

MODIFICATION TO TERMS OF SERVICE

DATE: October 31, 2021 (the "Effective Date")

Parties: Active911, Inc., an Oregon Corporation ("Active911")

Address: 4100 SW Research Way, Suite B
Corvallis, OR 97333

Telephone: (541) 223-7992

Email: _____

San Bernardino County Fire
Protection District
_____ ("Client")

Address: 157 W. 5th Street, 2nd Floor
San Bernardino, CA 92715

Telephone: _____

Email: _____

Active911 and Client are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

- A. Active911 provides real-time coordination, dispatch, safety service, and related services that integrate with public safety agencies. In order to use these services, Active911 requires agreement to its Terms of Service ("TOS"), as published from time to time on www.active911.com
- B. Client is legally unable to agree to certain provisions in the TOS due to its status as a governmental entity.
- C. The Parties wish to agree to a modified version of the TOS to address this issue.

AGREEMENT

The Parties agree as follows:

1. The TOS, as published on www.active911.com from time to time, is hereby incorporated by reference.
2. Modification is made to the TOS as follows:
 - 2.1. Client will defend, indemnify, and hold Active911 harmless to the maximum extent provided by law for the acts or omissions of Client any others acting on behalf of Client. Client and Active911 understand and agree that, depending upon applicable law, this means that Client may not be required to defend, indemnify, and/or hold Active911 harmless.

2.2. The TOS shall be governed by California law.

2.3. Any provision contrary to paragraphs 2.1 and 2.2 is hereby deleted from the TOS.

3. This modification will persist across and apply to any future versions of the TOS.

4. If Client in the future agrees to the TOS, they will be understood to be agreeing with the modified version of the TOS, except as modified by paragraph 2 and all subparagraphs thereunder.

5. No amendment, change, or modification of this Agreement will be valid unless it is in writing and signed by authorized agents of the Parties.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

DATE: 10/22/2021

Active911, Inc:

By: Mary Baillie

Client:

Curt Hagman, Chairman
Board of Directors

By: _____

Terms of Service

1. **General.** The following terminology applies to these Terms and Conditions and any or all Agreements: "Client", "You" and "Your" refers to You, the person accessing this website, using the Service (defined below) and accepting these terms and conditions. "Active911", "The Company", refers to our Company Active911, Inc. Active911 provides various services ("Service"), which may include one or more of the following: paging, dispatch, mapping, response coordination, data logging, proximity information, 911 dispatch data, and other services. This agreement ("Agreement", "TOS"), together with any documents included by reference, governs Your use of the Service. If You do not agree to these terms, do not use the Service. Your use of the Service constitutes agreement to these terms.
2. **Limitation of Liability.** The Service is based on a large collection of technology that can be unreliable. This technology includes cell phones, mapping, GPS, cloud computing, the Internet, and many others. Although Active911 strives to provide fast, reliable Service, Your use of the Service is "as is" and "not guaranteed". To the fullest extent permitted by law, Active911 excludes all representations and warranties relating to this website and its contents and/or the Service which includes any inaccuracies or omissions in the data and/or Service provided to You. Do not use Active911 for primary emergency paging in situations where a Service failure on our part may cause a dangerous or hazardous situation. You and your users take full responsibility as to whether the data we provided to You is useful or not. You acknowledge, on behalf of Yourself and Your agency, department, or employer, that the Service is not rated or conditioned for life safety use in situations where Service failure may put someone at risk; and that the Service is provided as "advisory" only. You agree to indemnify and hold harmless Active911 and its officers, directors, employees and affiliates from any and all liability, loss or damage or lawsuit to the maximum extent possible, whether that liability loss or damage arise from any breach of data, Service failure, incorrect or untimely Service, or for any other reason. In no way will Active911, its officers, directors, employees, or affiliates, be held liable in any way regarding Your performance, lack of performance, action or inaction or for any conduct by You, Your associates, or Your agency, even if such performance or nonperformance is or may have been a direct or indirect result of the Service.
3. **Severability.** You agree that if any part of this agreement is found to be unlawful or unenforceable, the rest of the document will continue in full force and effect with the offending language removed or construed as little as possible from the original intent.
4. **Restrictions.** You agree not to use the Service in any manner that violates the laws of the United States or Your country. You further acknowledge that the Service is not currently rated or approved for medical data requiring (USA) HIPAA controls. If You inadvertently store such data on our system, You must notify us immediately in writing so that data may be deleted.
5. **Privacy.** We respect the privacy of the information that You store and pass through Active911 servers. Active911 is committed to keeping Your data safe and secure. While Active911 may use Your data to generate statistics or similar information, Active911 will only do so in a way that maintains the privacy and anonymity of Your data. Active911 will not share Your data with third parties except as needed for technical reasons or if required by law. Certain account features that involve data sharing (RSS feeds and web widgets, for example) may be voluntarily enabled by You; You agree that such data sharing is Your responsibility.
6. **Changes; Inclusions.** This Agreement may be changed from time to time at Active911's sole discretion. The most current version will be published at console.active911.com. Your continued use of the Service implies Your acceptance of any adjustment to this Agreement and terms of service. The Active911 Privacy and Refund policy, as published from time to time at console.active911.com, are hereby included in this Agreement by reference. Users of Google Maps are also bound by the [Google Maps Services](#) and [Google Privacy Policy](#).
7. **No Representation.** You acknowledge that this Agreement, and any agreements included by reference, represents the complete agreement between Yourself, Your agency or employer, and Active911. You agree that this document supersedes any oral representations made by either party.
8. **Term and Termination.** This Agreement continues in full force and effect for as long as Your data resides on our servers. If You wish to terminate this Agreement, close Your account. The Limitation of Liability continues after this Agreement is terminated.
9. **ADDITIONAL TERMS OF SERVICE APPLICABLE TO THE ACTIVE911 WIZARD ("WIZ") FEATURE ("WIZ TOS")** All of the TOS above (paragraphs 1-8) shall apply to Wiz feature users, except to the extent that the WIZ TOS below modify or supersede the TOS above:
 - a. Active911 shall have a limited license to use Geographic Information System (GIS) data provided by Wiz users to use such GIS data as follows: (i) such GIS data may be used for by Active911 to deliver Wiz features to other Wiz subscribers; (ii) such GIS data may be used by Active911 for its own innovation and marketing purposes, such as to create and/or publish maps and/or other promotional materials. Except to the extent set forth in this paragraph 9.a., Active911 will not sell or transfer GIS data provided by Wiz users to any third party without the prior consent of a Wiz user. Provided, however, Active911 shall not be required to obtain the consent of a Wiz

user to transfer GIS data in the event that substantially all of Active911's assets are sold to a third party as a single transaction or a series of related transactions.

- b. Active911 will not change the Wiz TOS except upon seven (7) days prior written notice to Wiz feature users, which notice shall specify the new or amended Wiz TOS. For purposes of receiving such notice(s), each entity or department using the Wiz feature shall identify a single contact to receive such notices. Active911 shall, at its discretion, provide such notice by email or First Class US Mail, postage prepaid. Such notice shall be deemed to have been provided on the date when emailed or three (3) days following deposit into the US Mail (the "Notice Effective Date").
- c. If any Wiz feature user objects to Active911's proposed new or changed Wiz feature terms, such Wiz feature user shall inform Active911 in writing (by email or US Mail) to be received by Active911 within seven (7) days of the Notice Effective Date (an "Objection Notice"). In the event Active911 is provided a timely Objection Notice, Active911 shall cancel the Wiz feature as to each such Wiz user covered by the Objection Notice and, if requested in the Objection Notice, shall delete and make no further use of any GIS information provided by the entity or department that has provided GIS data to Active911. In the event an Objection Notice is not received by Active911 by the Notice Effective Date, the new or amended Wiz TOS shall become effective and binding upon on the 15th day following the Notice Effective Date.

EMAIL US or Call (541) 223-7992
Monday - Friday, 7am-4pm PT



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97333

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