

**MADISON COUNTY FISCAL COURT
MADISON COUNTY, KY
RESOLUTION 20-55**

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DEPUTY CLERK: LANDRY LUXON
COUNTY: MADISON COUNTY
BOOK: RES2 PAGES: 131 - 131

A RESOLUTION APPROVING APP BETA TESTING WITH CENTRALERT

WHEREAS, the Madison County CSEP Program requires maximum protection to the public; and

WHEREAS, the Madison County CSEP Program requires the ability to alert and notify the public in the event of an emergency; and

WHEREAS, the Madison County CSEP Program needs to identify reliable and cost-effective methods for public notification; and

WHEREAS, the Madison County CSEP Program team has received the offer from CentrAlert to beta test the application at no cost; and

NOW THEREFORE, BE IT RESOLVED THAT THE FISCAL COURT DOES HEREBY APPROVE THIS RESOLUTION AND AUTHORIZES THE COUNTY JUDGE EXECUTIVE TO EXECUTE SAME ON BEHALF OF THE FISCAL COURT.

Motion made by Larry Combs, seconded by Roger Barger

Vote:	Yes	No
Judge Reagan Taylor	<u>X</u>	
Magistrate Larry Combs	<u>X</u>	
Magistrate John Tudor	<u>X</u>	
Magistrate Roger Barger	<u>X</u>	
Magistrate Tom Botkin	<u>X</u>	

Signed:

R. J. Taylor
Reagan Taylor
Madison County Judge Executive

Attested:

K. B. Barger
Kenny Barger
Madison County Clerk

Madison County Beta Agreement



This End-User App Beta Testing Agreement ("Agreement") is between CentrAlert, Inc. (CentrAlert) and the Participant identified below ("Participant"). CentrAlert and Participant may be referred to herein individually as a "Party" and collectively as the "Parties." This Agreement incorporates herein by this reference the Terms and Conditions set forth below and Exhibit A, which is appended hereto.

IN WITNESS WHEREOF, CentrAlert and Participant have caused this Agreement to be executed as of the effective date set forth below. BY SIGNING BELOW, You ("Participant") acknowledge that you have read and understood the terms of the Agreement and agree to be bound by the terms of the Agreement.

Primary Contact	Dustin Heiser
Participant	Madison County Emergency Management Agency
Address	560 S. Keeneland Dr Richmond, KY 40475
Telephone	859-624-4787
Email	dustin.heiser@madisoncountky.gov

PARTICIPANT AUTHORIZED SIGNATORY:

Signature: R-30 -

Name: Reagon Taylor

Title: Judge Executive

Date: 5-26-2020

CENTRALERT, INC. AUTHORIZED SIGNATORY:

Signature: Jeff Whattam
Jeff Whattam

Name: _____

Title: President

Date: May 7th, 2020

Please note: The App and associated Beta Test Material and CentrAlert IP covered by this Agreement is in beta test form and is not covered by warranty of any kind. By signing above, Participant agrees that use of such beta App and Beta Test Material and CentrAlert IP is at Participant's own risk.



1. General

CentrAlert is in various stages of pre-release development and testing of certain software ("App") as described in Exhibit A appended hereto. All components, accessories, documentation, and/or technology provided by CentrAlert relating thereto, including, but not limited to, all specifications and other technical information, and all updates or revisions thereto, shall be referred to herein as the "Beta Test Material." Participant desires to participate in CentrAlert's Beta Testing Program (as defined below) and CentrAlert desires to obtain the Participant's services in such Beta Testing Program, on the terms and conditions set forth herein. The beta testing period will commence at such time and continue for such duration as determined by CentrAlert in its sole discretion. The purpose of the beta test period is for Participant to assess the usefulness of the App and how to work with the App as it relates to internal departments or employees. Participant will provide feedback and the other items cited below to CentrAlert.

2. CentrAlert Obligations

- 2.1. CentrAlert will deliver the App and/or necessary Beta Test Material to Participant at CentrAlert's expense.
- 2.2. CentrAlert will provide only the support services for the App and/or Beta Test Material described in Exhibit A, if any, and no other support or services, under this Agreement.
- 2.3. CentrAlert has no obligation to develop or provide any updates or revisions to the App and/or Beta Test Material, and CentrAlert reserves the right to alter or adjust performance specifications for the App and/or Beta Test Material as it deems necessary or desirable.
- 2.4. CentrAlert will be responsible to provide only the instructions, safety information, warnings or cautions concerning the App and/or Beta Test Material described or included in Exhibit A and no other.
- 2.5. Once the Participant upgrades its current control system to the latest C-DAC system (under separate contract), CentrAlert will work with Participant to update the system with a connection license to be able to send out alerts and messages associated with its emergency management needs direct from the CentrAlert C-DAC system. CentrAlert will provide this service at no charge to the Participant, provided the Participant maintains an active Technical Support Agreement with CentrAlert for its C-DAC system. This setup may or may not occur under the same timeline as the new C-DAC system installation.
- 2.6. Depending upon the outcome of the beta test period, CentrAlert will work with Participant to make final App updates for distribution to the public. The App for the public will be free of charge, provided Participant maintains an active Technical Support Agreement with CentrAlert for its C-DAC System, and to the extent CentrAlert continues with the App availability and support. Private App use for Participant will be per CentrAlert standard Terms and Conditions and pricing structure with appropriate discounts under the Technical Support Agreement.
- 2.7. CentrAlert will not include any reference to Madison County Emergency Management Agency in any of its marketing or distribution efforts, without the express written authorization of the Participant.

3. Participant's Obligations

- 3.1. Participant agrees to establish an Apple and Android developer's account in a manner consistent with each company's account rules in order to be able to properly distribute the App for public use. The App distributed under either of these accounts shall remain the sole property of CentrAlert and subject to the requirements cited herein.
- 3.2. Participant agrees to test and evaluate the App and/or Beta Test Material in accordance with CentrAlert's Beta Testing Program as set forth in Exhibit A ("Beta Testing Program"), as it may be amended by CentrAlert from time to time upon written or electronic notice to Participant. Participant agrees to familiarize itself with the App and/or Beta Test Material information provided by CentrAlert and to only use or test the App and/or Beta Test Material as directed. Participant will notify CentrAlert of any and all functional flaws, errors, anomalies and problems directly or indirectly associated with the App and/or Beta Test Material known to or discovered by Participant. In addition, Participant agrees to provide CentrAlert with the reports required by the Beta Testing Program, and to promptly respond to any and all reasonable inquiries, questionnaires, surveys, and other test documents submitted to Participant by CentrAlert.

- 3.3. Participant shall designate to CentrAlert, in writing or online, an employee or representative who will serve as Participant's single technical contact for the App and/or Beta Test Material. The technical contact will be responsible for maintaining communication with CentrAlert's beta team on a regular basis. If Participant changes its technical contact person, it will promptly notify CentrAlert in writing or online of such change.
- 3.4. Any feedback, ideas, modifications, suggestions, improvements or other observations made by Participant with respect to the App and/or Beta Test Material (together "Supportive Information") will be the sole property of CentrAlert. Participant agrees to assign, and hereby assigns, all worldwide right, title, and interest in the Supportive Information and the related intellectual property rights to CentrAlert, and agrees to assist CentrAlert, at CentrAlert's expense, in perfecting and enforcing such rights. CentrAlert may disclose or use Supportive Information for any purposes whatsoever without any obligation to Participant, and CentrAlert shall have no confidentiality obligations with respect thereto. Participant agrees that CentrAlert may copy, modify, create derivative works, publicly display, disclose, distribute, license and sublicense, incorporate, and otherwise use the Supportive Information, for any and all commercial and non-commercial purposes.
- 3.5. Participant agrees to pay all incidental costs (such as costs for Internet and phone services, etc.) associated with the testing of the App and/or Beta Test Material and incurred during Participant's possession of the App and/or Beta Test Material, unless otherwise agreed to in writing by both Parties and described in Exhibit A.
- 3.6. Participant will assist in the distribution of the App to its population in the event that the public App becomes available at the end of this beta test period.
- 3.7. Participant agrees to maintain their developer accounts such that CentrAlert can distribute the public App at such time that it is ready for distribution and until such time the App is no longer supported by CentrAlert, or can be transferred to CentrAlert's developer accounts. CentrAlert will bear all expenses associated with distribution and pay for any developer account fees incurred by the Participant to the extent that they relate to the hosting and distribution of the App.

4. Confidentiality

- 4.1. Participant acknowledges that as a beta tester, Participant may have access to, and CentrAlert may disclose to Participant, certain valuable information belonging to and relating to CentrAlert which CentrAlert considers confidential. This includes, but is not limited to, information concerning the App, the Beta Test Material, the Beta Test Material's trademark(s) and trade name(s), computer programs, user manuals, sales and marketing plans, business plans, processes, customer lists, and other trade secrets ("Confidential Information"). Participant shall use the Confidential Information solely for testing purposes and, for a period of five (5) years from Participant's receipt of the Confidential Information, shall not disclose, without CentrAlert's written consent, such Confidential Information to third parties or use such Confidential Information for its own benefit or for the benefit of third parties.
- 4.2. Participant shall disclose Confidential Information only to those of its employees who need to know such information for the purpose of the agreed-upon beta testing and shall ensure that its employees observe the confidentiality obligations in this Section 4. Participant acknowledges that the App and the Beta Test Material contain Confidential Information developed or acquired by CentrAlert and that all rights therein and in other CentrAlert Confidential Information remain in CentrAlert. Participant will not disclose that it is evaluating or testing or has evaluated or tested the App and/or the Beta Test Material to any third party without CentrAlert's prior written consent. In addition, Participant agrees to treat any communications and reports prepared under this Agreement, including, but not limited to, those prepared in accordance with the Beta Testing Program, as Confidential Information and will not divulge the existence or content of such communications or reports to any third party without CentrAlert's prior written consent.
- 4.3. This Agreement shall impose no obligation of confidentiality upon Participant with respect to any portion of the Confidential Information which: (i) now or hereafter, through no act or failure to act on Participant's part, becomes generally known or available; (ii) is known to Participant at the time Participant receives same from CentrAlert as evidenced by written records; (iii) is hereafter furnished to Participant by a third party as a matter of right and without restriction on disclosure; or (iv) is furnished to others by CentrAlert without restriction on disclosure.

5. Proprietary Rights: No Right to Modify or Disassemble

- 5.1. The App and the Beta Test Material provided by CentrAlert and all copies thereof, are the sole property of CentrAlert. All applicable rights in all copyrights, trademarks, trade secrets, trade names, patents, and other intellectual property rights in or associated with the App and the Beta Test Material are and will remain in CentrAlert and Participant shall have no such intellectual property rights in the App and/or the Beta Test Material.
- 5.2. Participant may not copy or reproduce the App and/or the Beta Test Material without CentrAlert's prior written consent, except as reasonably needed to perform its obligations hereunder and subject to the following restrictions. Participant

may not copy or reproduce any software or documentation provided by CentrAlert, without CentrAlert's prior consent, except as is reasonably needed to perform Participant's obligations under this Agreement. Each copy of software or documentation made by Participant must contain CentrAlert's proprietary and copyright notices in the same form as on the original. Participant shall not remove or deface any portion of any legend provided on any part of the Beta Test Material.

- 5.3. Participant agrees to secure and protect the App and/or the Beta Test Material and all copies thereof in a manner consistent with the maintenance of CentrAlert's rights therein and to take appropriate actions by instruction or agreement with any of its employees or agents permitted access thereto to satisfy its obligations hereunder.
- 5.4. Participant shall not reverse engineer, alter, modify, disassemble or decompile the App and/or the Beta Test Material, or any part thereof, without CentrAlert's prior written consent.

6. Term and Termination

- 6.1. The term of this Agreement shall begin on the Effective Date and shall continue until terminated as set forth below. Upon termination of this Agreement for any reason, the five-year obligation to protect Confidential Information, as set forth in Section 4.1, shall survive such termination.
- 6.2. This Agreement shall automatically terminate upon the general release to the public of the final product derived from the App and/or the Beta Test Material by CentrAlert, or sooner upon ten (10) days' written notice by either Party. The Parties acknowledge that CentrAlert is under no obligation to release any final product, App and/or Beta Test Material to the public.
- 6.3. Upon termination of this Agreement, Participant agrees to (a) return the App (delete from phones or as otherwise instructed by CentrAlert) and/or the Beta Test Material and all copies thereof to CentrAlert within seven (7) days after such termination, or (b) if requested by CentrAlert to do so, certify to CentrAlert in writing that the App and Beta Test Material and all copies thereof have been destroyed, or (c) purchase the App and/or the Beta Test Material as set forth in Section 2.6. The provisions of, and the obligations of the Parties under, Sections 3.4, 3.5, 4, 5, 8, and 9, and any other provisions that would normally survive, shall survive the termination of this Agreement.

7. Acknowledgment of Embedded Third-Party Components

The App and/or the Beta Test Material may contain technology and data that is licensed by CentrAlert from third parties, and use of such third-party technology and data is sublicensed to Participant hereunder in connection with Participant's use of the App and/or the Beta Test Material for their intended purpose.

8. No Warranty

CentrAlert is endeavoring to ensure that the App and the Beta Test Material are compliant with all relevant performance standards. However, the App and/or the Beta Test Material may contain errors, bugs, and other problems which could cause failure of the App and/or Beta Test Material or other hardware or software used in connection therewith, and the testing and quality assurance of the App and/or the Beta Test Material may not yet be completed. Because the App and/or the Beta Test Material is subject to change, CentrAlert reserves the right to alter the App and/or the Beta Test Material at any time, and any reliance on the App and/or the Beta Test Material is at Participant's own risk. MOREOVER, BECAUSE THE APP AND/OR THE BETA TEST MATERIAL IS IN PRE-RELEASE STAGE, CENTRALERT CANNOT PROVIDE, AND HEREBY EXPRESSLY DISCLAIMS, ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE APP AND/OR THE BETA TEST MATERIAL AND ANY OF THE COMPONENTS THEREOF, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. The foregoing is all provided "AS IS" and Participant agrees to assume all liability associated therewith, and will hold harmless CentrAlert, its employees, officers, directors, agents, representatives, and any of CentrAlert's dealers or installers involved in the sale to Participant or use of the App and/or the Beta Test Material, from and against any and all damages relating to the purchase, installation, and use of (or inability to use) the App and/or Beta Test Material.

9. Limitation of Liability

TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL CENTRALERT BE LIABLE FOR ANY DAMAGES, INCLUDING PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS OR LOST SAVINGS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO PARTICIPANT'S USE OR PURCHASE OF THE APP AND/OR THE BETA TEST MATERIAL, OR THE INSTALLATION, USE OR INABILITY TO USE THE APP AND/OR THE BETA TEST MATERIAL, EVEN IF CENTRALERT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. CENTRALERT SHALL HAVE NO RESPONSIBILITY TO PROVIDE OR MAINTAIN INSURANCE RESPECTING THE APP AND/OR THE BETA TEST MATERIAL PURCHASED OR USED BY PARTICIPANT.

10. Export Law Assurances

Participant shall not use or otherwise export or re-export the App and/or the Beta Test Material or any part or component thereof except as authorized by United States law and the laws of the jurisdiction in which you obtained the App and/or the Beta Test Material.

11. Waiver

A waiver of any default hereunder or of any of the terms and conditions of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or of any other term or condition, but shall apply solely to the instance to which such waiver is directed.

12. Assignment and Severability

Participant agrees not to assign any rights under this Agreement. Any attempted assignment shall be null and void and shall result in the termination of this Agreement. If any part of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other part or provision of this Agreement which shall remain in full force and effect.

13. Governing Law

This Agreement shall be governed by the laws of the Commonwealth of Kentucky, U.S.A., excluding its conflicts of law rules. The Parties agree that any federal or state court located in Fayette County, Commonwealth of Kentucky shall have jurisdiction and venue over all controversies in connection herewith.

14. Entire Agreement

This Agreement and the Exhibits hereto, including any additional terms and conditions listed in the App and Beta Testing Program, represent the entire agreement between the Parties regarding the subject matter hereof and supersede any and all prior or contemporaneous agreements or understandings between the Parties, whether written or oral, regarding the subject matter hereof. This Agreement may not be modified or amended except by the written or online acceptance of both Parties.

15. No Application of Convention

This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

Product Overview: CentrAlert is preparing a free App to provide pandemic-related information to the public. Additionally, the App will allow public agencies to send alerts and useful information to the end-user. It will also allow agencies to send private alerts and useful information to those App users who are credentialed for that agency's system.

Purpose: The purpose of this beta test period is to allow Participant to view, use, help identify bugs, identify useful feature updates, enhance overall quality and fine-tune any components necessary for later distribution of the App within Participant's agency or for public use.

Beta Test Feedback: CentrAlert expects Participant to provide feedback on the App throughout the testing period. General feedback information should be sent to beta@centralert.com. Feedback should include defects encountered, suggestions for product improvement, suggestions for improved functionality, and other pertinent feedback Participant is able to share. Feedback may or may not result in changes to the App.

Software Updates: CentrAlert may, depending upon the circumstances and at CentrAlert's discretion, update the App during the beta test period. When this happens, CentrAlert will request that all Participants install the updated App and continue their regular feedback on the most current version.

Technical Support: Pre-release products are not fully supported by CentrAlert. However, CentrAlert will attempt to provide participants with support to the extent practicable. Support should also be requested via the beta@centralert.com email.