

# FIRST WATCH®

Every Record. In Real Time. Automatically.

0719/17

Jeremy Moore  
Fire Chief  
Broken Arrow Fire Department  
101 North 6<sup>th</sup> Street  
Broken Arrow, OK 74012

Dear Chief Moore,

We are pleased and honored that you have chosen to deploy the FirstWatch® Early Event Detection System at the Broken Arrow Fire Department. You are joining a growing number of communities, large and small, who recognize the value of real-time syndromic surveillance, situational awareness, operational analysis and alerting ability found in FirstWatch.

Please accept the following documents; starting with a short 3-page license agreement along with other documentation to assist with the acquisition and installation of your FirstWatch System.

- **Software License Agreement:**
- **Schedule A:** Project Services, pricing, payment schedule, contact information and technical specification
- **Schedule B:** HIPAA Business Associate Compliance. This is our standard agreement which we offer for your consideration, however if your agency uses it's own standard HIPAA agreement we would gladly consider it as a replacement to this version
- **Schedule C:** Acceptance Test Plan. This document can be used to validate the FirstWatch system is operating to specifications

Please review these documents and feel free to contact FirstWatch if you have any questions or comments.

Best Regards,

*Jay Bechelli*

Jay Bechelli  
Project Manager  
760.943.9123 x206  
jbechelli@FirstWatch.net

[www.FirstWatch.net](http://www.FirstWatch.net)

1930 Palomar Point Way, Suite 101 • Carlsbad, CA 92008 • Phone 760.943.9123 • Fax 760-942-8329



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## FIRSTWATCH SOLUTIONS, INC. SOFTWARE LICENSE AGREEMENT

1. *Parties; Effective Date.* This Software License Agreement ("Agreement") is between FirstWatch Solutions, Inc., 1930 Palomar Point Way., Suite 101, Encinitas, California 92008 ("FirstWatch") and the undersigned software user ("Client"). This Agreement is effective on the date last signed ("Effective Date").

2. *Purpose of Agreement.* FirstWatch is a provider of data monitoring and biosurveillance software and related services to organizations and agencies in the fields of public health and public safety. Client desires a license to use the FirstWatch software identified on Schedule A ("Software") according to the terms of this Agreement.

3. *Grant of License.* FirstWatch grants Client a license to load and execute the Software on a computer located at the Site identified on Schedule A for use by its employees and staff in connection with its syndromic surveillance system. Client may make backup and archival copies of the Software.

4. *License Term; Maintenance Services.* The term of the Software license is perpetual. However, Client shall be entitled to Software updates, upgrades, enhancements, new versions, bug fixes, other improvements to the Software and access to the FirstWatch Subscriber Site, and to technical assistance relating to the Software, for the term(s) described in Schedule A of this Software License Agreement and with payment in full for the maintenance portion of the agreement. The term of Software Maintenance and Support commences upon the date of Software Acceptance.

5. *FirstWatch Intellectual Property Rights.* The license is nontransferable and nonassignable without the prior, written permission of FirstWatch. Client may not modify, enhance, or create derivative works, decompile, disassemble, or reverse engineer the Software, or make copies other than as authorized in Section 3. All rights not licensed are reserved to FirstWatch and no rights may be implied. FirstWatch retains all intellectual property rights in the Software, and Client agrees to implement software protection measures designed to prevent unauthorized use and copying of the Software.

6. *Delivery, Installation, and Testing.* Client is responsible for acquiring all hardware, equipment, and other software; for preparing the site (including physical and electrical requirements); for properly configuring the computing environment on which the Software will reside, and for installing the Software in accordance

with Schedule A and any other requirements provided by FirstWatch in writing. Client shall test the Software within ten (10) days after FirstWatch has enabled Client's access to the Software.

7. *Acceptance.* The Software is Accepted upon the earlier of when (a) Client determines that the Software performs in accordance with the criteria set forth in the Acceptance Test Plan ("ATP"), set forth in Schedule C, or (b) the Software has been installed for thirty (30) days and Client has not advised FirstWatch that the Software fails to materially conform to the ATP. If the Software does not so perform for reasons inherent in the Software (and not, for example, third party hardware, software, equipment, or system configuration), FirstWatch will promptly replace the Software with materially conforming Software. Client shall test the revised Software and, unless the parties agree otherwise, Client may either (1) Accept the Software as conforming, (2) Accept the Software AS IS, or (3) reject the Software. If Client rejects the Software it shall delete the Software from its computing system, shall certify in writing such deletion, and FirstWatch shall refund all Software license fees paid by Client. Client shall have thirty (30) days after initial delivery to finally Accept or reject the Software. The foregoing is the sole remedy available in the event of nonconforming Software.

8. *Client Satisfaction.* FirstWatch desires that Client is fully satisfied with the Software and Services. If, within ninety (90) days after acceptance, for any reason, Client is not satisfied with the Software, Client may elect to return the Software and receive a full refund of all Software license fees paid to FirstWatch.

9. *Fees and Payments.* Client shall pay all fees according to the terms of Schedule A, and to pay a late fee of one and a half percent (1.5%) interest per month on all overdue amounts for any fees due and payable under the Agreement. Client shall pay for all travel-related expenses (e.g., ground transportation, accommodations, food) incurred by FirstWatch at the request of Client and approved by Client in writing, for Software-related services such as on-site installation, training, customization, integration, support, and maintenance. Such additional services will be pursuant to a separate written agreement. Client is responsible for payment of all sales and/or use taxes arising out of its use of the Software.

10. *Limited Warranties; Exclusions.*

FirstWatch warrants that during the Acceptance testing period, and while Client is receiving covered Maintenance Services per section 4 of this Agreement, the Software will perform in substantial conformance with the ATP, provided that the Software has been used as specified by FirstWatch. FirstWatch will use its best efforts to correct any material nonconformance within ten (10) business days after receipt of written notice of such nonconformance and Client's provision of any data, output, or other documentation or description of the nonconformance.

The limited software warranty applies only to Software used in accordance with the Agreement and does not apply if the Software media or Software code has been subject to accident, misuse, or modification by a party other than FirstWatch or as authorized by FirstWatch.

FirstWatch does not warrant that the functions contained in the Software will meet Client's specific needs, industry requirements, be error-free, or operate without interruption. The remedies in this Section 10 are the sole and exclusive remedies provided by FirstWatch relating to the Software.

THESE LIMITED WARRANTIES ARE IN LIEU OF, AND CLIENT HEREBY WAIVES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

11. *Limitation of Liability.* Neither party shall be liable for indirect, incidental, consequential, special, punitive or exemplary damages, or for lost profits or business interruption losses, in connection with the Software or this Agreement, regardless of whether it has been made aware of their possibility. Other than amounts due to a party pursuant to Sections 9 or 13, or the breach of Sections 4, 5, or 14, in no event shall either party be liable to the other, under any theory of recovery, including contract, negligence, strict liability, warranty or products liability, in an amount in excess of the amount Client paid to FirstWatch for products and services. Any claims relating to this Agreement shall be brought within two (2) years after the occurrence of the event giving rise to the cause of action.

12. *Termination.* Either party may terminate this Agreement if there is a material breach by either party that is not cured within thirty (30) days after receipt of written notice of such breach. Upon termination of this Agreement, Client shall promptly discontinue using the Software and return to FirstWatch, or certify in writing, the destruction of all Software, Documentation, and FirstWatch training materials.

13. *Indemnification.*

FirstWatch agrees to defend, and hereby indemnifies, Client, from all damages, losses, fees, and expenses awarded by a court of competent jurisdiction, or reached through a settlement, arising out of Client's use of the Software or Documentation when such claim is based upon a third party claim that the Software infringes a U.S. patent, trademark, copyright or trade

secret; provided that (a) Client promptly notifies FirstWatch in writing of such claim; (b) FirstWatch has sole control over the investigation, litigation and negotiation of such claim; (c) Client is current in its payments and in compliance with its obligations under this Agreement; and (d) Client reasonably cooperate, at the expense of FirstWatch, in the defense or settlement of such claim. This indemnification applies only to the Software delivered by FirstWatch and shall not apply if the Software has been modified by party other than FirstWatch, or if the Software has been combined with (or used in connection with) other products and used as a part of an infringing process or method which, but for the combination, would not infringe the intellectual property rights of such third party.

If the Software becomes, or in the opinion of FirstWatch is likely to become, the subject of such a claim, then FirstWatch may either (a) procure (at its expense) Client's right to continue using the Software, or (b) replace or modify the Software to avoid the claim of infringement. If neither of the foregoing alternatives is reasonably available to FirstWatch, then FirstWatch may terminate this licensee and refund to Client the license fees paid for the Software on a straight line three-year depreciation basis. This states the entire liability of FirstWatch with respect to third party claims of intellectual property infringement.

14. *Confidentiality.*

FirstWatch and Client may have access to information that the other considers to be confidential, private, or a trade secret. This information may include, but is not limited to, patient or other data, the Software, technical know-how, technical specifications, software code, manners of conducting business and operations, strategic business plans, systems, results of testing, financial information, and third-party information ("Information").

Each party shall use the other's Information only to perform its obligations under, and for the purposes of, the Agreement. Neither party shall use the Information of the other for the benefit of a third party. Each party shall maintain the confidentiality of all Information in the same manner in which it protects its own information of like kind, but in no event shall either party take less than reasonable precautions to prevent the unauthorized disclosure or use of the Information.

Upon termination of the Agreement, or upon a party's request, each party shall return to the other all Information of the other in its possession. All provisions of the Agreement relating to confidentiality, ownership, and limitations of liability shall survive the termination of the Agreement.

15. *Ownership of Data.* The parties acknowledge and agree that all Client data ("Data"), is and shall remain the exclusive property of Client. FirstWatch acknowledges that in performing its obligations under the Agreement it may have access to Client networks and Data. FirstWatch will use and access such Data

only as necessary for the purpose of providing the services and supporting the Software as agreed.

16. *HIPAA.* With respect to any protected health information ("PHI") and to the extent FirstWatch is subject to the provisions of the Health Insurance Portability and Accountability Act as a Business Associate, FirstWatch shall (a) not use or disclose PHI other than as permitted or required by any agreement between FirstWatch and Client, or as required by law, (b) use appropriate safeguards to prevent use or disclosure of the PHI, (c) report to Client any unauthorized use or disclosure of the PHI of which it becomes aware, (d) ensure that any agent or subcontractor that accesses PHI in order to assist FirstWatch in providing the Services will be bound by the provisions of this Section, (e) reasonably cooperate with Client to make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI available to a governmental agency in the event a governmental agency requests such information, (f) document all its disclosures of PHI and information related to such disclosures, and notify Client of such disclosures, (g) return or destroy all PHI upon termination of the Services under this Agreement. If the parties enter into a separate agreement regarding the use of protected health information, the terms of that separate agreement shall take precedence and control over the terms of this Section 16.

17. *Cooperative Purchasing.* If agreed to by Client and FirstWatch, another public body may utilize this contract. FirstWatch shall deal directly with any public body authorized to use the contract. Client, its officials and staff are not responsible for placement of orders, invoicing, payments, contractual disputes, or any other transactions between FirstWatch and any other public bodies, and in no event shall Client, its officials or staff be responsible for any costs, damages or injury resulting to any party from use of a Client Contract. Client assumes no responsibility for any notification of the availability of the contract for use by other public bodies, but FirstWatch may conduct such notification.

18. *General.*  
All required communications shall be in writing and addressed to the recipient party at its address set forth in this Agreement, addressed to the person who signed the Agreement on behalf of such party, or to such address and person as may be designated by such party in writing. All communications are deemed given when hand-delivered; or if mailed, by registered mail with verification of receipt, upon date of mailing; or if by electronic mail or facsimile, when received (with verification of transmission sent promptly to the receiving party along with a hard copy of the communication).

Any part of the Agreement held to be invalid or unenforceable, shall be revised so as to make it valid and enforceable, consistent with the intent of the parties expressed in that provision. All other


provisions of the Agreement will remain in full force and effect. The remedies accorded FirstWatch are cumulative and in addition to those provided by law.

The Agreement, all Schedules (A-C), and any amendments thereto constitute the entire understanding of the parties with respect to the subject matter of the Agreement and replaces all prior and contemporaneous written and oral communications, promises, or understandings. The Agreement shall be governed by the laws of the State of Oklahoma and may be amended only by a writing signed on behalf of both parties. Electronic mail shall not be deemed to constitute a signed writing for purposes of this modification provision unless expressly identified as an amendment. No waiver of any right or remedy will be effective unless given in writing and signed on behalf of the party making such waiver. No purchase order or other administrative document will amend the Agreement unless signed by an representative of both parties and identified as an amendment to the Agreement, even if accepted by the receiving party without objection.

The Parties may not assign any rights or delegate any duties under the Agreement without the prior, written consent of the other Party, which will not be unreasonably withheld, and any attempt to do so without consent will be void. However, no consent shall be required in the case of a Party's transfer of all or substantially all of its business or assets by merger, asset sale, or other similar transaction. The Agreement is binding upon the parties' successors and permitted assigns.


**AGREED AND ACCEPTED:**

FirstWatch Solutions, Inc.

Date: 7/25/17  
By:   
Name: Todd Stout, President

Client Name and Address: The City of Broken Arrow  
Broken Arrow Fire Department 220 S. 1<sup>st</sup> Pl.  
101 North 6<sup>th</sup> Street  
Broken Arrow, OK 74012 Broken Arrow, Ok 74012

Date: \_\_\_\_\_  
By: \_\_\_\_\_  
Name: Jeremy Moore  
Title: Fire Chief

**APPROVED AS TO FORM:**  
  
**ASSISTANT CITY ATTORNEY**



## **Schedule A: Project Services, Pricing & Payment Schedule, Contact Information & Technical Specifications**

### **Project Services:**

- Single license of FirstWatch Thin-Client (Remote Data Gathering) Software installed on Licensee's dedicated FirstWatch PC/Server
  - All data integration with Broken Arrows' SunGard THE Computer-Aided Dispatch (CAD) System integrated via:
    - Connectivity to a data source via ODBC or similar means;
    - or Text or XML **file** output for each incident from a Licensee-provided process (one or more files for each incident) that provides files on the dedicated FirstWatch PC/Server;
    - or client provided web services interface allowing FirstWatch to securely access, query and receive necessary data via a non-dedicated internet connection. Client provided web services interface will include the ability to encrypt and decrypt data and options to query live and historical data.
  - Data Shuttle, remote connectivity and other software and processes on Licensee's dedicated FirstWatch PC which work together to reliably and securely transmit data to the FirstWatch Data Center, and allow for remote support, using Licensee-provided, always-on Internet connectivity.
  - Linking of data sources requires, at a minimum, a unique key that exists within each data source in a useable format.
- Modify centrally located FirstWatch server-based processes, software and database as necessary to receive Licensee's data, import into FirstWatch database, and monitor for statistically-significant increases in volume or geographic clusters of calls which meet user-defined criteria.
- Provide up to fifty (50) Licensee-specific user login(s) and password(s) to allow up to fifty (50) simultaneous users on the FirstWatch subscriber Internet site. (Access by additional users may be purchased, and access via FirstWatch to other, 3<sup>rd</sup>-party services or tools, may be licensed separately.)
- Provide the ability for the Licensee to define all system included and client purchased "trigger sets" for monitoring by FirstWatch.
- Provide the ability for the Licensee to define up to fifty (50) alert recipients for each trigger, via a combination of email, text messaging, fax, or compatible paging system.
- Provide a default "All Events" trigger with monitoring and alerts to demonstrate complete functionality of system.

**Pricing and Payment Schedule:**

Broken Arrow Fire Department FirstWatch Pricing				
Line #	Description	Qty.	Unit	Extended
1	Base System License* (DS1-SunGard HTE CAD)	1	\$14,329	\$14,329
2	Annual Support & Maintenance* (DS1)	1	\$3,152	\$3,152
3	Data Source Integration (DS1)	1	\$7,500	\$7,500
4	Installation / Configuration	1	\$2,500	\$2,500
5	Training/Trigger Consultation/Project Mgmt.	1	\$6,500	\$6,500
6	System License* (DS2-ImageTrend ePCR)	1	\$10,031	\$10,031
7	Annual Support & Maintenance* (DS2)	1	\$2,207	\$2,207
8	Data Source Integration (DS2)	1	\$7,500	\$7,500
9	Standard FirstWatch Triggers (included)	20	Included	Included
10	Standard FirstWatch Triggers	10	\$400	\$4,000
11	Standard FirstWatch Triggers Annual Support & Maintenance	10	\$200	\$2,000
12	Performance Plus Module	1	\$2,500	\$2,500
13	Performance Plus Module Annual Support & Maintenance	1	\$550	\$550
14	FirstPass Module w/Protocol & Reporting Bundle (Requires ePCR data source)	1	\$30,000	\$30,000
15	FirstPass Module Annual Support & Maintenance	1	\$6,600	\$6,600
16	<b>Total Price</b>			<b>\$99,369</b>

\* License and Maintenance costs are for monitoring Client's EMS, FD, ePCR Calls. Assumptions based on 10,000 annual incidents, and include a 'buffer' of plus or minus ( $\pm$ ) 20% of the call volume.

Broken Arrow Fire Department FirstWatch Payment Schedule	
Project Initiation Payment: 50% >Invoiced for at Contract Execution	\$49,684.50
FirstWatch Base System (DS1) Installation Payment: 40% >Invoiced for at Base System Installation	\$39,747.60
FirstWatch Base System (DS1) Acceptance Payment: 10% >Invoiced for at Base System Acceptance (ATP)	\$9,936.90

Maintenance fees beyond the Term of this Agreement (1 Year) will recur and reflect then-current FirstWatch maintenance and support rates unless otherwise agreed on by both parties. Annual Support Fee increase is projected (for budget purposes) at 3% per year.

### **Switching Data Sources to a "LIVE" FirstPass Module: Timing and Financial Considerations**

At least a 90 day notice of a proposed data source change for the FirstWatch FirstPass Modules is *highly recommended* as it will allow both parties an opportunity to better prepare to be ready. Should less notice be given, FirstWatch will do its best to manage the required changes, but that may mean it may not be ready when needed.

#### **\*FirstPass Module**

When customer has FirstWatch FirstPass enhancement module LIVE and switches to new ePCR system; a FirstPass Re-Configuration Fee of up to \$12,000 will be required to modify and validate FirstPass protocol tests and automated queue-based processes and FirstPass reports against customers' new ePCR system data. This is in addition to a \$7,500 new Data Source Interface fee (for total of \$19,500).

**Contact Information:**

<b>Licenser Contact</b> <b>Tax I.D. No.</b> <b>05-0544884</b>	Todd Stout, President FirstWatch® 1930 Palomar Point Way, Suite 101 Carlsbad, California, 92008	Phone: 760-943-9123 Fax: 760-942-8329 Email: <a href="mailto:tstout@firstwatch.net">tstout@firstwatch.net</a>
<b>Licensee Contact</b>	Jeremy Moore Fire Chief Broken Arrow Fire Department 101 North 6 <sup>th</sup> Street Broken Arrow, OK 74012	Phone : 918.259.2400 x-6355 Email : <a href="mailto:JKMoore@brokenarrow.gov">JKMoore@brokenarrow.gov</a>



### FW Software/Hardware Requirements

<b>FirstWatch Hardware Requirements:</b>	
<b>Minimum</b> (only if using existing equipment)	<b>Preferred</b> (required/minimum if new equipment)
Dedicated PC or Virtual Machine used exclusively for FirstWatch purposes	Dedicated Server or Virtual Machine used exclusively for FirstWatch purposes
Pentium IV Compatible 2.0GHz or better as long as it meets the minimum requirements for installed OS	Core Duo 2.4GHz or better
1GB RAM or better	4GB RAM or better
250GB Hard Drive or larger (two partitions 20GB (OS), balance as data)	500GB Hard Drive or larger (two partitions 20GB (OS), balance as data)
10/100mb Ethernet Card	100mb / 1GB Ethernet Card
16/32bit color video, capable of displaying 1024 x 768 in "High" or "True" color	16/32bit color video, capable of displaying 1024 x 768 in "High" or "True" color
Keyboard / mouse / monitor or via KVM	Keyboard / mouse / monitor or via KVM
CD-R/CD R-RW drive or better	CD-RW/DVD drive or better
<b>FirstWatch Software Requirements:</b>	
<b>Minimum</b>	<b>Preferred</b>
Microsoft Windows 2003/2008/XP/Vista/7 Professional including all the latest updates and patches loaded	Microsoft Windows Server 2008 (64bit) Standard Edition including all the latest updates.
Complete (run all from my hard drive) installation of Microsoft Access 2007 or later including all the latest updates and patches loaded. If the database to be monitored is MS SQL Server, SQL Server Management Studio can be installed instead of MS Access.	Complete (run all from my hard drive) installation of Microsoft Access 2007 or later including all the latest updates and patches loaded. If the database to be monitored is MS SQL Server, SQL Server Management Studio can be installed instead of MS Access.
<b>Note:</b> If Priority Alert was purchased, preferred specifications are required.	<b>NOTE:</b> The FirstWatch Priority Alert Module Requires MS SQL Server 2008 R2 Express Edition download for free at: <a href="http://www.microsoft.com/express/database">http://www.microsoft.com/express/database</a>
ODBC driver or other licensed and approved connectivity to underlying database	ODBC driver or other licensed and approved connectivity to underlying database
Virus Protection Software of customer's choosing	Virus Protection Software of customer's choosing
WinZip or compatible software - Not Required if functionality included in Windows OS	WinZip or compatible software - Not Required if functionality included in Windows OS
Microsoft .NET Framework Version 3.5. (installed with local FirstWatch Thin Client Software)	Microsoft .NET Framework Version 3.5 (installed with local FirstWatch Thin Client Software)
Automated Time synchronization software or process of clients choosing. MS Windows OS feature is fine.	Automated Time synchronization software or process of clients choosing. MS Windows OS feature is fine.

**Connectivity / Firewall & Environment:**

Always-on high speed broadband Internet connectivity under customer specified and controlled security settings; Recommend static IP address with hardware firewall.

**Read-only Network access to database(s) being monitored (ODBC connection)**

**Outbound** access for **HTTP (port 80)** and **HTTPS (port 443)** with access to \*.firstwatch.net.

For agencies using FirstWatch provided WebEx Remote Access service for installation and support, it may be necessary to create an exception list for WebEx sites on the firewall or proxy to properly use WebEx services. In most cases, the IP Range that can be used to add an exception for the firewall or proxy is 64.68.96.0-64.68.127.255.

SMTP account and access through client controlled server (preferred, not required) or SMTP access to mail.stoutsolutions.com and mail.firstwatch.net. SMTP will be required for Priority Alerting Module if it was purchased.

**Local** (not network) server **administrator** account with access to specifications above.

To maximize system availability FirstWatch recommends remote-client hardware be located with other critical systems and when possible include UPS, back-up generator, monitored data circuit(s) and HVAC controlled secure environment.

**Support:****Minimum**

Allow FirstWatch access to the dedicated machine via WebEx Remote Access client services (or authorized substitute, including VPN). WebEx Remote Access client software provided with FirstWatch under maintenance and service agreement. If VPN or other connection requires additional hardware or software on client or support side, it will be the responsibility of the customer to supply it.

**Disclaimer:** Although FirstWatch requires a dedicated machine for our applications, some clients have requested running the FirstWatch applications on a server that is shared with other applications or in a virtual server environment. We have successfully deployed in a combination of these configurations and are willing to attempt an install in this environment if the client understands that there is risk involved. The risk is that if another process or application on the same machine renders the machine unresponsive, it could potentially stop the processing of the FirstWatch applications. Conversely the FirstWatch applications may affect the other applications. Therefore, if the client decides to move forward in this manner and results in ongoing problems with our application, we will respectfully request that our system be transferred to a dedicated machine for the purpose of running the FirstWatch applications. FirstWatch staff will be happy to assist the client with reconfiguring the FirstWatch system on a new machine.

**Schedule B:**

**FirstWatch Solutions, Inc.  
Business Associate Agreement  
Between FirstWatch Solutions, Inc. and Broken Arrow Fire Department**

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

**A. General Provisions**

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

**B. Obligations of Business Associate**

Business Associate will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information ("e-PHI") and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR

§164.410. Breaches of unsecured PHI shall be reported to Covered Entity without unreasonable delay but in no case later than 60 days after discovery of the breach;

4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information;
5. Make PHI in a designated record set available to Covered Entity and to an individual who has a right of access in a manner that satisfies Covered Entity's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by Covered Entity, or take other measures necessary to satisfy Covered Entity's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to Covered Entity or an individual who has a right to an accounting within 60 days and as necessary to satisfy Covered Entity's obligations under 45 CFR §164.528;
8. To the extent that Business Associate is to carry out any of Covered Entity's obligations under the HIPAA Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary of the Department of Health and Human Services for purposes of determining Business Associate's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if Covered Entity notifies Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR §164.522; and
11. If Covered Entity is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Business Associate agrees to assist Covered Entity in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of Covered Entity's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of Covered Entity agrees to implement

reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting Covered Entity of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to Covered Entity of any threat of identity theft as a result of the incident.

**C. Permitted Uses and Disclosures by Business Associate**

The specific uses and disclosures of PHI that may be made by Business Associate on behalf of Covered Entity include uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Business Associate has been engaged to perform on behalf of Covered Entity.

**D. Termination**

1. Covered Entity may terminate this Agreement if Covered Entity determines that Business Associate has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Business Associate shall return to Covered Entity or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

FirstWatch Solutions, Inc.

The City of  
Broken Arrow Fire Department

Signature: 

Signature: \_\_\_\_\_

Title: PRESIDENT

Title: \_\_\_\_\_

Date: 7-25-17

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

**APPROVED AS TO FORM:**



**ASSISTANT CITY ATTORNEY**

## Schedule C: Acceptance Test Plan

### Introduction

The purpose of the Acceptance Test Plan is to provide the customer with a tool to guide them through the verification process resulting in system acceptance. This document will walk through the most commonly used functionality of the product and provide an expected result for each "test" executed.

These tests assume that the data made available to FirstWatch contains the information necessary to provide the functionality to test. (An example would be if the underlying data available to FirstWatch does NOT contain patient destination for an ambulance call, then FirstWatch can not make it available for the user to view or test.

No.	Test	Expected Result	Pass = Y No Pass = N	Comments
1	Navigate to the FirstWatch Subscriber Site <a href="http://subscriber.firstwatch.net">subscriber.firstwatch.net</a>	FirstWatch Subscriber Site displays		
2	Enter a Username and Password provided to you by FirstWatch.	Successfully log into Status Page showing a quick-view of one or more triggers		
3	Launch your <i>All Calls Trigger</i>	New window opens showing the GraphIt Summary Page		
4	Check the Hide Min/Max Events box above the Actual Events Graph.	Shaded area (if present) along Actual Events line will disappear.		
5	Check the Hide Hourly Events box above the Actual Events Graph.	Bars along bottom axis will disappear		
6	Set Refresh Rate to 1 minute.	Page will reload every 1 minute. Prior to reloading a green "Reloading" bar will appear near the top left section of the page. Reset Refresh Rate to 20 minutes after page reloads so reloads do not interfere with ATP.		
7	Click <a href="#">View Alert Configuration</a> link from the top right of the page.	Separate windows displays criteria for which this trigger will alert, or "This trigger is currently not configured for any alerts."		
8	Click the <a href="#">Event List</a> link in the top of the page.	Page displays a line listing of events.		

9	Click a hyperlink field from one of the events in the line listing.	Page displays a drill-down of data related to incident/event selected.		
10	Click the <u>MapShot</u> link from the top of the page. MapShot link is only present for data sets that include geo-data.	Page displays a map with icons representing location of incidents/events. Thematic maps display shaded areas for data sets which include non-geo-specific data elements.		
11	Click the <u>Destination</u> link from the top of the page. (Only present for data sets which include patient transport destination data)	Page displays a line listing of events separated by transport destination.		
12	Click the <u>Analysis Tool</u> link from the top of the page.	Page displays interactive tool for retrospective analysis.		
13	Specify a Start Date/Time and Stop Date/Time of the last 7 to 10 days. (Default date range will include the last 7 days). Click GraphIt link.	After calculations are complete, trigger will display GraphIt summary for date/time range selected. (calculation time will increased as date/time range increases)		
14	Click <u>Event List</u> link	Page displays line listing of all events for date/time range selected.		
15	Click <u>MapShot</u> link	Page displays MapShot of all activity for date/time range selected.		
16	Click the <u>Go-Back to real-time</u> link.	Page returns to Event list view.		
17	Press the Log Out button on the top right corner of this trigger.	User will be logged out and redirected to FirstWatch Subscriber site.		
18	Press the Log Out button on the top right corner of the Trigger Status Page (1st page displayed after login)	User will be logged out and redirected to FirstWatch Subscriber site.		

Client Name	
Client Signature	
<b>Acceptance</b>	[ ]
<b>Conditional Acceptance</b>	[ ]
<b>Rejected</b>	[ ]
<b>If Conditional or Rejected please specify reason(s) in detail:</b>	

**When completed, please fax this form to FirstWatch at 760-942-8329.**

Atten: Phil Davis, Regional Manager (Ph Ext 267)

**Customer Information:**

Name: **Jeremy Moore, Fire Chief**  
 Organization: **Broken Arrow Fire Department**  
 Address: **1101 North 6th ST**  
 City, ST Zip: **Broken Arrow, OK 74012**  
 Phone: **918-259-2400 ext. 6355**  
 Email: **JKMoore@brokenarrowok.gov**

**Quote Information:**

Date: 7/19/2017  
 Expiration Date: 1/15/2018  
 Call Volume: 10,000  
 Population: 103,500

Qty	Description	Unit Price	Item Total
<b>FirstWatch System (FW) w/ Primary Data Source 1 (DS1) - SunGard HTE CAD</b>			
1	(DS1) System License	\$14,329	\$14,329
1	(DS1) Annual Support & Maintenance	\$3,152	\$3,152
1	(DS1) Data Source Integration	\$7,500	\$7,500
1	Installation / Configuration	\$2,500	\$2,500
1	Training / Trigger Consultation / Project Mgmt.	\$6,500	\$6,500
		<b>Sub-total</b>	<b>\$33,981</b>
<b>Data Source 2 (DS2) - ImageTrend ePCR</b>			
1	(DS2) System License	\$10,031	\$10,031
1	(DS2) Annual Support & Maintenance	\$2,207	\$2,207
1	(DS2) Data Source Integration	\$7,500	\$7,500
		<b>Sub-total</b>	<b>\$19,738</b>
<b>FirstWatch Triggers</b>			
20	Included Standard FirstWatch Triggers	Included	Included
10	Standard FirstWatch Triggers	\$400	\$4,000
10	Standard FirstWatch Triggers Annual Support & Maintenance	\$200	\$2,000
		<b>Sub-total</b>	<b>\$6,000</b>
<b>Performance Plus Module (PP)</b>			
1	Performance Plus Module	\$2,500	\$2,500
1	Performance Plus Annual Support & Maintenance	\$550	\$550
		<b>Sub-total</b>	<b>\$3,050</b>
<b>FirstPASS Module (FP)</b>			
1	FirstPASS Module w/Protocol & Reporting Bundle (Requires ePCR data source)	\$30,000	\$30,000
1	FirstPASS Annual Support & Maintenance	\$6,600	\$6,600
0	Additional FirstPass Add-on Agency	\$5,000	\$0
0	Additional FirstPass Add-on Agency Annual Support & Maintenance	\$1,100	\$0
0	Additional Custom Protocols (beyond the basic bundle)	\$1,500	\$0
0	Additional Custom Protocols Annual Support & Maintenance	\$330	\$0
0	Additional FirstPASS Report Development (hours - beyond the basic bundle offering)	\$150	\$0
0	Additional FirstPASS Reports Annual Support & Maintenance	\$33	\$0
		<b>Sub-total</b>	<b>\$36,600</b>
<b>Total of Items Above</b>			<b>\$99,369</b>

**FirstWatch offers the following payment option for your consideration**

**Payment of All Year One Fees**

<b>New System (Payment of All Year One Fees) - Total:</b>	<b>\$99,369</b>
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**Estimated Annual Support & Maintenance beyond Year 1**

Estimated Annual Support & Maintenance for Year 2 (based on a 3% annual increase):	\$14,944
Estimated Annual Support & Maintenance for Year 3 (based on a 3% annual increase):	\$15,393
Estimated Annual Support & Maintenance for Year 4 (based on a 3% annual increase):	\$15,855
Estimated Annual Support & Maintenance for Year 5 (based on a 3% annual increase):	\$16,330

This quote does not include allowance for any potential costs / fees (directly) payable to ImageTrend in order for them to provide FirstWatch with a full and comprehensive data set which is required for FirstWatch to perform the quality monitoring expected from this ePCR Data Source. FirstWatch recommends that you discuss this project and any potential associated fees directly with ImageTrend to fully understand their potential cost of this Data Source interface and ongoing process.

Please see Page 2 for Additional Information

**Thank you for the opportunity to present this quote.**

To authorize FirstWatch to proceed with proposed enhancements, please fax signed copy (all pages) back to:  
 FirstWatch @ (760) 942-8329 or email executed PDF to: pdavis@firstwatch.net



FirstWatch has worked diligently to keep pricing 'fair and reasonable' as well as in developing a REMOTE approach to FirstWatch software sales, presentation, deployment, installation, data interface, system configuration and training; as such we have NOT included any fees for travel associated with this project. If travel is requested / required by customer, customer will be asked to pay for all travel-related expenses (e.g., transportation, accommodations, food) incurred by FirstWatch at the request of customer and approved by customer, for Software-related services such as on-site installation, training, customization, integration, support and maintenance.

This quotation is valid for 180 days from creation as noted on the top of page 1. For additional information or questions please contact the FirstWatch Representative also noted on the top of page 1.

## **Payment Option - New System Standard Purchase**

This traditional software license payment program option includes all Year 1 project fees, with a typical project payment breakdown based upon the following project milestones: 50% of all Year 1 project fees payable at software license execution; 40% payable at system installation & Go Live of the Base FirstWatch System (typically DS1 & All Calls Trigger for DS1) and remaining balance (10%) payable at Acceptance of Base System functionality.

## **FirstWatch - Primary Data Source #1 (SunGard HTE CAD)**

Preliminary project pricing (in US Dollars, which does not include taxes or externally imposed fees), as outlined on page 1, is for a single FirstWatch remote-client system installed on client provided PC / Server (configured to FirstWatch specifications and integrated with Data Source's outlined on page 1) using ODBC or client provided data push configuration to move data to the FirstWatch Data Centers. Preliminary pricing is based on customer provided annual call volume / annual patient encounters noted on page 1 (plus/minus 20%).

Primary FirstWatch System Data Source (DS1) is the first data source integration/interface to be made, regardless of type (CAD, ePCR, RMS, etc.). All Data Source Interfaces proposed on page 1 (DS1, DS2, DS3, etc.) are priced based on data availability via the same network and using the standard FirstWatch approach. Configurations outside standard FirstWatch approach (as outlined above) may require additional costs and may not include all functionality. All Data Analysis (including GIS mapping) is done within the FirstWatch Data Centers and is based on analyzing a subset of data elements present within client's database and will likely not contain every available data element. Interface will commonly include information related to location, times, symptoms, treatment and responses, but may include other available elements.

Unless quoted differently, this FirstWatch thin-client deployment includes: Twenty (20) Regular FirstWatch Triggers. Default FirstWatch thin-client deployment also includes access for (50) Simultaneous users. Additional Triggers or Simultaneous User accounts may be purchased at anytime. Trigger and Simultaneous User account fees recur annually and will be billed as separate line item on Annual Maintenance and Support invoice.

FirstWatch Training & Trigger Consultation includes up to 10 hours of Remote (online) FirstWatch Training & Trigger Configuration / System Orientation sessions.

FirstWatch Enhancement Modules are NOT included with Standard FirstWatch and instead are priced separately (if needed) based upon customer request. FirstWatch Enhancement Modules require Standard FirstWatch deployment be in place first. FirstWatch Enhancement Modules may require additional Triggers (like Online Compliance Utility - OCU) and Triggers for FirstWatch Enhancement Modules will appear as a separate line item in the Additional Options & Enhancement Modules Section of Worksheet on Page 1, or elsewhere on FirstWatch System Enhancement Quotes. At this time, the following FirstWatch Enhancement Modules are offered as System Enhancements / Upgrades (and require additional fees initially and annually recurring support fees): Performance PLUS, FW FTP Data Mover, Online Compliance Utility (OCU), FirstPASS (FP), Demand Analysis, EMS Transport / Hospital Status Dashboard tool, Patient Transfer of Care (TOC) tool and Upgraded SQL Reporting Services tools, features, assistance or automated report distribution functionality.

## **FirstWatch - Data Source #2 (ImageTrend ePCR)**

This Data Source has a minimum prerequisite of a base FirstWatch system that includes Data Source #1. Should additional Triggers or customized Reports be needed for this Data Source or you need additional information, please notify the FirstWatch representative shown at the top of page 1.

This quote does not include allowance for any potential costs / fees (directly) payable to ImageTrend in order for them to provide FirstWatch with a full and comprehensive data set which is required for FirstWatch to perform the quality monitoring expected from this ePCR Data Source. FirstWatch recommends that you discuss this project and any potential associated fees directly with ImageTrend to fully understand their potential cost of this Data Source interface and ongoing process.

## **FirstWatch - Standard Triggers**

Standard FirstWatch triggers are defined as: existing (commercially available) FirstWatch trigger technology that does not require any custom programming. Regular triggers are based on existing functionality, related to existing data sources and data structures. Triggers requiring custom programming are considered non-standard or custom triggers and may have additional cost associated, which will be based on the estimated development efforts. Regular triggers are generally based on Syndromic Surveillance, Operational/Performance, or Situational Awareness monitoring. Details available upon request...or see Regular Trigger definition document for more details.

## **Performance PLUS**

Performance PLUS is a FirstWatch System Enhancement Module and therefore requires a standard FirstWatch System deployment be in place first. Performance PLUS offers a more granular view of FirstWatch Trigger criteria; for example performance measures by individual; crew, unit, station, zone, response area, beat or hospital. Each Performance PLUS module offers 100 data points; granular detail views of primary Trigger criteria. Alternately, some customers think of Performance PLUS approach as a "primary / sub" Trigger approach.

## **FirstPASS - w/ Standard Protocol, Clinical Triggers and Reports Bundle**

FirstWatch System Enhancement: ADDING FirstPass (FP) enhancement module to existing FirstWatch Base System. Please NOTE: the FirstPass enhancement module requires a data source interface into ePCR data system. FirstPass is a smart queue based QA/QI tool which includes a Recommended Base Bundle of (6) Standardized FirstPass Protocols (included with enhancement module) for: STEMI, Stroke, Cardiac, Trauma, Airway and Universal. These protocols are designed to provide measures against predefined, evidence based quality metrics. While the initial 6 protocols included in the bundle are preconfigured, the customer agency will also have the ability to add or vary unique metrics specific to their locality. Report Development Hours for Standardized/Base FirstPass Reports are included in the Bundle pricing; and will be based upon the above Standardized/Base FirstPass Protocols. Future Reports may offer simple overviews on; Protocol Deviation within the context of overall system (or individual) performance, Benchmarking and Paramedic Scorecards - all developed against the Standardized Protocols in the Bundle. Additional FirstPass Protocols, Reports and Clinical Triggers can be added (at additional cost initially/annually) and will be priced upon request. Please see Regional Manager for additional information.

## **Annual Support & Maintenance (ASM)**

