

SERVICE LEVEL AGREEMENT

1. **INTRODUCTION.** This Service Level Agreement (“SLA”) describes the performance standards and service levels to be achieved by Licensor in providing the following SaaS products: Fusion EHR, CIPS, and ProPharm (“**Licensed Software**”). In the event of a conflict between the provisions of the SLA and any other contractual provisions separately agreed to, this SLA will govern.
2. **DEFINITIONS.** As used in this SLA, the following terms shall have the following meaning:
 - 2.1. “**Bug**” means a fault in the application or service that requires code modifications and a new version release.
 - 2.2. “**Days and Hours of Coverage**” means the days of coverage as set out in Section 5.1 of this SLA.
 - 2.3. “**Incident**” means a reproducible failure of the Licensed Software to operate in substantial conformity with the Agreement; whose origin can be isolated to a single cause and whose failure was not caused by improper use of the Licensed Software or a Bug.
 - 2.4. “**Licensor**” means Fusion Capital Management, LLC and it’s wholly owned subsidiary Kalos, Inc.
 - 2.5. “**Licensee**” means any individual (including entities) or agencies that access the Licensed Software.
 - 2.6. “**Minimum System Requirements**” means the hardware and software standards as described in Exhibit A and as otherwise necessary for the Licensed Software to efficiently operate.
 - 2.7. “**Planned Downtime**” refers to the mandatory maintenance windows that take place on the first and third Wednesday of each month from 2 am to 4 am EST.
 - 2.8. “**Resolve**” means the provision of: (a) services that correct the Incident; (b) information to the Licensee that corrects the Incident; (c) information to the Licensee on how to obtain a software solution that corrects the Incident; (d) notice to the Licensee that the Incident is caused by a known, unresolved issue or an incompatibility issue with the Licensed Software; (e) information to the Licensee that identifies the Incident as being corrected by upgrading to a newer release of the Licensed Software; (f) notice to the Licensee that the Incident cannot be resolved; or (g) notice to the Licensee that the Incident has been identified as arising out of or resulting from a Service Exception. “**Resolution**” has a correlative meaning.
 - 2.9. “**Resolution Time**” means the resolution time linked to the relevant Severity Level as set forth in this SLA.
 - 2.10. “**Respond**” means Licensor’s initial communication with Licensee, whether by helpdesk, telephone, email or otherwise, acknowledging Licensee’s request for Services in connection with a specific Incident. “**Response**” has a correlative meaning.
 - 2.11. “**Response Time**” means the response time linked to the relevant Severity Level as set forth in this SLA.

- 2.12. “**Severity Level**” means the level assigned by Licensor to a reported Incident based on the description of the Incident under this SLA.
 - 2.13. “**Severity 1**” means an Incident that does not qualify as a Severity 2 or Severity 3 Incident but nonetheless prevents minor functionality from operating or causes minor functions to operate with incorrect results.
 - 2.14. “**Severity 2**” means an Incident wherein use of the Licensed Software or a subsystem is interrupted or a Licensed Software failure otherwise causes major functions to not operate or to operate with significantly incorrect results, such as data processing errors.
 - 2.15. “**Severity 3**” means an Incident wherein the Licensed Software or a main subsystem is unavailable, preventing the Licensed Software or a core function from operating or causing core functions or major functionality to operate with grossly incorrect results, such as material data processing errors.
 - 2.16. “**Maintenance Fee**” means the annual amount paid by Licensee to Licensor for the maintenance and support of the Licensed Software.
 - 2.17. “**Preliminary Severity Level**” means the initial severity level assigned to a reported Incident by Licensee which shall only be used for intake purposes.
 - 2.18. “**Technical Contact**” means the Licensee identified individual(s) who serve as Licensee’s sole contact(s) between Licensee and Licensor in connection with day-to-day matters relating to the provision of support and are responsible for reporting Incidents, providing consents and approvals on behalf of Licensee, and communicating with and providing timely and accurate information and feedback to Licensor in connection with the support.
 - 2.19. “**Ticket**” means the Technical Contact’s submission of an Incident to the Licensor’s helpdesk system.
 - 2.20. “**Third-Party Materials**” means materials and information, in any form or medium, that are not proprietary to Licensor, including any third-party: (a) documents, data, content, or specifications; (b) software, hardware, system, network, or other product, facility, equipment, or device, and (c) accessories, components, parts or features of any of the foregoing.
3. **DISCLAIMER**
- 3.1. Licensor will use commercially reasonable efforts to: (a) ensure monthly uptime as provided in Section 4; and (b) meet the Response Time and Resolution Time defined in Section 7.4. Licensee shall not be entitled to any credits, damages, termination rights, or any other rights enumerated in the Agreement should Licensor fail to meet the monthly uptime, Response Time, or Resolution Times.
 - 3.2. Licensee acknowledges and accepts that the following circumstances may impact Licensor’s ability to meet the monthly uptime, Response Time, or Resolution Time:
 - 3.2.1. Licensee’s delay or failure to:
 - 3.2.1.1. perform any obligations under the Agreement or SLA,
 - 3.2.1.2. promptly notify and adequately inform Licensor of an Incident,

- 3.2.1.3. timely respond to Licensor inquiries related to Incidents, the Licensed Software and corresponding Licensee components,
 - 3.2.1.4. as soon as reasonably possible, install any Maintenance Release that Licensor has previously made available to Licensee,
 - 3.2.1.5. adequately manage and coordinate Licensee third-parties,
 - 3.2.1.6. achieve and maintain Minimum System Requirements,
 - 3.2.1.7. provide Technical Contacts.
 - 3.2.2. Any planned downtime of which Licensor gives at least one (1) week advance notice to Licensee.
 - 3.2.3. Any negligence, abuse, misapplication, or misuse of the Licensed Software;
 - 3.2.4. Any operation, modification, configuration, relocation, damage, installation, or integration of the Licensed Software other than by Licensor without Licensor's written permission;
 - 3.2.5. Any beta software, software that Licensor makes available for testing or demonstration purposes, temporary software modules or software for which Licensor does not receive a license fee;
 - 3.2.6. Any Licensee created workflows, forms, or reports;
 - 3.2.7. Any breach of or noncompliance with the Agreement or SLA by Licensee or any of its representatives;
 - 3.2.8. Third-Party Materials; or
 - 3.2.9. A Force Majeure event (including abnormal physical or electrical stress).
4. **AVAILABILITY TARGET.** Licensed Software monthly uptime: 99%, calculated using the formula identified as Exhibit B. Planned Downtime and any unplanned downtime of which Licensor gives at least forty-eight (48) hours advance notice shall not be included in "Downtime per Month" in Exhibit B.
5. **MAINTENANCE RELEASE.** During the Term, Licensor will provide Licensee with Maintenance Releases (including updated Documentation) that Licensor may make generally available to its licensees. All Maintenance Releases, on being provided by Licensor to Licensee hereunder, are deemed Licensed Software subject to all applicable terms and conditions in this Agreement. Licensor will install all Maintenance Releases as soon as practicable. Licensee does not have any right hereunder to receive any New Versions of the Licensed Software that Licensor may, in its sole discretion, release from time to time. Licensee may license any New Version that Licensor makes generally available to its licensees at Licensor's then-current list price and subject to a separate agreement or amendment, provided that Licensee is in compliance with the terms and conditions of this Agreement.
6. **SUPPORT.**
 - 6.1. The Licensor shall perform its support obligations during the following Days and Hours of Coverage:
 - 6.1.1. Twenty-four (24) hours a day, seven (7) days a week for Severity 2 and Severity 3 Incidents; and

- 6.1.2. Monday – Friday, 8:00 AM to 4:00 PM EST for Severity 1 Incidents.
- 6.2. Licensee agrees to provide Licensor with access to Licensee’s network, systems, and/or computers to install and use remote access software (“**Remote Access Software**”) necessary for Licensor to provide remote support to Licensee. The Remote Access Software contains technological measures designed to collect and transmit to Licensor certain diagnostic, technical, usage and related information, including information about Licensee’s computers, systems, network and any Third-Party Materials, related to or derived from Licensee’s use of Licensed Software. Licensee acknowledges and agrees that: (a) Licensor may collect, maintain, process and use this information in the course of providing support under this SLA, and (b) all or portions of the Remote Access Software may remain on Licensee’s network, system, and/or computers after an Incident is Resolved and until the Agreement is terminated.
- 6.3. All support shall be conducted remotely by Licensor within the United States.
- 6.4. Licensor may change any aspect of the Services, provided that no such change materially reduces or otherwise has a materially adverse effect on: (a) Licensor’s level of effort in providing support; or (b) Licensor’s obligation to provide support under this SLA.
- 6.5. Licensor may perform support services by or through third parties (each, a “**Subcontractor**”), but shall remain fully responsible for any Subcontractor compliance with the Agreement and SLA.
- 6.6. In connection with the performance of support, Licensee shall provide Licensor, personnel with all such cooperation and assistance as Licensor may reasonably request, or otherwise may reasonably be required, to enable Licensor to perform its obligations and exercise its rights, including:
- 6.6.1. Reasonable, uninterrupted access, both physical and virtual, to the Licensed Software and Licensee’s premises, systems, networks, and facilities;
- 6.6.2. A safe working environment;
- 6.6.3. Reasonable access to the appropriate Licensee personnel, including network, systems, operations, and applications personnel; and
- 6.6.4. All necessary authorizations and consents, whether from third-parties or otherwise, in connection with any of the foregoing.
- 6.7. The following are examples of different issues to clarify what types of scenarios fall under what Severity Level.
- 6.7.1. Severity 3: All users are simultaneously unable to log in, post-upgrade patient safety errors, configuration problems causing timeouts, or inability to open a pass to administer medication.
- 6.7.2. Severity 2: User error from incorrect workflows, database errors and performance issues, data integration errors, the application’s minor components do not work as intended but a workaround is available.

7. SUPPORT REQUESTS.

- 7.1. Licensee shall promptly notify Licensor of any Incident and provide Licensor with reasonable detail of the nature and circumstances of the Incident. Licensee shall take all necessary steps to replicate the Incident prior to submitting a Ticket.
 - 7.2. Licensee shall back up all data, files, and information prior to submitting a Ticket and assumes sole responsibility for any lost data or altered files or information.
 - 7.3. Licensee shall ensure its Technical Contact(s) have the requisite organizational authority, skill, experience, and other qualifications necessary to perform their duties. Licensee shall provide prior written notice to Licensor of any replacement or change in the name or contact information of any Technical Contact.
 - 7.4. Licensor will grant access to a helpdesk system and support phone line where the Technical Contacts can communicate Incidents to Licensor.
 - 7.5. If the Licensee encounters an Incident, the Technical Contacts shall notify Licensor using the contact method(s) that correspond to the Severity Level, as set forth below:
 - 7.5.1. Severity 1 – helpdesk system
 - 7.5.2. Severity 2 – helpdesk system
 - 7.5.3. Severity 3 – first the Licensor support phone line and then the helpdesk system
 - 7.6. If the Licensee encounters an Incident, the Technical Contacts shall (a) diagnose and assign a Preliminary Severity Level for the Incident; and (b) depending on the Preliminary Severity Level, submit a support request to Licensor by opening a Ticket in the helpdesk system or calling Licensor’s support phone line.
- 8. INCIDENT MANAGEMENT.**
- 8.1. Licensor shall review each Ticket and assign a Severity Level. If the Severity Level and Preliminary Severity Level differ, the Severity Level shall control.
 - 8.2. Licensor shall conduct a root cause analysis of each Incident upon notification.
 - 8.3. Response Times and Resolution Times are identified in the table identified as Exhibit C.
 - 8.4. Response Time shall be calculated from the moment a Ticket is created until the moment Licensor Responds.
 - 8.5. Resolution Time shall be calculated as the time between the Licensor’s Response and the time the Licensor’s helpdesk system indicates in the Ticket that the Incident is Resolved.

EXHIBIT A
Minimum System Requirements

Resource	Minimum	Recommended
Form Factor Preference	In Order: Desktop, Laptop, Tablet	In Order: Desktop or Laptop
CPU	Single dual core 3 Ghz or faster (Pentium 4 th Generation Intel i-3 or better)	Single dual core 3 Ghz or faster (Pentium 6 th Generation Intel i-5 or better)
RAM	8GB	16GB
OS	Windows 10 32 or 64 Bit Operating System	
Network	100Mbps	1Gbps
Browser	Client hosted: Google Chrome. Fusion hosted: Google Chrome and/or Firefox.	
Storage	SATA HDD with 50GB available space	SSD Hard drive with 126GB available space
Monitor	19" Color SVGA with 1920 x 1080 or better resolution	23" Color LED with 1920 x 1080 or better resolution

EXHIBIT B
Licensed Software Monthly Uptime Formula

$$\text{Monthly Uptime Percentage} = \frac{(\text{Available Time per Month}) - (\text{Downtime per Month})}{(\text{Available Time per Month})}$$

EXHIBIT C
Response and Resolution Times

Severity	Response	Resolution
Severity	24-hours	15 Business
Severity	12-hours	7 Days
Severity	1 hour	24-48 Hours