

# ESO API Licensing Agreement

## ESO API Licensing Agreement

This API Licensing Agreement (the "**Agreement**") provides the terms and conditions that govern the use of ESO Solutions, Inc. ("**ESO**") Application Programming Interfaces ("**ESO API**"), unless there is a separate specific written agreement between the Parties covering application programming interfaces. In the event of a conflict between these standard terms and conditions and any separate written agreement entered into between the Parties, the terms of the separate agreement shall prevail. If you (the "**Developer**," "**you**," "**your**") do not agree with any of the terms and conditions of this Agreement, ESO does not grant you a license to use the ESO API.

The ESO API is owned and licensed by ESO to you based upon the terms and conditions set forth in this Agreement. ESO API rights may not be sub-licensed or transferred to other parties. These terms and conditions define your legal right to use the ESO API and the limitations thereto.

### 1. PURPOSE OF THIS AGREEMENT

- a. ESO offers web-based software-as-a-service products and service offerings for the hospital, fire and emergency services sector (the "**ESO Services**") that provides ESO customers ("**Customers**") access to a full suite of reporting and record management services and related modules and features.
- b. The ESO API allows Customers to link an ESO Service to certain Developer services in order to provide Customers with optional additional functionality accessible through a link to ESO's API.
- c. The Developer wishes to access the ESO API to allow the Developer to link Developer's services with Customers through the ESO API (the "**API Integration**"). ESO, at its sole discretion, is willing to grant a license for such access to the Developer, upon proof of need and proper use cases, to the ESO API, subject to the terms of this Agreement.
- d. ESO and the Developer may each be referred to as a "**Party**" or collectively as "**Parties**." This Agreement does not and is not intended to confer any rights or remedies upon any entity, person, or third party other than the Parties.

### 2. TERM AND TERMINATION

- a. Your license to use the ESO API under these terms and conditions begins upon receipt of notice of approval from ESO and expires two years thereafter (the "**Initial Term**") unless terminated in accordance with this Agreement. The Agreement will renew automatically for additional one-year terms and remains active until it is terminated by either the Developer, or ESO in accordance with this Agreement (the "**Term**"). Your rights to use the ESO API shall be terminated if:
  - i. The Developer violates any of the material terms of this Agreement and said breach is not remedied within ten business days after receipt of notice from ESO; or,
  - ii. The Developer discontinues use of the ESO API for more than 90 days and cannot show reasonable proof of continuing need from Customers; or,
  - iii. ESO provides at least (90 days notice to you of its intent to terminate your access to the ESO API at the end of the Initial Term or any subsequent year anniversary.
- b. [effect of termination—cease, return, destroy, etc.]

### 3. API LIMITATIONS

- a. ESO reserves the right to rate limit data volume and block applications making an extensive number of calls to the ESO API, [if such consumption of ]excessive bandwidth that is not primarily in response to direct user

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action. Rate limits may be imposed to ensure the health of the ESO API by maintaining a functional environment for all Developer applications. Rate limits may be subject to agreements outside the scope of this Agreement.

- b. Developer will not have excessive failure or unauthorized API requests, poor code performance or other conditions which negatively impact the ESO API. ESO will notify Developer on any such issue but continued negative impacts may result in termination of your license.
- c. ESO requires the ability to make changes to the ESO API, including security requirements. As updated versions of the ESO API are made available, ESO reserves the right on [30] days notice to disable or cease support of older versions of the ESO API. ESO will make reasonable efforts to provide Developer with 90 days notice of any major changes and six months' notice of version deprecation.

#### 4. LICENSE GRANT AND RESTRICTIONS

- a. Subject to Developer's compliance with the terms and conditions herein, ESO grants to Developer a limited, non-exclusive, non-transferable, non-sublicensable, revocable (as specified herein) license to use the ESO API [in the United States [and Canada]] solely and exclusively for the purpose of developing, in a non-production environment, the API Integration, to evaluate and test the API Integration, and to provide the API Integration to Customers during the Term, in each case subject to the following restrictions:
  - i. (i) Developer shall not take any action that violates ESO's proprietary rights; (ii) Developer must ensure that only employees and sub-contractors who are authorized to do so on Developer's behalf for a legitimate business purpose under the Agreement, shall use the ESO API, and Developer shall ensure that any such employees and sub-contractors comply with the terms and conditions herein; (iii) Developer shall not use, copy, modify, sell, distribute, assign, share, or otherwise transfer the ESO API to any third party, except as expressly set forth herein; (iv) Developer is not entitled to receive or access the source code format of the ESO API; and (v) under no circumstances may Developer attempt to create or permit others to attempt to create, by reverse-compiling or reverse- assembling, decompiling or otherwise, any part of the ESO API, an ESO Service, or other information provided to Developer by ESO.
  - ii. Developer shall not represent itself to be an agent for ESO and will not make any representation, warranty, certification or commitment on behalf of or in the name of ESO or with respect to any ESO Service.
  - iii. In addition, Developer shall not:
    - Use the ESO API for any application that replicates or attempts to replicate or replace the unique user experience of ESO applications or websites.
    - Spam or harass users using the ESO API.
    - Attempt to conceal or cloak your identity or the identity of your application when requesting authorization to use the ESO API.
    - Except as agreed to between the Developer and Customer, cache or store agency, personnel or patient content other than for reasonable periods of time in order to provide service for your application.
    - Use the ESO API for any application that promotes or is used in connection with spyware, malware, adware or any other malicious programs or code.
    - Submit to the ESO API any material that is illegal, misleading, defamatory, indecent or obscene, threatening, infringing upon any third-party proprietary rights, invasive of personal privacy or otherwise objectionable, or use the ESO API to send unsolicited commercial emails to any person.
    - Use the ESO API in any manner that violates any law, regulation or right of any person including, but not limited to, intellectual property rights, privacy rights or rights of personality.
    - Use the ESO API in any manner that adversely impacts the stability of ESO servers, services or websites including adverse impacts on the behavior of other applications using the ESO API.
    - Sell, lease, sub-license or provide access to the ESO API to derive revenues from the use or provision of the ESO API.

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- b. Developer is responsible for ensuring that it has permission from the Customer to transmit any Personal Data through the ESO API and that its actions with regards to such Personal Data are in compliance with all applicable privacy laws. For purposes of this Agreement, “Personal Data” means any information relating to an identified or identifiable person or entity; an identifiable person or entity is one who can be identified directly or indirectly from such data. If any Personal Health Information (as that term is defined under the Health Insurance Portability and Accountability Act (“HIPAA”)) is exchanged with the Customer, Developer will ensure that it is in compliance with HIPAA including having a Business Associate Agreement in place with the Customer. Developer will have the sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all such data and shall be deemed the data controller of data. ESO shall have no liability for any data or information transmitted through Developer’s use of the ESO API.
- c. Developer is responsible for ensuring that it is in compliance with all relevant export control laws and regulations.
- d. Developer is responsible for ensuring it provides a level of security commensurate with reasonable industry standards and ESO security requirements for utilizing the ESO API. Developer is solely responsible for safeguarding any of its user ids and passwords utilized for accessing the ESO API and will notify ESO in the event of a suspected or actual compromise of these credentials.
- e. In the event that either Party becomes aware of any act associated with the ESO API that permits any unauthorized access to, acquisition, disclosure, loss or destruction of Customer data (each a “Security Breach”), that Party shall: (a) notify the Customer and the other Party as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the Customer and the other Party in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law; (c) take measures, where appropriate, to mitigate adverse effects; and, (d) perform or take any other actions required to comply with applicable law as a result of the occurrence. Note: In the event of any Security Breach or suspected Security Breach, ESO reserves the right to immediately suspend or block access to applications and will notify the Developer of said action as soon as possible.
- f. Any violation of the terms of this Section 4 shall be considered a material violation of this Agreement.

### 5. API SUPPORT AND LIMITATIONS

- a. ESO will provide reasonable technical support for the ESO API, in its sole discretion and may terminate such support at any time without notice. ESO development and API specialists are available to assist you. Contact [apisupport@eso.com](mailto:apisupport@eso.com) for information on charges and availability.

### 6. MODIFICATIONS

- a. ESO may amend this Agreement at any time by (a) posting a revised API Licensing Agreement on the ESO website and/or (b) sending information regarding the changes to the email address you provide to ESO, provided that any such change shall only come into force and effect upon renewal and will not replace the existing terms during the current term. You accept the amended terms when you renew this Agreement after such amended terms have been posted or information regarding such amendment has been sent to you. However, should ESO be required to make changes to this Agreement due to changes in laws or regulations, ESO will make reasonable efforts to notify the Developer as soon as possible and such changes shall take effect the earlier of: 1) as required by the law or regulation; or 2) in accordance with this section. ESO shall not be liable to you or any third party should ESO exercise its right to modify, suspend, or discontinue any or all Services.

### 7. CONFIDENTIAL INFORMATION

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- a. As used herein, “**Confidential Information**” means all confidential information disclosed by a Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information shall include business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. Confidential Information specifically includes all operating and performance metrics associated with the ESO API. However, Confidential Information shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party without use of the Disclosing Party’s Confidential Information.
- b. Except as otherwise permitted in writing by the Disclosing Party: (a) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (b) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors, and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.
- c. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law, subpoena, or court order, to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

### 8. INTELLECTUAL PROPERTY RIGHTS

- a. “**Intellectual Property Rights**” means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary rights.
- b. All right, title and interest in and to the ESO API, including all Intellectual Property Rights embodied therein, shall at all times remain vested in ESO (or its licensors). Other than the express rights granted to Developer under this Agreement, no rights or licenses, express or implied, are granted to Developer and ESO reserves all such rights.
- c. The Parties agree that each Party may use the name and/or logo of the other Party on its website, and in sales and marketing materials, solely to acknowledge that the Party uses the ESO Application Programming Interface. With the exception of the forgoing permission to use the name and/or logo, nothing in this Agreement gives either Party the right to use any of the other Party’s trade names, trademarks, service marks, logos, domain names, or other distinctive brand features. Neither party shall make, place or disseminate any advertising, public relations, press release, promotional material or any material of any kind or any public statement, using the name, trademark or logo of the other Party without its prior written approval.
- d. From time to time during the Term of this Agreement, Developer may provide ESO with information, suggestions or input related to ESO’s products, documentation and/or Services, including without limitation changes or suggested changes to current or future products, documentation, and services (“**Feedback**”). Developer grants ESO a worldwide, royalty-free, non-exclusive, perpetual and irrevocable right to use all Feedback for any purpose, including without limitation, incorporation of Feedback into an ESO Service or other products without compensation or attribution to the Developer.

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- e. Developer agrees not to remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) that may be affixed to or contained within the ESO API.

### 9. INDEMNIFICATION

- a. To the maximum extent permitted by applicable law, you agree to hold harmless and indemnify ESO and its subsidiaries, shareholders, affiliates, officers, agents, licensors, co-branders, partners and employees from and against any third-party claim, including losses, costs, damages, liabilities, or expenses (including reasonable attorneys' fees) relating to this Agreement and arising from your misuse of the ESO API, or any fraud, gross negligence or willful misconduct, or violation of any applicable law.
- b. ESO shall hold harmless and indemnify the Developer and its subsidiaries, affiliates, officers, agents, licensors, co-branders, partners and employees from and against any third-party claim, including losses, costs, damages, liabilities, or expenses (including reasonable attorneys' fees) claimed or made by any third party arising out of or relating to ESO's infringement or misappropriation of the intellectual property rights of any third party in connection with its provision of the ESO API [add composite infringement exclusions].

### 10. DISCLAIMER AND LIMITATIONS OF LIABILITY

- a. THE ESO API IS PROVIDED TO DEVELOPER ON AN "AS IS" AND "AS AVAILABLE" BASIS. ESO HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING THE ESO API AND THE ESO SERVICES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NEITHER ESO NOR ITS LICENSORS WARRANT THAT THE ESO API WILL MEET DEVELOPER'S REQUIREMENTS, THAT OPERATION OF THE ESO API WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. ESO IS NOT RESPONSIBLE FOR SOFTWARE USED BY DEVELOPER, OR FOR THE OPERATION OR PERFORMANCE OF THE INTERNET OR ANY OTHER NETWORK.
- b. IN NO EVENT SHALL ESO BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING ANY LOST BUSINESS OR PROFITS) OR ANY LOSS, DAMAGE, MISAPPROPRIATION, OR DESTRUCTION OF DEVELOPER DATA ARISING IN CONNECTION WITH THIS AGREEMENT, WHETHER SUCH LIABILITY IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH CLAIMS. THIS DISCLAIMER CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. SINCE SOME JURISDICTIONS MAY PROHIBIT EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.
- c. DEVELOPER UNDERSTANDS AND AGREES THAT ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED FROM THE ESO API IS AT YOUR OWN DISCRETION AND RISK. YOU UNDERSTAND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, LOSS OF DATA OR BUSINESS INTERRUPTION THAT RESULTS FROM THE DOWNLOAD OF CONTENT. ESO SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE CAUSED OR ALLEGED TO HAVE BEEN CAUSED, DIRECTLY OR INDIRECTLY, BY INFORMATION OR CONTENT REFERENCED IN OR APPEARING IN THE ESO API. YOUR PARTICIPATION IN AND USE OF THE ESO API IS SOLELY AT YOUR OWN RISK. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM OR THROUGH ESO, ITS EMPLOYEES OR THIRD PARTIES SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. YOU ACKNOWLEDGE THAT YOUR USE OF THE ESO API IS AT YOUR SOLE RISK.

### 11. GENERAL

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- a. Headings. The headings and captions used in this Agreement are for convenience only and are not intended to be used as an aid to interpretation.
- b. Severability. The provisions of this Agreement are severable, and if any part of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement will not be affected.
- c. Assignment. Neither Party shall have the right to assign or otherwise transfer the terms or any rights or obligations hereunder without the express written consent of the other Party provided, however, that a successor in interest (“Acquiring Entity”) by merger, consolidation, operation of law, assignment, purchase of stock, purchase of assets, or otherwise, of the entire business or substantially all of the business of either Party, shall acquire all interests of such Party hereunder without the written consent of the other, subject to the acquired Party providing notice thereof and the Acquiring Entity expressly assuming the obligations hereof in writing. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
- d. No Waiver. Either Party’s failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.
- e. Force Majeure. A Party shall not be liable for any failure of or delay in the performance of its obligations under this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including, but not limited to, acts of God, war, strikes or labor disputes, embargoes, passage of law or any action taken by a governmental or public authority, or any other force majeure event.
- f. Applicable Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without regard to the choice of law provisions thereof and applicable US federal law. The United Nations Convention on Contracts for the International Sale of Goods will not apply. The Parties hereby irrevocably consent and submit to the exclusive jurisdiction and venue of the state and federal courts located in Texas for the purpose of any action or proceeding brought by either of them in connection with this Agreement or the relationship of the Parties.
- g. Independent Contractors. Developer and ESO are acting hereunder as independent contractors, and under no circumstances will any of the employees of one Party be deemed the employees or agents of the other Party for any purpose.
- h. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings and all other communications between the Parties regarding this subject matter.

Version dated 20 June 2024