

TERMS AND CONDITIONS ADDENDUM

An Agreement was made by and between Williamson County EMS ("WCEMS"), whose address is 303 Martin Luther King Street, Georgetown, Texas 78626 and Pediatric Emergency Standards, Inc. ("PES"), whose address is 11870 State Road 85, Suite C5, Davie, Florida 33325 on the ____ day of _____, 20____ (hereinafter referred to as "original stated agreement") set forth below.

WHEREAS, the parties wish to modify the terms of the original stated agreement as set forth herein. NOW THEREFORE, in consideration of the mutual promises herein, the parties, intending to be legally bound, hereby agree that the following constitutes the terms and conditions of the stated contract.

1. **Contract Term:** PES shall provide the goods and/or services describe herein for an initial term of twelve (12) months, beginning from date of award by Commissioners Court and ending twelve (12) consecutive months following.
2. **Contract Extensions:** At the end of the current fiscal year, the Commissioners Court reserves the right to extend this contract, by mutual agreement of both parties, as it deems to be in the best interest of the County. This extension will be in twelve (12) months increments for up to an additional twenty-four (24) months, with the terms and conditions remaining the same unless if requested by PES and approved be the Commissioners Court, a price escalation at renewal time is awarded of no more than the consumer price index, All urban consumers (CPI-U), US City Average, all items, as published by the United States department of Labor, Bureau of Labor Statistics. The yearly increase in the CPI shall be the latest index published one hundred and eighty (180) days prior to the end of the contract year. The total period of this contract, including all extension will not exceed a maximum combined period of thirty-six (36) months. The extension of this contract is contingent on the appropriation of necessary funds by Commissioners Court for the fiscal year in question. Upon the failure of Commissioners Court to so appropriate in any year, PES may elect to terminate this agreement, with no additional liability to the County. The County and PES agree that termination shall be PES' sole remedy under this circumstance.
3. **Economic Adjustment:** To the extent applicable to this contract, PES may submit a request for a contract pricing adjustment for approval by the County if the PES can show just cause substantiating an adjustment. The requested adjustment must be for goods and/or services and in no way represent an increase in PES' profits, labor or other overhead. PES' request must include evidence in the form of a certified statement or affidavit from the supplier or manufacturer detailing the price adjustment, the effective date for the adjustment, and any other information requested by the Purchasing Department to verify the adjustment.

Addendum
WCEMS____ PES AA

An adjustment request will not become effective until after approval of the Williamson County Commissioners Court. Until then, the original contract pricing will remain unchanged. If an issue regarding an adjustment request is not resolved, the Purchasing Department reserves the right to seek competition from other sources.

4. PES Risk: Any goods or services delivered by PES at a not agreed upon price are done so at PES' risk.
5. Pricing: Pricing must remain firm for the first three (3) months of the initial contract period. A minimum period of three (3) months must elapse between adjustment requests.
6. No Waiver of Sovereign Immunity or Powers: Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of user, the Williamson County Commissioners Court, or the Williamson County Judge.
7. Termination for Convenience: This agreement may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving ninety (90) days written notice thereof. In the event of termination, The County will only be liable for its pro rata share of services rendered and goods actually received.
8. Texas Prompt Payment Act Compliance: Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date user receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by user in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of user's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.
9. Mediation: The parties agree to use mediation for dispute resolution prior to and formal legal action being taken on this Contract. However, in the event that either party is required to file suit seeking injunctive relief or other suit in advance of expiration of statute of limitations, then suit shall be filed, and, except as it relates to any cause of action seeking injunctive relief or other cause of action where immediate relief must be pursued, the suit shall be stayed pending completion of mediation.
10. Venue and Governing Law: Venue of this contract shall be Williamson County, Texas, and the law of the State of Texas shall govern.

11. Right to Audit: PES agrees that user or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of PES which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. PES agrees that user shall have access during normal working hours to all necessary PES facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. User shall give PES reasonable advance notice of intended audits.
12. Indemnification Clause: To the extent authorized under Texas law, User shall indemnify, defend and hold harmless, PES and its employees, agents, principals, officers, representatives, successors and assigns (the "PES Indemnitees") from and against any and all claims, damages, costs, expenses or losses (including, without limitation, reasonable attorneys' fees) arising from or relating to any actions or inactions of User and its employees, agents, principals, officers, representatives, successors, and assigns (the "PES Indemnitors") regarding the Materials. User is also responsible for the accuracy of all information in the Materials and for updating same on a continual basis.
13. Annual Renewal: Services customer has selected shall begin upon commencement of software activation. Annual renewal fees for services are invoiced annually 30 days in advance of term expiration. THE ACCOUNT WILL AUTOMATICALLY RENEW FOR SUCCESSIVE RENEWAL TERMS OF ONE YEAR, UNLESS ONE PARTY GIVES THE OTHER PARTY WRITTEN NOTICE THAT THE AGREEMENT WILL NOT RENEW, AT LEAST THIRTY (30) DAYS PRIOR TO THE END OF THE CURRENT TERM.

The parties reaffirm no other terms and conditions of the above mentioned original contract not hereby otherwise modified or amended shall be negated or changed as a result of this state addendum.

Executed this 24 day of May 2017
by Pediatric Emergency Standards, Inc.

By: Allison Antevy

Print Name: Allison Antevy

Title: President & CEO

Executed this 27 day of May 2017
May 2017 by Williamson County EMS

By: Valerie Covey

Print Name: Valerie Covey

Title: Commissioner Pet 3



Quote

Company Address 11870 State Rd 84 Suite C5
Davie, FL 33325
Phone (866) 867-3192
Fax (954) 653-3792

Expiration Date 6/2/2017
Quote Number 00002015
FEIN 27-1385234

Account Name Williamson County EMS
Account # 100275

Quote Name Mobile Only

Bill To Name Williamson County EMS
Bill To PO BOX 873
Georgetown, TX 78627

Ship To Name Williamson County EMS

Product Code	Product	Product Description	Quantity	Sales Price	Total Price
YR1-E	Handtevy System Start-Up	Medication Management Software Access Clinical Team Consultation & Support Handtevy Mobile One Year Access iOS, Android, Windows Online Documentation Tool Fax/Email Function Archive Function Integration with ePCR capability	1.00	\$3,590.00	\$3,590.00

Subtotal \$3,590.00

Tax \$0.00

Shipping and Handling \$0.00

Grand Total \$3,590.00

***Shipping & Handling will be added to final Invoice

TO PLACE AN ORDER, PLEASE EMAIL OR FAX A COPY OF THE QUOTE AND PURCHASE ORDER TO:
CUSTOMERSERVICE@HANDTEVY.COM OR FAX 954-653-3792

Pediatric Emergency Standards, Inc. ("PES") requires written verification of this order. A Purchase Order is also required for all orders above \$5,000 before applicable freight and taxes. The undersigned has read the terms and conditions and is authorized to accept this order in accordance with the terms and prices denoted herein.

11870 State Rd 84 Suite C5 Davie, FL 33325

Taxes, shipping and handling fees are estimates only and are subject to change at the time of order. Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the items listed. Customer may provide Pediatric Emergency Standards, Inc. with a tax exemption certificate acceptable to the taxing authorities.

Shipping and handling applies to ground transport only.

Items or services listed at no charge are included as part of a package discount that involves the purchase of all items quoted. Buyer is solely responsible for appropriately allocating the discount extended on the bundle when fulfilling any reporting obligations.

Annual Renewal Payment Terms

Services customer has selected shall begin upon commencement of software activation. Annual renewal fees for services are invoiced annually 30 days in advance of term expiration. **YOUR ACCOUNT WILL AUTOMATICALLY RENEW FOR SUCCESSIVE RENEWAL TERMS OF ONE YEAR, UNLESS ONE PARTY GIVES THE OTHER PARTY WRITTEN NOTICE THAT THE AGREEMENT WILL NOT RENEW, AT LEAST THIRTY (30) DAYS PRIOR TO THE END OF THE CURRENT TERM.**

PES may evaluate customer's usage and adjust customer's invoice based on changes in customer usage. PES shall have the option to increase pricing, except during the Initial Term, as long as it provides at least sixty (60) days' notice of such increase to Customer prior to automatic renewal.

Annual Support \$295.00
Cost

Handtevy Mobile \$1,995.00
Annual Cost

Valerie Covey

(AUTHORIZED SIGNATURE)

Commissioner Pet 3

Title

Valerie Covey

Name

6/27/17

Date

GENERAL TERMS AND CONDITIONS

PEDIATRIC EMERGENCY STANDARDS, INC. ("PES") offers to sell the Materials (as defined below) to "User" on these "Terms." User's assent to these Terms (i.e., through written acknowledgment or placement of an order with PES) constitutes acceptance hereof and a contract between PES and User.

Any deviation from these Terms shall not be binding unless acknowledged and agreed upon in writing by an authorized PES representative. PES will furnish the "Handtevy Materials" or "Materials" in accordance with the Terms. The Terms override and take precedence over language, if any, in User's purchase order or similar document. User's acceptance and/or use of the Materials constitutes its assent to these Terms. These Terms constitute the complete agreement between PES and User, and may only be revised or amended by a written agreement signed by an authorized PES representative.

Terms used shall have the meanings prescribed herein. Hereinafter, PES and User may be referred to individually as a "Party," or collectively as the "Parties." For purposes of these Terms, the term "User" means the purchaser of the Materials and its officers, directors, employees, agents, representatives and contractors.

PES MEDICAL DISCLOSURES

PES does not make clinical or medical decisions, and User's use of the Materials is not a substitute for the hiring and employment by User of competent, properly trained and knowledgeable staff that bring professional judgment and analysis to User's use of the Materials. It is User's sole responsibility to exercise independent medical knowledge and judgment in providing the care needed for each patient. The Materials are: (i) based on established industry standards or nationally recognized guidelines for the treatment of children in the emergency medical context; (ii) based on the experience of reputable thought-leader institutions; and/or (iii) supported by peer-reviewed clinical literature; AND (iv) are not sourced from or funded by pharmaceutical or other companies with a commercial interest in the content and/or protocols; AND (v) will be continuously updated by PES if established industry standards and nationally recognized guidelines evolve. PES has merely assembled the Materials from third party sources. In so doing, PES has exercised reasonable due diligence and professional judgment in evaluating and selecting the Materials for inclusion. Notwithstanding, User and its employees and contractors must make clinical and medical decisions on a case-by-case basis, and the Materials should only be used as a guide. **PLEASE BE SURE TO UTILIZE THE MATERIALS IN ACCORDANCE WITH ANY OTHER INSTRUCTIONS PROVIDED BY USER'S MEDICAL STAFF, AS THE MATERIALS ARE SIMPLY GENERAL GUIDELINES.**

Furthermore, the age of a child may be used to determine a child's weight ONLY in children of average size. **PLEASE NOTE** that a length-based tape **SHOULD** be used on children of short or tall stature or those with chronic illnesses.

THE INFORMATION IN THE MATERIALS IS CUSTOMIZED FOR USER'S USE BASED ON INSTRUCTIONS PROVIDED BY USER. IT IS THE RESPONSIBILITY OF USER TO ENSURE THE ACCURACY OF ALL DRUG CONCENTRATIONS, DRUG DOSAGES AND EQUIPMENT SIZES ON A CONTINUAL BASIS. PES RECOMMENDS THE PROMPT REVISION AND UPDATING OF THE MATERIALS WHEN USER'S MEDICAL STAFF MAKES MODIFICATIONS TO ITS GUIDELINES AND PROTOCOLS. FOR THAT REASON, PLEASE REVIEW USERS' GUIDELINES AND PROTOCOLS REGULARLY FOR UPDATES.

PAYMENTS; INVOICES

Unless otherwise specified, all PES fees and costs will be due and payable on the invoice due date, which will be thirty (30) days from the invoice date. Fees for the Initial Term shall be due on the Effective Date; Fees for Renewal Terms shall be invoiced and payable annually in advance.

PES may charge User interest at a rate of one and one-half (1.5%) percent per month once an unpaid invoice is thirty (30) days past due. User's payment will not waive or extend any obligation of User to make ongoing payments, when due.

PES may suspend User's access to and use of the Materials if it fails to timely remit payment or is otherwise in material default hereunder. Any notices of default/termination and suspension may be combined.

DELIVERY

Delivery dates are not guaranteed. In the absence of shipping instructions from User, PES will obtain shipping rates on the User's behalf and for User's account. Delivery shall be FOB PES, point of shipment, and title and risk of loss shall pass to the User once the Materials are delivered to User's point of shipment. PES will not be liable for any loss or damage of any kind due to delays in delivery or non-delivery resulting from any cause including, but not limited to, acts of God, labor disputes, governmental authority or edict, war, civil unrest, terrorist acts, delays in manufacture, failure of User to obtain any required license or permit, or the inability of PES to obtain goods from its usual sources. Any such delay shall not be considered a breach of any obligation by PES or User, and the delivery dates shall be extended for the length of such delay.

CANCELLATION / CHANGE

User's purchase orders may not be cancelled, changed, suspended or deferred, without the express, written consent of PES. User agrees to indemnify PES from and against any loss due to cancellation of User's purchase orders including, without limitation, all costs related to efforts of PES to mitigate its damages.

TERM

The "Initial Term" shall commence on the "Effective Date" and expire on the twelve (12) month anniversary thereof. For purposes of clarity, the Effective Date shall be the date of User's purchase order. These Terms shall automatically renew for additional one (1) year periods (i.e., a "Renewal Term"), unless PES or User provides written notice of non-renewal at least sixty (60) days prior to expiration of the then-current term. Hereinafter, the Initial Term and each Renewal Term shall collectively be referred to as the "Term."

Upon renewal, PES may increase fees up to the greater of CPI or five (5%) percent. For purposes of clarity, "CPI" means a percentage equal to the percentage increase, if any, in the Consumer Price Index, all items, all urban consumers, U.S. city average (1982-84 = 100), published by the Bureau of Labor Statistics of the United States Department of Labor and most recently reported as of the first day of such twelve month period over the CPI reported twelve (12) months earlier. In the event the CPI

shall be converted to a base year other than 1982-84, or otherwise be revised or discontinued, the determination of the CPI shall be made using a generally accepted conversion/substitution factor (selected by GEHC) that reasonably approximates the CPI as above described.

TERMINATION FOR CAUSE

Throughout the Term, either Party may terminate this agreement for cause, upon written notice to the breaching Party, for the following reasons: (a) a payment default that is not cured within sixty (60) days of the invoice due date; or (b) a material, non-monetary default that is not cured within sixty (60) days following receipt of written notice describing such default. Upon a termination under this Paragraph for non-payment, PES may seek remedies for all sums owed for the remainder of the then current Term. User shall return all Materials to PES within thirty (30) days of the termination date.

DESIGN CHANGES

Except as otherwise agreed expressly in writing, PES may, at any time, furnish improvements to a product's design and/or construction. PES may also furnish suitable substitutes for materials that are unobtainable because of priorities or regulations established by governmental authorities or the non-availability of products from suppliers.

INTERNET USAGE

USER CANNOT CONTROL THE FLOW OF DATA TO OR FROM ITS NETWORK AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICE PROVIDERS OR THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES MAY IMPAIR OR DISRUPT USER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). FOR THIS REASON, PES URGES THAT THE USER AND ITS MEDICAL PERSONNEL MAINTAIN HARD COPIES OF THE PES MATERIALS, OR MAINTAIN OTHER BACKUP OPTIONS IN THE FIELD AT ALL TIMES, IN THE EVENT THAT ACCESS TO ELECTRONIC VERSIONS OF THE PES MATERIALS IS INTERRUPTED OR UNAVAILABLE. ACCORDINGLY, PES DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS. EXCEPT FOR THE WARRANTIES SPECIFICALLY AND EXPRESSLY MADE HEREIN, PES MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR WARRANTIES OF FITNESS, AND ALL SUCH WARRANTIES ARE DISCLAIMED.

CONFIDENTIALITY

Neither PES nor User will use the other's Confidential Information, except as permitted in these Terms. Neither User nor PES will disclose the Confidential Information of the other to any third party, except those of its employees and subcontractors as are reasonably required in connection with performance of the Terms, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein. The foregoing obligations will not restrict either Party from disclosing the other's Confidential Information: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body, or as may be required by any law or regulation, provided that the Party required to make such a disclosure gives reasonable notice to the other Party to enable it to contest such order or requirement; or (ii) on a confidential basis to its legal or professional financial advisors. For purposes of clarity, the term "**Confidential Information**" means: (i) any non-public information of PES including, without limitation, information regarding the Materials; information relating to current and planned products and services of PES and its technology, techniques, knowhow, research, engineering, designs, finances, accounts, procurement requirements, manufacturing, customer lists, business forecasts and marketing plans; (ii) patient information obtained by User; (iii) any other information of a Party that is disclosed in writing and is conspicuously designated as "Confidential" at the time of disclosure or that is disclosed orally, is identified as "Confidential" at the time of disclosure; and (iv) these Terms. Notwithstanding the foregoing, Confidential Information shall not include information that: (i) is or becomes generally known or available by publication, commercial use or otherwise through no fault of the receiving party; (ii) was in the receiving party's possession at the time of disclosure without violation of any confidentiality restriction and without any restriction on the receiving party's further use or disclosure; or (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information.

USER INDEMNITY

User shall indemnify, defend and hold harmless, PES and its employees, agents, principals, officers, representatives, successors and assigns (the "**PES Indemnitees**") from and against any and all claims, damages, costs, expenses or losses including, without limitation, reasonable attorneys' fees arising from or relating to any actions or inactions of User and its employees, agents, principals, officers, representatives, successors, and assigns (the "**PES Indemnitors**") regarding the Materials. User is also responsible for the accuracy of all information in the Materials and for updating same on a continual basis.

Upon request, User shall return all Confidential Information and copies thereof to PES when requested (i.e., in hard copy and electronic format).

INTELLECTUAL PROPERTY INDEMNIFICATION

Nothing herein is intended to grant rights or interests to User under any patent, trademark, trade secret, copyright or other intellectual property of PES relating to the Materials. If PES manufactures an item to specifications furnished by User, User shall indemnify and hold PES harmless from and against any and all losses, damages, settlements or expenses (including legal expenses) incurred, resulting from or arising out of any claims that the Materials as designed, used, modified or adopted for use by User, infringe upon, misappropriate or violate any patents, copyrights, trademarks, trade secrets or proprietary rights of any persons, firms or entities whatsoever.

INSPECTIONS AND RETURNS

Claims by User for damage to or shortages of the Materials must be made within thirty(30) days from the date that the Materials are delivered to User at FOB PES, point of shipment. Payment to PES is not contingent upon immediate correction of any deficiencies, and the prior approval of PES is required before the return of any goods to PES. PES reserves the right to charge a restocking fee for returns.

WARRANTY

PES warrants that the Materials will perform in accordance with their documentation and instructions manual. The remedies provided herein shall be the User's sole and exclusive remedies. PES MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, PES DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE.

MARKETING/PROMOTIONAL ACTIVITY

PES may reference User and use approved logo on PES website as well as in promotional/collateral including but not limited to press releases, case studies, customer spotlights, speaking & award submissions, white papers and other similar items. PES may also reference User with the press/analyst community.

GOVERNMENT REGULATIONS

User agrees that it shall comply with all applicable import, export and anti-corruption statutes and regulations of the United States in connection with the manufacture, sale and distribution of the Materials including, without limitation, the Foreign Corrupt Practices Act. User agrees to indemnify and hold harmless PES from all claims, demands, damages, costs, fines, penalties, attorneys' fees and all other expenses arising from User's failure to comply with this provision and/or applicable laws, rules and/or regulations governing its use of the Materials.

LIMITATION OF LIABILITY

EXCEPT FOR BREACH OF CONFIDENTIALITY AND THE USER'S INDEMNIFICATION OBLIGATIONS HEREUNDER, NEITHER PARTY WILL BE LIABLE OR OBLIGATED FOR ANY SUBJECT MATTER OF THIS AGREEMENT OR UNDER ANY CONTRACT, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH DAMAGES WHATSOEVER, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA OR USE. IN ADDITION, EXCEPT WITH RESPECT TO A BREACH OF CONFIDENTIALITY AND THE USER'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY'S LIABILITY EXCEED THE FEES PAID BY USER TO PES DURING THE TWELVE (12) MONTH PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.

LIMITATION OF ACTION; PREVAILING LAW; VENUE; JURY WAIVER

Except for claims arising from User's non-payment or underpayment of amounts owed to PES, any and all claims arising out of or related to these Terms shall be barred, unless instituted in a Court of competent jurisdiction within one (1) year from the earlier of the date that the complaining party knew or should have known of the facts giving rise to such a claim, or the applicable Florida statute of limitations, whichever is shorter. PES AND USER IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, WHETHER AT LAW OR IN EQUITY, ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS OR ANY GOODS OR SERVICES GOVERNED BY OR RELATING TO THESE TERMS AND CONDITIONS. The rights and obligations of PES and the User related to the purchase and sale of products and services described in these Terms shall be governed by the laws of the State of Florida, United States of America. The Parties hereby agree and submit to the jurisdiction of the state and Federal courts of competent jurisdiction in Broward County, Florida. PES and the User agree to mediate any dispute regarding these Terms and the Materials prior to commencing a lawsuit against the other, unless the lawsuit includes a request for injunctive relief based on irreparable harm. The mediation shall be conducted under the commercial mediation rules of the American Arbitration Association ("AAA"). The mediator shall be appointed jointly by User and PES and, in the absence of their agreement, by the AAA. The mediation shall be conducted within thirty (30) days of the request. The costs of the mediator/mediation shall be shared equally by User and PES. A mediation shall be required to be held if requested by only one of the Parties hereto. If a dispute cannot be resolved through mediation, the matter may proceed to litigation, the prevailing party in any litigation shall be entitled to recover reasonable costs and attorneys' fees.

SEVERABILITY

If any of the Terms are held to be void or unenforceable, they shall be replaced with a valid provision that best embodies the intent of the Parties regarding the matter at issue.

OWNERSHIP

User agrees that the Materials will not be reshipped or resold to any person or entity. The Materials are only for use by the User. User also agrees that its acquisition of the Materials does not constitute its purchase or acquisition of any of PES' patents, copyrights, trademarks, software, applications, documentation, tooling, drawings, design information, computer programming or other intellectual property rights related to the Materials or otherwise.

LIMITED RIGHTS

User's use of the Materials is provided on a limited, non-exclusive, non-transferable basis during the Term. Except as authorized by PES in writing, User will NOT: (i) access or use the Materials to provide any products or services to third parties; (ii) access or use the Materials, except through the Terms hereof; (iii) resell, sublicense, lease, encumber, copy, distribute, publish, exhibit, transmit, provide access to, or provide use of the Materials, nor use or allow them to be used in any public system, public electronic bulletin board, multiple computer or user arrangement or network that includes access by any third party; (iv) derive specifications from, reverse engineer, reverse compile, disassemble, translate, record or create derivative works based on the Materials; or (v) use the Materials or any part or aspect thereof, for any unlawful purpose or to mislead or harass anyone. Use of or access to the Materials in violation of the terms hereof is strictly prohibited. Permission to access or use the Materials may be limited or suspended immediately if, in PES' discretion, this Section has been violated. User agrees that a violation of this Section will cause PES irreparable and immediate harm, and that PES is entitled to injunctive relief to prevent such violation.

NOTICE

Unless otherwise agreed by the Parties, all notices shall be deemed effective when received and made in writing by either (i) overnight mail through a nationally recognized, overnight delivery service; (ii) hand delivery; or (iii) email, with a return receipt or acknowledgement of receipt. Notices shall be provided to the following addresses for PES, unless a written request to change the address is provided by one Party to the other. Notices to User shall include the address set forth in the most recent purchase order or correspondence from User.

If to PES:

Allison Antevy
President & CEO
Pediatric Emergency Standards, Inc.
Office (954) 944-1114, ext. 1001
Direct (954) 707-2529
Fax (954) 653-3792
Email: Allison@Handtevy.com