



Galveston County, Texas

Bastion Service License Agreement



Mark Hutton
September 19, 2024



BASTION SOFTWARE LICENSE AGREEMENT

(Ver. 1.9)

This Agreement is made effective as October 1, 2024, by and between: Fidar Technologies, with its principal place of business at 350 Research Parkway, Davenport, Iowa 52806 (herein "Fidlar"), and the Galveston County Clerk, with its principal place of business at 600 E 59th Street, Galveston, TX 77551 (herein "County").

1. DEFINITIONS

(a) Software – the computer program, procedures, rules and associated documentation concerned with the operation of a data processing computer system, in computer readable form, furnished by Fidlar to County, including related supporting materials such as instruction manuals, which provides for the electronic replication of each document recorded in County's real estate records using another Fidlar software program, and the electronic delivery of such electronic copy to a location separate from County's offices.

(b) Acceptance – The Software shall be deemed accepted by County at the conclusion of installation and testing of the Software and completion of the training period, provided the Software performs in accordance with its written documentation, unless County notifies Fidlar of a material problem with the Software within 30 days of completion of installation, testing, and training. FIDLAR will use its best efforts to correct such problems; otherwise, County will be conclusively presumed to have accepted the hardware and software upon completion of installation and testing.

2. GRANT OF LICENSE

Subject to the payment of the license fees to Fidlar as provided herein, Fidlar hereby grants to County, and County hereby accepts a personal, non-exclusive, non-transferable license to use, copy and install the Software during the term of this Agreement, subject to the limitations, terms and conditions of this Agreement and to use the documentation therefore during the term hereof in support of the use of the Software.

This License and the applicable Software may not be assigned, sub-licensed, or otherwise transferred without prior written consent from Fidlar, provided, however, that County may assign this License to a successor to its governmental operations. Any attempted assignment, sublicense, or transfer of this License by County or its permitted assignee to other than a successor to its governmental operations shall be void and shall immediately terminate this License.

3. DELIVERY, INSTALLATION AND USE

County shall use the Software in connection with its governmental operations. Fidlar will deliver the Software to County and install the Software at County's location listed above,



hereto. County and its permitted assignees may install and use the Software in any new location if it moves to a different location. Fidar will use its best efforts to correct any problems of which it is notified by County within 30 days of completion of installation, testing, and training. County is exclusively responsible for the supervision, management, and control of its use of the Software.

4. OWNERSHIP, REPRODUCTION AND DISCLOSURE

(a) The Software is licensed, not sold and remains the property of Fidar. County obtains no rights other than those granted under this Agreement. County shall not reverse engineer, disassemble or decompile the Software.

5. TERMINATION OF LICENSE

(a) The term of this license shall continue in perpetuity provided, that either party may terminate the license if the other party breaches this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice from the non-breaching party. Nothing in this sub-section 6(a) is intended to preclude Fidar from seeking immediate appropriate injunctive relief in the event of any violation of Fidar's intellectual property rights.

(b) Upon termination of the license, County shall immediately cease use of the Software and shall, within ten (10) days following termination, return the original Software and all copies thereof, or with Fidar's written consent, destroy the original Software and associated documentation and certify in writing to Fidar that all copies of the Software and documentation have been destroyed.

6. WARRANTY, WARRANTY DISCLAIMER AND INFRINGEMENT

(a) Warranty. **The following warranties are in lieu of all warranties, express, implied, or statutory, including but not limited to, any implied warranties of merchantability and fitness for a particular purpose and of any other warranty obligation on the part of Fidar. There are no warranties that extend beyond the description on the face hereof.**

(i) Fidar warrants that the Software is properly licensed and that Fidar otherwise has the right to distribute the Software in accordance with this Agreement.

(ii) Fidar further warrants that the media in which the Software is delivered to County is undamaged and free from mechanical defects.

(b) No Other Warranties. Fidar makes no other warranties with respect to the Software, except as set forth above. FIDAR DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND PROMISES, EXPRESS OR IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTY OBLIGATION ON THE PART OF



FIDLAR WITH RESPECT TO THE SOFTWARE. FIDLAR DISCLAIMS ALL LIABILITIES OR OBLIGATIONS FOR DAMAGES INCLUDING, BUT NOT LIMITED TO, INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, SUCH AS INTERRUPTION OF BUSINESS OR ANY LOSS OF BUSINESS OR PROFITS, LOSS DUE TO PERSONAL INJURY, OR HARM TO PROPERTY, OR ANY EXPENSE EXPERIENCED BY COUNTY ARISING OUT OF ANY DEFECTS IN OR FAILURE OR INADEQUACY OF PERFORMANCE OF THE SOFTWARE FURNISHED BY FIDLAR HEREUNDER.

7. LIMITATION OF LIABILITY AND EXCLUSIVE REMEDY

(a) **Limitation of Liability.** Even if Fidar has been advised of the possibility of such claims, demands, or damages, in no event shall Fidar be liable to County for the following: any incidental, special, exemplary, or consequential damages; any loss of profits or confidential or other information; business interruption, personal injury, any loss of privacy for failure to meet any duty including of good faith or of reasonable care, any negligence or negligent misrepresentation, and any other pecuniary or other loss whatsoever, even in the event of the fault of Fidar (or any supplier), of tort (including negligence), strict or product liability, breach of contract or breach of warranty.

(b) **Exclusive Remedy.** County's exclusive remedy against Fidar for any breach of warranty under this Agreement is limited to repair, replacement or refund with respect to the item in question, at Fidar's option and subject to applicable law. County will only be entitled to the direct damages that County actually incurs in reasonable reliance, up to the amount of a refund of the license fees (plus sales tax) that County paid for the Software. The limitations and exclusions regarding damages will apply even if any remedy fails.

(c) **Costs.** If suit is brought or an attorney retained by either party to enforce the terms hereof, collect any monies due under, or collect damages for breach of, this Agreement, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorney fees, court costs and other related expenses incurred in connection therewith.

9. STORAGE FACILITY

The purpose of the AVID Bastion Hosting Service is to store the official public record of the County's real estate records at a location physically separate from the County's location. The cost above covers the hardware costs, software costs (such as Operating System Licenses, Microsoft SQL Server Core Licenses, Backup Software Licenses, VM Ware Software Licenses, etc.), environmental maintenance, and digital backups of all critical components of the Galveston County Clerk's Land Records System at the primary data center.



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This service also covers a replicated copy of your hosted production system. Hardware based mirroring of your Virtual Machine Operating Systems, SQL Databases, and digital scanned images will occur daily. In the event of a disaster in our primary data center your backup recovery data center will be operational within hours.

This Software License Agreement was executed to be effective as of the date set forth above. Each person signing below represents that he or she has read this Agreement in its entirety including any and all Attachments; understands its terms; is duly authorized to execute this Agreement on behalf of the party indicated below by his or her name; and agrees on behalf of such party that such party will be bound by the terms hereof.

FIDLAR TECHNOLOGIES

By: Alex Rigger

Print Name: Alex Rigger

Title: President

Date: 9/20/2024

GALVESTON COUNTY, TX

By: Mark Henry

Print Name: Mark Henry

Title: County Judge

Date: September 30, 2024



SCHEDULE A

Software/ Services Pricing & Payment

BASTION Service Description

Bastion replaces the need for an on-site server infrastructure within your office, for Fidar's AVID Land Record software. The hosted infrastructure that Bastion provides alleviates the need and cost of an onsite application server, obligatory software licensing fees, and backup procedures traditionally required with a localized technical operation.

Security measures are heightened with a secondary, off-site repository that backs up the hosted servers, ensuring the safekeeping of county data in the event of a disaster. If Bastion's primary server environment were ever jeopardized, the secondary retention facility will have your office resuming activity within hours.

Internet speeds at the County office will need to be a minimum of 10 Mbps download and upload in order for Bastion to function properly.

Bastion (One Time Purchase): N/A (Agreement Update)

Storage Costs

With the implementation of various Projects and Software packages, your quarterly storage costs can have a tendency to fluctuate from one price range to another. Projects such as Media Conversions and software such as iNSPECT or Shadow Tables can impact sizes. You will be invoiced on actual space consumed for that Quarter.

Size Range	Annual Price
1051 - 1100 Gb	\$40,800
1101 - 1150 Gb	\$42,600
1151 - 1200 Gb	\$44,400
1201 - 1250 Gb	\$46,200
1251 - 1300 Gb	\$48,000

**The total size of your current repository is 1,186 Gb. As you grow/shrink/fluctuate prices may adjust to match the table listed above.

Total Quarterly Charge: \$11,100.00



PAYMENT MILESTONES

Continued Quarterly invoicing of Data Usage.

Taxes

Charges are exclusive of all federal, municipal, or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future with the exception of taxes on net income and, therefore, are subject to an increase equal in amount to any tax Fidlar may be required to pay upon the license, sale or delivery of the product purchased. **Note: Prices quoted herein are guaranteed for thirty (30) days. After that time, prices may change without notice.**

COUNTY REPRESENTS THAT SCHEDULE 'A' HAS BEEN READ:

FIDLAR TECHNOLOGIES

By: Alex Rigen

Print Name: Alex Rigen

Title: President

Date: 9/20/2024

GALVESTON COUNTY, TX

By: Mark Henry

Print Name: Mark Henry

Title: County Judge

Date: September 30, 2024

