection with the Daupler IRMS does not violate any third party rights.
- d. Client acknowledges and agrees that its and its Authorized User's use of the Daupler IRMS, the Website, or the Daupler Technology may require that Client or its Authorized Users submit certain data pertaining to Client, its Authorized Users, and/or Client's other customer or clients ("Client Data"), including certain personally identifiable information. Client hereby grants to Daupler and its affiliates the non-exclusive, perpetual, irrevocable, transferable, assignable, sub licensable, royalty-free, fully paid up, worldwide right and license to receive, collect, process, use, copy, modify, create derivative works from, enhance, improve, distribute, sell, offer to sell, promote, market, import, export, display, perform, and otherwise use the Client Data, in raw or aggregated or any other form, for commercial or non-commercial purposes, in any media whether now known or hereafter discovered, with no obligation or accounting of any kind to Client, its Authorized Users, or any other person or entity. Subject to the foregoing license, Daupler acknowledges and agrees that, as between the parties, Client otherwise owns all right, title, and interest in and to the Client Data.
- e. Client represents, warrants, and covenants to Daupler that: (i) Client owns or otherwise has and will have the necessary rights and consents in and relating to the Client Data so that, as received by Daupler and processed and used by Daupler as permitted in this Agreement, the Client Data (or processing and use thereof) does not and will not (1) infringe, misappropriate, or otherwise violate any Intellectual Property Rights of a third party, (2) violate any privacy or other rights of any third party, or (3) violate any applicable law, rule, or regulation; (ii) the Client Data and the processing and use thereof by Daupler, as permitted in this Agreement, complies with all applicable terms and conditions, such as those contained in Client's privacy policies, governing the collection, use, and disclosure of such data; (iii) the Client Data does not contain, transmit, or activate any virus, malware, harmful code, or other malicious code; and (iv) the Client Data does not contain any information or materials designed to bypass or breach any security device or protections used by the Daupler IRMS, the Website, or the Daupler Technology.
- f. Except as expressly set forth herein, Daupler alone (and its licensors, where applicable) will retain all intellectual property rights relating to the Daupler IRMS and Daupler Technology or any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client or any other party relating to the Daupler IRMS, which are hereby assigned to Daupler. Client will not copy, distribute, reproduce, or use any of the foregoing except as expressly permitted under this Agreement. All rights not expressly granted to Client are reserved by Daupler and its licensors.

5. Confidentiality.

- a. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's technology or business ("Confidential Information" of the Disclosing Party).
- b. The Receiving Party agrees: (i) not to divulge to any third person any such Confidential Information, (ii) to give access to such Confidential Information solely to those employees with a need to have access thereto for purposes of this Agreement, and (iii) to take the same security precautions to protect against disclosure or unauthorized use of such Confidential Information that the party takes with its own proprietary information, but in no event will a party apply less than reasonable precautions to protect such Confidential Information. The Disclosing Party agrees that the foregoing will not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public without any action by, or involvement of, the Receiving Party, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order.
- c. Daupler acknowledges that, subject to the exceptions listed in this Section 5, Client Data is Client's Confidential Information. Client acknowledges that Daupler does not wish to receive any Confidential Information from Client that is not necessary for Daupler to perform its obligations under this Agreement and will limit its disclosures accordingly.

6. Indemnification.

- a. Daupler shall indemnify and hold Client and its officers, directors, employees, attorneys, and agents ("Indemnitees") harmless from and against any and all costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) each to the extent paid to an unaffiliated third party to the extent arising out of or in connection with such third-party's claim alleging that the Daupler Technology directly infringes a U.S. copyright. Notwithstanding the foregoing, Daupler will have no obligation with respect to any infringement claim based upon any modification of the Daupler Technology by Client or any use of the Daupler Technology (i) not in accordance with the Documentation; or (ii) in combination with other products, equipment, software, or data not supplied by Daupler.
- b. Client shall indemnify, defend and hold Daupler, its licensors and each such party's Indemnitees harmless from and against any and all costs, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and costs) each to the extent paid to an unaffiliated third party arising from or in connection with such third-party's claims, demands, or allegations (i) that Client violated the terms and conditions of Daupler IRMS or these Terms (ii) arising from or relating to the use of the Daupler IRMS or the results thereof, except claims covered by Daupler's indemnity in Section 6a above. Client's obligation to indemnify, defend and hold Daupler, its licensors and each party's Indemnitees harmless under this Section 6 is subject to the provisions and limitations of the Kansas Tort Claims Act K.S.A. 75-6101 et seq., and amendments thereto.
- c. As a condition to a party's indemnification obligations hereunder, the other party shall give the indemnifying party sole control of the defense and settlement of the claim, prompt notice of a claim, and, at the indemnifying party's expense and request, all available information and reasonable assistance in relation to such defense and settlement efforts. Neither party may compromise or settle a third-party claim that adversely affects the other party without the other party's prior written consent, which consent shall not be unreasonably withheld.

7. **Warranties and Warranty Disclaimer.** Daupler represents and warrants that the Daupler IRMS will be provided in a professional and workmanlike manner. In the event Daupler breaches such warranty, Client may, as its sole remedy, request that Daupler promptly correct any such failure of Daupler IRMS at no additional charge. Except as otherwise provided herein, Daupler provides the Daupler IRMS to Client without warranties, express or implied. Daupler and its licensors do not represent or warrant that (a) the use of the Daupler IRMS will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system, or data, (b) the Daupler IRMS will meet requirements or expectations, (c) any results or stored Client Data will be accurate or reliable, (d) errors or defects will be corrected, (e) the Daupler IRMS or the server(s) that make the Daupler IRMS available are free of viruses or other harmful components; (f) the Daupler IRMS or results will meet any regulatory approvals or requirements. All conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights, are hereby disclaimed to the maximum extent permitted by applicable law by Daupler and its licensors.

8. **Limitation of Liability.** In no event shall Daupler's aggregate liability arising from or relating to this agreement exceed the amounts actually paid by and payable by Client in the twelve (12) month period immediately preceding the event giving rise to such liability. Except for a party's obligations arising under Section 6 or a party's breach of its obligations under Section 5, in no event shall either party and/or its licensors be liable to anyone for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind other than as a result of Daupler's negligence, gross negligence or willful misconduct (including direct or indirect damages for loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with this agreement, including but not limited to the use or inability to use the Daupler IRMS, or for any content obtained from or through the Daupler IRMS, any interruption, inaccuracy, error or omission in the content, even if the party from which damages are being sought or such party's licensors have been previously advised of the possibility of such damages.
9. **Force Majeure.** Neither Party will be liable to the other Party for any default (other than failure to pay money) hereunder, for so long as such default is caused by an event beyond such Parties control, including, without limitation, acts or failures to act of the other Party; strikes, labor or civil disputes; component shortages; unavailability of transportation; fires, war, governmental requirements; and acts of God. In the event of threatened or actual nonperformance as a result of any of the above causes, the non-performing Party will exercise commercially reasonable efforts to avoid and cure such nonperformance.
10. **Miscellaneous.** Either party may assign or transfer these Terms in connection with a sale of substantially all of the business to which this agreement relates without the other party's prior written consent. Except as expressly provided for in this Section, neither party may assign these Terms. This Agreement shall be governed by Delaware law. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form) shall add to or vary the terms and conditions of these Terms. If any provision of these Terms is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. During the Daupler IRMS Term, Client authorizes Daupler to identify Client as a Daupler customer on Daupler's website and in Daupler's marketing materials. The failure of either party to enforce any right or provision in these Terms shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. Any modification or amendment of these Terms shall be in writing signed by the parties. This Agreement, together with any applicable exhibits, comprises the entire agreement between Client and Daupler regarding the subject matter contained herein and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding such subject matter. The following Sections shall survive any expiration or termination of these Terms: Section 2 "Payment of Fees", Section 4 subparts (b)-(d) "Permitted Uses, Restrictions, and Ownership", Section 5 "Confidentiality", Section 6 "Indemnification", Section 7 "Warranties and Warranty Disclaimer", Section 8 "Limitation of Liability" and Section 10 "Miscellaneous."

The undersigned has executed this agreement on the date set forth below.

Daupler, Inc.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Cheney, WA

Signature: _____

Printed Name: _____

Title: _____

Date: _____