



TO: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH **DATE: September 23, 2021**

RE: *Approval of the contract between the Southern Nevada Health District and ImageTrend, Inc.*

PETITION #07-22

That the Southern Nevada District Board of Health *approves the contract between the Southern Nevada Health District and ImageTrend, Inc. for the web-based software platform to facilitate EMS personnel applications, certification, endorsements and licensure.*

PETITIONERS:

John Hammond, EMSTS Manager *JH*
Michael Johnson, Ph.D., Director of Community Health *MJ*
Fermin Leguen, MD, MPH, District Health Officer *FL*

DISCUSSION:

The Office of EMS & Trauma System’s (OEMSTS) role is to protect the public, EMS providers, and agencies in Clark County by ensuring competent and efficient delivery of pre-hospital emergency care and transport of the sick and injured through advocacy, resources, leadership, education, and regulatory oversight. The OEMSTS uses a web-based software platform to facilitate EMS personnel applications, certification, endorsements and licensure. This software also tracks education, training centers and permitted agencies. The whole suite of services the software provides are critical in providing regulatory oversight. The OEMSTS has requested proposals from vendors to provide these services and we have selected ImageTrend based on history, capability and cost.

The Southern Nevada Health District asks to continue its established relationship with ImageTrend, Inc. as set forth in the attached Master Software and Services Agreement (“Agreement”). The term of the Agreement shall be twelve (12) months from the effective date of the Agreement. Upon expiration of the initial term, the term shall automatically renew under the same terms and conditions for up to four (4) additional subsequent 12-month terms, unless terminated under the terms of the Agreement.

FUNDING:

The initial year of funding is \$67,127.08 and will increase annually by 3%. Funding for this software agreement is within the EMS & Trauma system budget for FY21 and FY22. No additional funding is a part of this request.

Master Software and Services Agreement

CONTRACT NUMBER: 00002953.0 (C2100135)

BETWEEN

Southern Nevada Health District

280 S. Decatur Blvd.

Las Vegas, Nevada 89107

AND

IMAGETREND®

ImageTrend, Inc.

20855 Kensington Blvd.

Lakeville, Minnesota 55044

THIS AGREEMENT is made and entered into on the date last written below, by and between the ImageTrend, Inc., a Minnesota corporation (hereinafter "ImageTrend"), and Southern Nevada Health District (hereinafter "Client"), together "the Parties."

RECITALS

WHEREAS, Southern Nevada Health District is the public health entity organized pursuant to Nevada Revised Statutes ("NRS"), Chapter 439, with jurisdiction over all public health matters within Clark County, Nevada; and

WHEREAS, Client desires to have services performed by ImageTrend; and

WHEREAS, Client desires to purchase Commercial-Off-The-Shelf Software from ImageTrend; or

WHEREAS, Client desires to purchase Custom Software Development from ImageTrend; and

WHEREAS, ImageTrend possesses technical skill, knowledge, and capability in consulting and designing custom and off-the-shelf software solutions and performing technical software services and Client desires such services.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS

"Agreement" and **"This Agreement"** means this Master Software and Services Agreement, the Work Orders issued hereunder, Statements of Work, all Attachments and Exhibits attached hereto, and any Amendments made hereto.

"Business Day" means a single eight (8)-hour period occurring on a Monday, Tuesday, Wednesday, Thursday or Friday, 9:00am CST to 5:00pm CST, excluding holidays per §16(d) below. Unless specified in a Work Order, ImageTrend personnel will only perform services during Business Days.

"Business Week" means a five (5)-day period, beginning Monday at 9:00am CST and ending Friday at 5:00pm CST, excluding holidays per below.

"Confidential information" means the proprietary products and trade secrets, including, but not limited to, computer software, code, technical parameters, price lists, methods of pricing, customer lists, designs, software documentations, manuals, models and account tables, and any and all information maintained or developed. Information shall be considered Confidential Information if it is identified in writing as confidential or proprietary, or if disclosed verbally or visually in discussion, upon written notice specifying and describing the nature of the orally disclosed Confidential Information at that time, or within fifteen (15) days of such disclosure.

"Commercial Off the Shelf" or "COTS" means pre-designed software products which are made available for sale by ImageTrend to many customers. COTS is mutually exclusive to Custom Software or Custom IP. MOTS means Modified Off The Shelf, and is a derivative work of ImageTrend COTS Software.

“Custom IP” or “Custom Software” means software products, or other Intellectual Property, which is designed for a specific purpose, for a specific customer or CLIENT.

“Deliverable” means an intangible or tangible product, material, or service produced as a result of a Work Order, and each Deliverable is specified in the corresponding Work Order from which it is produced.

“Disclosing Party” means the party disclosing Confidential Information to the other party, see also Receiving Party.

“Effective Date” means the date upon which the last party has signed and executed this Agreement.

“Fixed Fee” means a fixed amount of compensation due in return for a fixed Deliverable.

“Governmental Entity” shall have the same meaning as “State and local government entities” as defined in the General Services Administration Acquisition Manual (GSAM) at 538.7001, as updated.

“Intellectual Property” means any intellectual property or proprietary rights in any jurisdiction, whether owned or held for use under license, whether registered or unregistered, including such rights in and to: (i) trademarks, trade dress, service marks, certification marks, logos, trade names, brand names, corporate names, assumed names and business names (“Trademarks”, which term shall include the items described in clause (viii) below); (ii) patents and any and all divisions, continuations, continuations-in-part, reissues, continuing patent applications, reexaminations or extensions thereof, any counterparts claiming priority therefrom, utility models, patents of importation/confirmation, certificates of invention, certificates of registration and like statutory rights; inventions, invention disclosures, discoveries and improvements, whether patentable or not; (iii) copyrights and works of authorship; (iv) trade secrets (including those trade secrets defined in the Uniform Trade Secrets Act and under corresponding federal, state or foreign statutory or common law), business, technical and know-how information, non-public information, and confidential information and rights to limit the use or disclosure thereof by any Person; (v) mask works; (vi) moral rights, author’s rights or rights of publicity; (vii) claims, causes of action and defenses relating to the enforcement of any of the foregoing; (viii) any applications for registration of any of the foregoing, and all renewals or extensions of any of the foregoing, whether now existing or hereafter arising; and (ix) the goodwill associated with each of the foregoing. For the avoidance of doubt, “Intellectual Property Rights” includes any and all of the foregoing related to computer software, data files, Source Code, Object Code, APIs, manuals, documentation, specifications, databases or other materials or information.

“Licensed Information” means any information pertaining to the Software which is owned by IMAGETREND and is licensed to CLIENT. Licensed Information includes such information as input form, user manuals and user documentation, interface format and input/output format, and any other materials pertaining to the Software.

“Local Travel” means travel to a destination in the Twin Cities Metro area, within thirty (30) miles of Lakeville, MN.

“Materials” and “Expenses” means, but is not limited to, third party software licenses, physical hardware, test devices, or other items, reasonable travel expenses pursuant to then-current provisions of U.S. General Services Administration Federal Travel Regulations (including but not limited to food, lodging, and transportation), printing, delivery of materials, or any other cost reasonably incurred arising out of this Agreement.

“Master Software and Services Agreement” means this document excluding Work Orders issued from this document.

“Pre-Existing Materials” means code, documentation, frameworks, development accelerators, tool sets or any other materials owned by ImageTrend and not developed as part of the services performed for Client. It may include, without limitation, Security Framework, Dashboard, ImageTrend Frameworks, Report Writer and any other tools or Intellectual Property made or used by ImageTrend unrelated to this Agreement.

“On-Site Hour” means time an hour worked by ImageTrend personnel on Client premises, or other premises of Client’s choosing that are not ImageTrend’s corporate offices.

“Statement of Work” means the technical document which outlines a mutually agreed upon specification for particular Custom Development projects and associated costs, payment terms and acceptance procedures. This document requires client acceptance and signature prior to beginning work.

“Support” means technical support for the configuration and functioning of the products, including taking and monitoring defect reports, as defined further below in the Service Level Agreement between ImageTrend and Client.

“Software” means ImageTrend software provided to Client by ImageTrend, specifically software developed and/or written by ImageTrend. Software developed by a third-party which is purchased on behalf of Client is considered Third Party Material.

“Receiving Party” means the party receiving Confidential Information from the Disclosing Party

“The Agreement” means this Master Software and Services Agreement, the Work Orders issued hereunder, Statements of Work, all Attachments and Exhibits attached hereto, and any Amendments made hereto. **“Third Party Material(s)”** means software or other materials owned by a party other than Client or ImageTrend.

“Time and Materials Basis” means charges billable to the Client based upon each hour worked, multiplied by the hourly rate for the work, plus the cost of any Materials necessary (including but not limited to, the cost of third party software licenses, travel and accommodation expenses, or otherwise), or Materials beneficial (conditioned upon mutual assent of the parties), billed on a monthly basis in arrears.

“Work Order” means the document which outlines a mutually agreed upon set of services, products, or Deliverables and associated costs, payment terms, and acceptance procedures.

SECTION 2. TERM OF AGREEMENT

The Term of this Agreement shall be twelve (12) months from the Effective Date of this Agreement (“Initial Term”). Upon expiration of a Term, the Term shall automatically renew under the same terms and conditions for up to four (4) additional subsequent 12 month terms (each a “Renewal Term”), unless terminated under the terms of this Agreement or by otherwise giving the other party no less than thirty (30) days of written notice prior to the last day of the then-current Term.

SECTION 3. ATTACHMENTS

The Services to be performed and the consideration therefore are specifically described in the below referenced documents which are attached hereto and expressly incorporated by reference herein:

- Attachment A: Software Licensing Terms
- Attachment B: Agreement Price Sheet and Work Order
- Attachment C: Service Level Agreement

SECTION 4. ATTACHMENT D: PRODUCT SPECIFIC TERMSWORK ORDERS

SECTION 4.1 CREATION OF WORK ORDERS. The parties may, from time to time, work together to detail the specific engagement scope, pricing, acceptance criteria, and terms of services to be performed and Deliverables to be delivered by ImageTrend. ImageTrend will set forth these details as a Work Order. If the Work Order is for the purchase of COTS Software, the Work Order shall also outline the quantity and SKU of each product or service as applicable. Should a Work Order contain no term regarding a topic, the terms of this Master Software and Services Agreement shall hold instead.

SECTION 4.2 LIMITATIONS OF WORK ORDERS. Work Orders may include requirements on the Client. Such requirements, when executed as part of a mutual agreed writing, form a material part of this Agreement and of the Work Order where the requirement is presented. Additionally, either party may set forth factual assumptions (“Assumption”) in each Work Order. Notwithstanding anything in this Agreement or the Work Order, a Work Order will be rendered void to the extent that ImageTrend or Client is obligated to perform services which are impossible or impracticable. Further, a Work Order will be rendered voidable to the extent that ImageTrend or Client is obligated to perform services or requirements materially different than originally set out in that Work Order due to an inaccurate Assumption. The parties will make commercially reasonable efforts to negotiate an alternative or modified Work Order in light of the inaccurate Assumption.

SECTION 4.3 MODIFICATION OF WORK ORDERS. Any modification to the scope or tasks identified within the Work Order that change the work budget by an estimated ten (10) hours of work or more shall require a new modified written Work Order or written Change Order. ImageTrend shall not work on the new tasks in the modified Work Order until the Client has provided signed written acceptance of the new Work Order. The parties may waive this requirement on a case-by-case basis in writing. Modifications requiring less than an estimated ten (10) hours of work may be proposed and accepted verbally, with such modifications requiring less than ten (10) hours of work billed on a Time and Materials basis.

SECTION 4.4 FEE MODEL. The Work Order will contain fee and payment terms. The following fee models are contemplated:

Model Name	Definition
Fixed Fee	ImageTrend shall perform the work outlined in the Work Order for a fixed flat fee, plus Expenses. The Fixed Fee is exclusive of Expenses unless the Work Order outlines the Expenses. The Fixed Fee model may include milestone payments, with such milestone payments outlined in the Work Order.

Time and Materials

ImageTrend shall perform the work outlined in the Work Order on a Time and Materials basis, at the rate(s) specified in the Work Order.

SECTION 4.5 LEGAL EFFECT. Work Orders issued under this Master Software and Services Agreement are incorporated by reference into this Master Software and Services Agreement which collectively is called “the Agreement.” Work Orders do not override the terms of this Master Software and Services Agreement unless specifically stated that they do so. Work Orders may contain their own Fee/Payment Schedules and Payment Terms; those terms are binding insofar as they concern the services or Deliverables contemplated by the Work Order. For Work Orders without their own fee and payment terms, the payment terms in Attachment B, Agreement Price Sheet and Work Order below control.

SECTION 4.6 CUSTOMIZED SOFTWARE DEVELOPMENT. The parties may mutually agree to a Work Order also known as a Statement of Work for the development of new or custom software, also known as “Modified Off The Shelf” or MOTS. All normal requirements of the Work Order shall apply, but additionally the parties must work together to mutually define a Statement of Work which outlines the tasks, and their timelines, to be undertaken as part of the project. Any Customized Software or MOTS Software developed under this Agreement will be Intellectual Property owned by ImageTrend. Should Client desire ownership of any Intellectual Property developed by ImageTrend, this must be embodied by a separate, mutually executed contract. For clarity, Client shall not and will not own any ImageTrend Intellectual Property under any circumstance under this Agreement. Client may only receive a license thereto as outlined in each Work Order.

SECTION 5. PERFORMANCE OF SERVICES

SECTION 5.1 COMMENCEMENT. ImageTrend shall begin services described in the Work Order. No services shall begin before mutual signed and written final acceptance of each Work Order.

SECTION 5.2 USE OF KNOW HOW. ImageTrend shall use its know-how, Intellectual Property, talent, skills, and employees to perform the services. Client shall conditionally receive a license to any and all pre-existing ImageTrend Intellectual Property and Know-How used in the creation of Deliverables and delivery of services as outlined below in §7 “Data and Intellectual Property” and Attachment A, Software Licensing Terms.

SECTION 5.3 MATERIALS. Materials (including, but not limited to, third party software licenses, physical hardware, test devices, or other items and any other Material) that will be used in the development of the Software will be identified by ImageTrend to Client. ImageTrend shall acquire such Materials as the parties mutually agree should be acquired, and it shall be the Client’s responsibility to pay for those materials.

SECTION 5.4 ACCEPTANCE OF SERVICES AND DELIVERABLES. ImageTrend shall deliver completed Deliverables and services to Client for acceptance. Each Work Order must detail the acceptance criteria for each Deliverable or service contained within that Work Order. If a Deliverable or services acceptance criteria is measurable objectively, it shall be complete upon satisfaction of that objective measurement without regard to either party’s satisfaction with the Deliverable. If 1) a Deliverable’s acceptance criteria

is based on Client's satisfaction with the Deliverable, or 2) no acceptance criteria is detailed, then the following default clause shall apply:

After delivery of the Deliverable or performance of the service, Client shall have no more than thirty (30) days to: 1) accept the deliverable or service, or 2) reject the deliverable or service by providing a written rejection that reasonably sets forth the reason for the rejection and the changes required to gain Client's acceptance, or 3) provide a written request for a fifteen (15) additional day extension to review the Deliverable or service; ImageTrend shall not unreasonably withhold approval of such 15 day extension. If Client does not provide an acceptance within the above time frame inclusive of extensions, the Deliverable or service will be deemed accepted. After delivery of the fourth revision of the service or Deliverable, the service or Deliverable shall be deemed accepted by Client.

SECTION 6. FEES, INVOICING, AND PAYMENT TERMS

SECTION 6.1 PROMPT PAYMENT ACTS. IF CLIENT IS A GOVERNMENTAL ENTITY, THE FOLLOWING PARAGRAPH APPLIES:

To the degree any term in this Section 6, or any payment related term in any Work Order, conflicts with the governing prompt payment act or similar procurement act which unambiguously limits client's ability to agree or comply with any term in this Section 6 or in any payment related term in any work order ("The PPA"), the term in the PPA will instead control. For clarity, unless there is an unambiguous conflict between the terms of this Section 6 or in any Work Order, the PPA shall not control and this Agreement shall still control.

SECTION 6.2 FEES. Client shall owe to ImageTrend such fees as set forth in each mutually executed Work Order.

SECTION 6.3 SCHEDULING NON-LOCAL TRAVEL. For air travel Client may, and is strongly advised to, schedule travel no less than three (3) weeks in advance of the first on-site date by written request; ImageTrend reserves the right to approve or deny travel requests on a per-request basis. Client may also request travel by writing with three (3) weeks or less advance notice; ImageTrend reserves the right to approve or deny such travel requests, and to invoice costs to Client due to scheduling changes ImageTrend must make to accommodate such a request if approved.

SECTION 6.4. CANCELLATION, RESCHEDULE, OR DELAY. Client will provide to ImageTrend ten (10) ten business days prior written notice of Client's intent to delay, reschedule, or cancel ("Staffing Change") any service in a Work Order which requires an ImageTrend employee to perform work at a specific location or at a specific time (e.g. face-to-face meetings, on-site visits, after hours on-call status). If Client fails to provide such notice, Client shall reimburse ImageTrend for loss caused by the Staffing Change. ImageTrend shall use commercially reasonable efforts to mitigate any losses that would be incurred by a Staffing Change and due to ImageTrend by Client.

SECTION 6.5 INVOICING. Unless otherwise specified in a Work Order, invoices must be paid on Net 30 terms. Any objection to an invoice must be made in writing. Client may request up to an additional fifteen (15) days to review Deliverables associated with an invoice, approval to which ImageTrend shall not unreasonably withhold. If Client does not object to an invoice, or request an extension to review

Deliverables, within fifteen (15) days after receipt of the invoice then the invoice is deemed accepted and any right to object to the invoice is waived. Payment shall be made by check or by ACH transfer to ImageTrend.

SECTION 6.6 REMEDIES FOR NON-PAYMENT. Should Client fail to pay per the terms of this Agreement and this Section 6, and to the extent permitted by law, ImageTrend may 1) suspend services under all Work Orders until such payment is made in full, and/or 2) invoice Client for the costs of collection including reasonable attorney's fees.

SECTION 6.7 TRAVEL COSTS. Should Client desire ImageTrend to send personnel to a location of Client's choosing in the continental United States, Client may pay \$1,750 per ImageTrend trainer per trip and a further \$1,400 per trainer per day spent at Client's chosen location. Travel outside of the continental US will be quoted by ImageTrend upon request. Travel may only be scheduled for a maximum of one business week of Monday through Friday per trip; however Client may book consecutive trips. Non-local travel scheduling which runs from one business week into a subsequent business week(s) (e.g. start date on Friday at 8:00am, end date Wednesday at 5:00pm, "Overlapped Weekend") will result in ImageTrend invoicing Client an additional trip for each Overlapped Weekend. ImageTrend staff will work 8 hours each day, except on the first and last day of each trip ImageTrend may reserve up to 2 hours of the Business Day for travel time.

SECTION 6.8 TIME AND MATERIALS RATE. Unless otherwise specified in a Work Order, ImageTrend's Time and Materials rate is \$175.00 per hour.

SECTION 6.9 PRICE ESCALATION. ImageTrend reserves the right to escalate the prices contained herein, and any recurring fee, by no more than 3 % of the then current price for each anniversary of the Effective Date for the current term of the Agreement. ImageTrend further reserves the right to escalate travel prices once per year upon written notice to Client. Such travel price increases will only affect future travel prices and will not change the price or amount due to ImageTrend for previously rendered travel.

SECTION 7. DATA AND INTELLECTUAL PROPERTY

SECTION 7.1 CLIENT DATA. All Client data provided to ImageTrend remains at all times the property of the Client unless otherwise specified by a Work Order. ImageTrend will not to use or make available any personally identifiable information or patient health information other than for performing the services outlined in a Work Order, and for use in an aggregated manner to monitor, operate, train artificial intelligence, and conduct statistical analyses relevant to the application's proper functioning, maintenance, optimization, or improvement. ImageTrend will not in any way transfer to any third party any Confidential Information of Client.

Section 7.2 DE-IDENTIFICATION. ImageTrend may create a de-identified data set of Client's data ("the De-identified Data Set") and ImageTrend may, in ImageTrend's discretion, transform, analyze, distribute and redistribute, create derivative works of, license, make available to 3rd party researchers, or otherwise use the De-identified Data Set except as limited by: 1) this Agreement, 2) applicable law and regulation, e.g. State and Local data privacy law and HIPAA/HITECH, 3) notwithstanding any of the prior, ImageTrend shall create the De-identified Data Set in accordance with the then current HIPAA

Safe Harbor Rule at 45 CFR § 164.514(2)(i) by removing the eighteen (18) listed data elements, and any additional data element designated as ‘Personal Information’ by State and Local data breach law (or equivalent laws). ImageTrend shall ensure its methods for creating the De-identified Data Set comport with industry best practices and guidance such as NISTIR 8053 ‘De-Identification of Personal Information’ (available at <http://dx.doi.org/10.6028/NIST.IR.8053>). ImageTrend shall use reasonable administrative, technical, and physical safeguards to protect and prevent unauthorized disclosure of the De-identified Data Set. ImageTrend shall not attempt to re-identify any de-identified records.

SECTION 7.3 GRANT OF LICENSE TO IMAGETREND’S PRE-EXISTING IP AND OWNERSHIP OF NEW IP.

All Intellectual Property Rights connected to the ImageTrend pre-existing materials such as architectural structure, modules, processes, and Know-How that may be used in Deliverables (“Pre-existing IP”), shall remain owned by ImageTrend. ImageTrend agrees to grant to Client a royalty-free, worldwide, transferable, non-exclusive, use license for these architectural structures, modules, and processes that may be used solely in conjunction with the Deliverables and services performed under Work Orders and in accordance with the license selected below in Attachment A, Software Licensing Terms, conditioned upon full payment of the Work Order from which the Deliverable containing Pre-Existing IP originates. This license may not be transferred, and Client may not sublicense, use, reproduce, distribute or prepare derivative works of ImageTrend’s Pre-Existing IP except to the extent strictly necessary to fulfill the purpose of a Work Order. New Deliverables utilizing the same Pre-Existing IP may require another license for that new Deliverable, in ImageTrend’s discretion. New Custom Intellectual Property authored by the parties in the course of performing a Work Order shall be owned by the party that authored the Intellectual Property and in the case of derivative works, it shall be owned by the party who owns the work from which the derivative is made, or as otherwise set forth in the Work Order. In the case of ImageTrend Software products licensed per Attachment A below, or “Modified Off The Shelf Software” as defined above, ImageTrend shall own all Intellectual Property related to or arising out of any Work Order. A Work Order may specify who owns the intellectual property embodied in a Deliverable; however, absent such terms in the Work Order, the terms of this Agreement shall control. Any right not hereby granted is reserved.

SECTION 8. CONFIDENTIALITY

SECTION 8.1 CONFIDENTIALITY ACKNOWLEDGEMENT. Each party hereby acknowledges and agrees that the other Party’s Data, potential clients or customers, client or customer lists, business plans, pricing structures, software and database designs, and any other information a Party has marked as Confidential, constitute Confidential Information. Each party agrees to treat (and take precautions to ensure that its authorized personnel treat) Confidential Information as confidential in accordance with the confidentiality requirements and conditions set forth below. Orally transmitted information shall not be Confidential Information unless specified as such in a writing transmitted from the Disclosing party to the Receiving party within fifteen (15) days of the oral transmission, with such writing providing a reasonable description and scope of the Confidential Information transmitted.

SECTION 8.2 CONFIDENTIALITY OBLIGATIONS. Each party agrees to keep confidential all confidential information disclosed to it by the other party in accordance herewith, and to protect the confidentiality thereof in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information); provided, however, that the provisions of this §8 shall not apply to information which: (i) is in the public

domain; (ii) has been acquired by a Party by means other than the disclosure of the information by the Disclosing Party; (iii) is duly obtained by a Party directly or indirectly from a third party who has independently developed the information and is entitled to disclose the information to the Party, and such disclosure does not directly or indirectly violate the confidentiality obligation of such third party; or (iv) becomes known publicly, without fault on the part of a Party, subsequent to the receipt of the information by Party.

SECTION 8.3 PUBLIC RECORDS. Notwithstanding Subsection 8.2 above, the Parties acknowledge Client is a public entity subject to Nevada's Public Records Act pursuant to Nevada Revised Statutes Chapter 239. Accordingly, documents, including this Agreement, may be open to public inspection and copying; provided however, that ImageTrend shall have the right to timely object or dispute the production of any such documents, agreements or other materials in the appropriate court, and in the event of such objection Client shall not produce any such documents, agreements, or other materials until a determination is made by a court of competent jurisdiction.

SECTION 8.3 SURVIVAL. This §8 shall survive the termination of this Agreement or of any license granted under this Agreement.

SECTION 9. WARRANTIES

SECTION 9.1 NO CONFLICTS OF INTEREST. ImageTrend does not have any express or implied obligation to a third party which in any way conflicts with any of ImageTrend's obligations under this Agreement.

SECTION 9.2 SERVICES. All services and will be provided in a professional and workmanlike manner in accordance with applicable industry standards and will comply with all applicable laws. All Deliverables will substantially conform to the agreed-upon specifications set forth in the applicable Work Order or as otherwise set forth in this Agreement.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT ABOVE, THE SERVICES IMAGETREND PROVIDES TO CLIENT ARE PROVIDED WITHOUT ADDITIONAL WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS, OR STATEMENTS MADE PRIOR TO THIS AGREEMENT. IMAGETREND HEREBY EXPRESSLY DISCLAIM, AND CLIENT HEREBY WAIVES, ANY REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES PROVIDED IN THIS AGREEMENT ARE CLIENT'S SOLE AND EXCLUSIVE REMEDIES.

SECTION 10. LIMITATION OF LIABILITY

EACH PARTY SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THAT PARTY IS ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. EACH PARTY'S CUMULATIVE LIABILITY ARISING OUT OF OR IN ANY MANNER RELATED TO THIS SHALL BE LIMITED TO THE AMOUNT OF THE FEES DUE UNDER THIS AGREEMENT.

SECTION 11. DISPUTE RESOLUTION

DUTY TO NEGOTIATE IN GOOD FAITH PRIOR TO FORMAL DISPUTES. IF CLIENT IS A GOVERNMENTAL ENTITY, THE FOLLOWING 2 PARAGRAPHS APPLY:

The parties shall attempt in good faith to resolve any dispute arising out of or relating to this agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this agreement. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within fifteen (15) days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within thirty (30) days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place, or by teleconference.

All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

SECTION 12. NON-EXCLUSIVITY

This Agreement does not establish any exclusivity of service, contract, customer relationship, or otherwise between the parties.

SECTION 13. AMENDMENTS

This Agreement may only be modified by a mutually executed writing including but not limited to Work Orders, signed by a person having authority to sign.

SECTION 14. TERMINATION

Either Party may terminate this Agreement, without cause, upon giving the other Party thirty (30) days prior written notice to the other Party in addition to any other remedy or right contained in this Agreement. This right of termination is additive to other rights of termination identified above in this Agreement and does not preclude the exercise of those other rights.

SECTION 15. INDEMNIFICATION

SECTION 15.1 IMAGETREND INDEMNITY. ImageTrend shall defend and indemnify Client from and against third party claims, actions, suits, demands, damages, obligations, losses, settlements, judgments, costs, and expenses ("Claims"), which arise out of any negligent act or omission, or willful misconduct of ImageTrend. Client shall promptly notify ImageTrend for any actual or prospective Claim for which indemnification is sought. In the event that any third-party Claim is made and Client invokes this clause, ImageTrend shall have the right and option to undertake and control such defense of such action with counsel of ImageTrend's choice with control to settle any such Claim. ImageTrend shall have no

obligation to defend or indemnify Client from Claims arising out of Client's negligent or intentional wrongful acts or omissions. Because ImageTrend must provide its own insurers with notice of a claim within sixty (60) days of actual knowledge of a Claim, Client accordingly must provide ImageTrend written notice no more than sixty (60) days after Client has actual knowledge of a Claim else ImageTrend shall have no obligation to indemnify Client.

SECTION 15.2 CLIENT INDEMNITY. IF CLIENT IS A GOVERNMENTAL ENTITY THE FOLLOWING

PARAGRAPH DOES NOT APPLY. Client shall defend and indemnify ImageTrend from and against third party claims, actions, suits, demands, damages, obligations, losses, settlements, judgments, costs, and expenses ("Claims"), which arise out of any negligent act or omission, or willful misconduct of Client. ImageTrend shall promptly notify Client for any actual or prospective Claim for which indemnification is sought. In the event that any third-party Claim is made and Client invokes this clause, Client shall have the right and option to undertake and control such defense of such action with counsel of Client's choice with control to settle any such Claim. Client shall have no obligation to defend or indemnify ImageTrend from Claims arising out of Client's negligent or intentional wrongful acts or omissions. ImageTrend accordingly must provide Client written notice no more than sixty (60) days after ImageTrend has actual knowledge of a Claim else Client shall have no obligation to indemnify Client.

SECTION 16. GENERAL TERMS

- a. **STATEMENT OF ELIGIBILITY.** Each Party acknowledges to the best of its knowledge, information, and belief, and to the extent required by law, neither it nor any of its respective employees/contractors is/are: i) currently excluded, debarred, suspended, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; and ii) has/have not been convicted of a federal or state offense that falls within the ambit of 42 USC 1320a-7(a).
- b. **INSURANCE REQUIREMENTS.** ImageTrend will provide to Client a Certificate of Insurance upon request.
- c. **ELECTRONIC SIGNATURES.** The parties agree to conduct transactions primarily via electronic means. Accordingly, each party accepts electronic signatures and Deliverables as equivalent to physical versions of the same.
- d. **BUSINESS DAYS AND HOLIDAYS.** The parties agree a business day is eight (8) hours long, and excludes Saturdays, Sundays, and days reasonably considered a holiday by either party per each party's written policies. Unless otherwise specified in a Work Order, ImageTrend shall perform services only during business days, from 9:00am CST to 5:00pm CST.
- e. **COUNTERPARTS.** This Agreement may be executed in counterpart originals, duly signed by both parties, each of which will be deemed an original but all of which, together, will constitute one and the same Agreement. Any terms not present in all counterpart copies are severed and void. Electronic counterparts are equally as valid as original counterparts.
- f. **FORCE MAJEURE.** Neither party will be liable for delays nor for non-performance due to an unforeseeable event, external to this Agreement and the parties, where the occurrence of the

event beyond the non-performing or delayed party's reasonable control ("Force Majeure Events.") This clause shall not apply to costs due to ImageTrend to reimburse cancellation, reschedule, or modification of travel arrangements per §6 above. Force Majeure Events may include, but are not limited to: war, terrorism or threats of terrorism, civil disorder, labor strikes, fire, disease, medical epidemics or outbreaks, events which curtail necessary transportation facilities (e.g. airports), or other unforeseeable events where the occurrence of the event is beyond the non-performing or delayed party's control.

- g. **REASONABLE COOPERATION.** Client will reasonably cooperate with ImageTrend to the extent reasonably necessary to enable ImageTrend to perform the Services contemplated in each Work Order. Accordingly, Client will provide access, information or other materials in a fashion timely to the schedule of each Work Order. ImageTrend shall have no liability to Client for delays arising out the actions or non-actions of Client.
- h. **NON ASSIGNABILITY.** A party shall not assign this Agreement or its rights hereunder without the prior written consent of the other party.
- i. **JURISDICTION AND VENUE.** This Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Nevada, without regard to any conflicts of laws principles, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.
- j. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties, with respect to this subject matter, including, but not limited to the services, goods, products, and Software provided by ImageTrend for Client and the compensation provided by Client for said provision of such services therefore, and supersedes all previous proposals, both oral and written, negotiations, representations, writings and all other communications between the parties. This Agreement may not be released, discharged, or modified except by an instrument in writing signed by the parties.
- k. **SEVERABILITY.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.
- l. **WAIVER.** No waiver by either party of any of any provision hereof shall constitute a waiver of any other term of this Agreement nor shall it preclude either party from enforcing its rights.
- m. **NONAPPROPRIATION. IF CLIENT IS A GOVERNMENTAL ENTITY THE FOLLOWING PARAGRAPH APPLIES.** The continuation of this Agreement is contingent upon the appropriation of funds by the legislature or other sources as applicable to fulfill the requirements of the Agreement. If the insufficient monies are appropriated to provide for the continuation of the Contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the applicable appropriation laws or regulations for any lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of this Agreement or any Work Order hereto,

the Agreement or applicable Work Order(s) shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated. ImageTrend shall be entitled to payment for deliverables in progress, to the extent work has been performed pursuant to this Agreement or any Work Order hereto; obligations that have been incurred that extend beyond the date of termination; and reasonable contract close-out costs.

- n. **ATTORNEYS' FEES.** To the extent permitted by law, in any action between the parties to enforce any of the terms of this Agreement, the prevailing party shall be entitled to seek reasonable expenses, including reasonable attorneys' fees.
- o. **INDEPENDENT CONTRACTORS.** It is the express intention of Client and ImageTrend that ImageTrend and its employees and agents will perform the services hereunder as independent contractors to Client. Nothing in this Agreement shall in any way be construed to constitute ImageTrend or its employees or agents as an agent, employee or representative of Client. Without limiting the generality of the foregoing, ImageTrend is not authorized to bind Client to any liability or obligation or to represent ImageTrend has any such authority. Client and ImageTrend agree that neither ImageTrend employees nor its agents will receive Client - sponsored benefits from Client.
- p. **NO PRIVATE RIGHT CREATED.** The Parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this Agreement shall not be construed to create such status. The rights, duties, and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties determining and performing their obligations under this Agreement.
- q. **NON-DISCRIMINATION.** As Equal Opportunity Employers, the Parties have an ongoing commitment to hire, develop, recruit and assign the best and most qualified individuals possible. The Parties employ employees without regard to race, sex, color, religion, age, ancestry, national origin, marital status, status as a disabled veteran, or veteran of the Vietnam era, disability, sexual orientation or gender identity or expression. The Parties likewise agree that each will comply with all state and federal employment discrimination statutes, including but not limited to Title VII, and the American with Disabilities Act.
- r. **NOTICES.** Any notice required to be given by either party to the other shall be deemed given if in writing on the date actually delivered (including electronic methods such as e-mail), or if deposited in the United States mail in registered or certified form with return receipt requested, postage prepaid, on the postmarked date and addressed to the notified party at the address set forth below, or to such other address as a party may designate from time to time by means of notice given hereunder to the other party.

If to Client:

Southern Nevada Health District
Attn: Contract Administrator, Legal Dept

280 S. Decatur Blvd
Las Vegas, Nevada 89107

If to ImageTrend:
ImageTrend, Inc.
Attn: Mike McBrady
20855 Kensington Boulevard
Lakeville, MN 55044

IN WITNESS WHEREOF: the undersigned parties, each having authority to bind their respective organizations, hereby agree

Southern Nevada Health District

ImageTrend, Inc.

Signature By:

Signature:

Print Name: Fermin Leguen, MD, MPH

Print Name:

Title: District Health Officer

Title:

Date:

Date:

ATTACHMENT A SOFTWARE LICENSING TERMS

To the degree any Work Order involves licensing ImageTrend Software, the following terms shall apply:

“ImageTrend Elite Data Marts” means the relational database(s) that contain an enhanced and simplified reporting-ready format of the transactional data collected within ImageTrend Elite. The Elite Data Marts are available for use with the ImageTrend Elite Reporting Tools.

“ImageTrend Elite Reporting Tools” means the Transactional Report Writer, Visual Informatics, Analytical Chart Reporting Tool and Analytical Tabular Reporting Tool in the Software that are based on a set of Elite Data Marts.

“Incident(s)” means an instance where the Client sends a vehicle or emergency responder to a situation requiring emergency response, as measured by the number of incident reports within ImageTrend Software systems.

“Licensed Information” means other Deliverables provided to Client by ImageTrend relating to the operation or design of the Software, or other Deliverables provided to Client by ImageTrend which are common to ImageTrend (e.g. such Deliverables are not unique to Client). A copy of the software specification Licensed Information is available within the Software labeled as “ImageTrend University.”

“The Software” means the sum of all software licenses granted by this Agreement or Work Order hereto as provided in Section 1 below.

SECTION 1. GRANT OF LICENSE TO SOFTWARE.

Each Work Order for the sale of Software Licenses shall outline which of the below licenses are being granted by the Work Order. The license selection will be evidenced by the title of each SKU in the Work Order, e.g. “Elite EMS SaaS” shall be licensed under the Software as a Service License below. If the license is not apparent by the name of the SKU, then the license shall default to Software as a Service. ImageTrend may discontinue or replace a license in this table by providing Client reasonable written notice of the change. Replacing this table shall not have the effect of revoking previously agreed licenses, rather, ImageTrend’s right to replace this table shall apply to only future Work Orders.

Name of License	Terms of License
Software as a Service License (SaaS) or Integration as a Service (IaaS) (“SaaS”)	ImageTrend hereby grants Client a non-exclusive, non-transferable license to use the ImageTrend Software product(s) listed in the Work Order for such time as listed in said Work Order. During the term of the Work Order, the Client shall have access to the Software, which will be installed on servers at the ImageTrend hosting facility and subject to the Service Level Agreement attached. All copies of the Software and/or Licensed Information in any form provided by ImageTrend to Client hereunder are the sole property of ImageTrend and/or its suppliers,

	<p>and that Client shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this Agreement.</p>
<p>ImageTrend Hosted License (“License”)</p>	<p>ImageTrend will grant Client a non-exclusive, non-transferable, perpetual use license without rights of resale or sublicensing, to the ImageTrend Software product(s) listed in the Work Order. Client shall have access to the Software, which will be installed on servers at the ImageTrend hosting facility and subject to the Service Level Agreement attached. All copies of the Software and/or Licensed Information in any form provided by ImageTrend to Client hereunder are the sole property of ImageTrend and/or its suppliers, and that Client shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this Agreement.</p>
<p>Client Hosted License (“On Premise License”)</p>	<p>ImageTrend will grant Client a non-exclusive, non-transferable, perpetual use license without rights of resale or sublicensing, to the ImageTrend Software product(s) listed in the Work Order. Client shall have access to the Software, which will be installed on servers at the Client hosting facility and subject to the attached Service Level Agreement. All copies of the Software and/or Licensed Information in any form provided by ImageTrend to Client hereunder are the sole property of ImageTrend and/or its suppliers, and that Client shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this Agreement.</p> <p>Initial set up will require direct access to Client servers by ImageTrend personnel. However, after the installation is complete, management of non- ImageTrend software, operating systems, ancillary systems and the responsibility for keeping non- ImageTrend software updated will be the sole responsibility of Client. ImageTrend disclaims any and all liability arising out of out-of-date or otherwise insufficiently maintained non- ImageTrend software or hosting environment. ImageTrend has no duty to maintain the Client’s hosted environment’s cybersecurity. Client agrees to ensure that ImageTrend will have sufficient server access to fulfill ImageTrend’s duties hereunder. Maintenance of Client Hardware, physical environment, storage, processing, patching, operating system maintenance, network device maintenance, Client 3rd party licenses (as outlined below), or any other task which is required to maintain the Client application hosting environment and is not directly arising out of a requirement of or defect to the ImageTrend application(s) are the sole responsibility of Client. It will not be ImageTrend’s responsibility to maintain or resolve problems with Client’s hosted environment. ImageTrend’s sole responsibility shall be to provide application support for ImageTrend developed applications. Tasks which are ultimately discovered to be maintenance of the Client Hosting environment may be charged to Client at ImageTrend’s out-of-scope rate of \$175.00.</p>

SECTION 2. PROTECTION OF SOFTWARE AND LICENSED INFORMATION

Client agrees to respect and not to, nor permit any third-party to, remove, obliterate, or cancel from view any copyright, trademark, confidentiality or other proprietary notice, mark, or legend appearing on any of the Software or Licensed Information, and to reproduce and include the same on each authorized copy of the Software and Licensed Information.

Client shall not nor shall Client permit any third-party under Client's control to, copy, reverse engineer, or duplicate the Software or any part thereof except for the purposes of system backup, testing, maintenance, or recovery. Client may duplicate the Licensed Information only for internal training, provided that all the names, trademark rights, product names, copyright statement, and other proprietary right statements of ImageTrend are reserved. ImageTrend reserves all rights which are not expressly granted to Client in this Agreement.

Client shall not, nor shall Client permit any third-party to, modify, reverse engineer, disassemble, or decompile the Software, or any portion thereof, and shall not use the software or portion thereof for purposes other than as intended and provided for in this Agreement.

SECTION 3. IMAGETREND ELITE DATA MARTS NON-EXCLUSIVE USE LICENSE.

In accordance with the terms and conditions hereof, ImageTrend hereby grants the use of the ImageTrend Elite Data Marts only via ImageTrend Elite Reporting Tools, unless an "Elite Data Mart License" is included and detailed in a Work Order. Absent that license, this Agreement does not give the Customer the rights to access and query the ImageTrend Elite Data Marts directly using SQL query tools, reporting tools, ETL tools, or any other tools or mechanisms. Direct access to ImageTrend Elite Data Marts is only available via the aforementioned separately-priced product and service offering from ImageTrend.

SECTION 4. INSTALLATION, INTRODUCTORY TRAINING AND DEBUGGING.

IMPLEMENTATION. ImageTrend shall provide Client with start-up services such as the installation and introductory training relating to the Software, and, if necessary, initial debugging services known as "Implementation". During Implementation, Client must make available sufficient time and resources as is necessary to accomplish the milestones and tasks per the party's project plans (as applicable), typically between four (4) and fifteen (15) hours a week. Depending on Client's objectives, Client may need to allocate more time or resources to achieve Client's desired timelines.

TRAIN THE TRAINER. ImageTrend may provide "Train-the-trainer" training for administrators as detailed in each Work Order. Additionally, online training videos and user guides in electronic format will be made available via ImageTrend University.

INSTRUCTIONS. ImageTrend will provide installation instructions and assistance for installation of the Software on the Servers appropriate to the License selection in the Work Order per the table above at (e.g. Client Hosted on premise license) as detailed in Attachment C, Service Level Agreement, below.

SOFTWARE SUPPORT. ImageTrend shall provide Software Support as detailed in Attachment C, below.

TRAINING USAGE AND EXPIRATION. The training line items and quantities as detailed in price table attached must be delivered within two (2) years of the Effective Date. It shall be Client's responsibility to request the training session(s). Training not used within the two (2) year cut-off shall expire and no refund or credit will be payable to Client.

SECTION 5. SOFTWARE WARRANTIES.

PERFORMANCE WARRANTY. ImageTrend warrants that the Software will conform to the specifications as set forth in the Licensed Information. However, this warranty shall be revoked in the event that any person other than ImageTrend and its agents make any unauthorized modification or change to the Software in any manner outside of the configuration available within the Software's built-in functionality. This warranty does not apply to data extracted from the system.

OWNERSHIP WARRANTY. ImageTrend represents that it is the owner of the entire right, title, and interests in and to the Software, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder to Client.

LIMITATIONS ON WARRANTY. All of ImageTrend's obligations under this Section shall be contingent on Client's use of the Software in accordance with this Agreement and in accordance with ImageTrend's instructions as provided by ImageTrend in the Licensed Information, and as such instructions may be amended, supplemented, or modified by ImageTrend from time to time. ImageTrend shall have no warranty obligations with respect to usage which does not conform with ImageTrend's instructions as provided by ImageTrend in the Licensed Information. ImageTrend shall have no warranty obligations with respect to any failures of the Software which are the result of accident, abuse, misapplication, extreme power surge or extreme electromagnetic field of a Client device. In addition to any other limitation on warranty or liability; Client's sole remedy for breach of warranty related to or arising out of the Software, or a defect with the Software, shall be at Client's option 1) repair of the Software or defect, 2) termination of this Agreement for convenience as outlined elsewhere in this Agreement.

THE EXPRESS WARRANTIES PROVIDED HEREIN ARE THE ONLY WARRANTIES MADE BY ImageTrend WITH RESPECT TO THE SOFTWARE AND SUPERSEDE ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY AND WARRANTIES FOR ANY SPECIAL PURPOSE.

SECTION 6. MAINTENANCE.

ImageTrend shall provide scheduled updates and new releases for the Software, as well as defect correction as needed per the Service Level Agreement, attached for so long as Client has contracted for support (as indicated by a recurring fee containing the product name and word 'Support'). Specific out-of-scope system enhancement requests are excluded from support. Should Client desire specific source-code level modifications to the system, Client may submit a request to ImageTrend's UserVoice page at <https://ImageTrend.uservoice.com/>.

SECTION 7. RETURN OF DATA.

Upon termination of this Agreement for any reason, Client may request ImageTrend provide to Client a

copy of Client’s data. ImageTrend will produce this data by first using relevant export functionality provided by the application, e.g. for ImageTrend Elite the data would be produced as a NEMESIS Version 3 XML file(s), or by other native data export format should the application provide no export functionality. ImageTrend may redact or remove ImageTrend trade secret and confidential information, such as database schema design details, or data which is used solely in an operational or administrative fashion (e.g. data which was never entered by Client end-users). For clarity, ImageTrend may not redact or remove data that Client or Client’s end-users entered. ImageTrend will provide this exported data to Client via secure electronic transfer, such as SFTP/FTPS. ImageTrend shall have 90 days from Client’s request to produce the native data export for Client. Should Client desire the data to come in any alternative format, or be in any way different than as described in this section, Client must request those services from ImageTrend separately on a Time and Materials basis under its own time frame. ImageTrend will make efforts to accommodate Client’s request, but ImageTrend is under no obligation to do so.

SECTION 8. IMAGETREND ELITE AUTHORIZED USERS AND SCOPE OF USAGE

This Grant of License is strictly conditioned on the Software being used by only Authorized Users. ImageTrend may audit Client’s Software, users, and usage to ensure compliance with the scope of usage detailed by this Agreement, in ImageTrend’s discretion. Non-compliance with the scope of usage shall be considered a material breach.

If this Agreement is for the licensing of ImageTrend Elite EMS, the following scope of usage and Authorized User definitions apply.

Organization Type	Organization Definition	Authorized User Definition
Private Agency	Client responds to emergency medical incidents for-profit or not-for-profit and the Client <u>is not</u> a Governmental Entity.	All employees & contractors of Client who respond to emergency medical incidents in the regular scope of their employment
Public Agency, County, Region, or City for its own employed EMS workers (“Public Agency”)	Client responds to emergency medical incidents and transports patients therefrom and <u>is</u> a Governmental Entity	All employees & contractors of Client who respond to emergency medical incidents in the regular scope of their employment
Hospital or Health Network	Client is a 1) hospital, 2) health network, 3) or other medical institution that provides care which does not involve responding to emergency medical incidents and transporting patients therefrom as a primary service of the organization; and Client is recognized and licensed as such by the Client’s governing State	All employees & contractors of Client who respond to emergency medical incidents in their regular scope of employment at or from the named Hospital brick-and-mortar locations. If the specific brick-and-mortar location(s) is not named in a Work Order, then it shall be interpreted as the brick-and-mortar location from which the Client primary contact, Deann Roberts or their successor, conducts their job duties most frequently.

<p>State, County, Region, City for its constituents</p>	<p>Client is a Governmental Entity with authority or an official mandate to improve, facilitate, organize, surveil, investigate, report, collect reports of, or otherwise govern public health matters; or another entity acting under a grant or contract of and for equivalent authority</p>	<p>Licensed individuals within Client’s legal or governing jurisdiction and geographic boundary, who to respond to emergency medical incidents in the regular scope of their employment, and not individuals whose primary job duty involves law enforcement.</p>
<p>Group Purchase (Multi-Agency)</p>	<p>Client(s) are a plurality of Private Agencies and/or Public Agencies</p>	<p>All employees & contractors of each named organization, who respond to emergency medical incidents</p>
<p>Financing Party (e.g. billing company) on behalf of Agency/City/County third party beneficiary</p>	<p>Client is an entity which does not respond to emergency medical incidents or provide for the care or transportation of patients; rather Client is an entity who procures or pays for a third-party beneficiary who is a Private or Public Agency.</p>	<p>All employees & contractors of third-party beneficiary Public or Private Agency, who respond to emergency medical incidents in the regular scope of their employment.</p>

ATTACHMENT B

AGREEMENT PRICE SHEET AND WORK ORDER

The prices below are based on the following SaaS transaction volumes, as provided by Client:

One Time Fees

Description	SKU	Unit Price	Qty	Extended Amount
License Management Trainer Setup	LMS.003.002.00 3	\$0.00	1	\$0.00
Payment Gateway Setup	LMS.003.002.00 4	\$0.00	1	\$0.00

Total One-Time Fees: \$0.00

Recurring Fees

Description	SKU	Unit Price	Qty	Extended Amount
License Management SaaS - Trainer	LMS.001.002.00 3	\$54,527.08	1	\$54,527.08
Payment Gateway	LMS.002.003.00 4	\$0.00	1	\$0.00
Off-Line Inspections	LMS.002.003.00 5	\$0.00	1	\$0.00
Investigations	LMS.001.002.00 5	\$0.00	1	\$0.00
Account Advisement Services Level 1	LMS.006.003.00 1	\$12,600.00	1	\$12,600.00

Total Recurring Fees: \$67,127.08

TOTAL YEAR 1: \$67,127.08

Send Invoices To:

Southern Nevada Health District
 Attn: Accounts Payable
 AP@snhd.org
 280 S. Decatur Blvd
 Las Vegas, Nevada 89107

Payment Terms:

- “One Time Fees” are due once, as specified by the Milestone terms below.
- “Recurring Fees” are annual fees which recur each year. They are due on each anniversary of the fee, with the start date beginning upon completion as specified by the Milestone terms below.

The Recurring Fees will escalate in price annually by 3%, with such increase effective on each anniversary of the Effective Date for the term of the Agreement.

- ImageTrend may temporarily suspend performance (e.g. cease to provide access, hosting, support) due to Client’s breach of contract provided Client shall have 30 days to cure such breach before ImageTrend may suspend performance.
- To the extent permitted by law, Client also agrees ImageTrend may charge to Client all reasonable costs and expenses of collection, including attorneys’ fees where, in ImageTrend’s discretion, payments are consistently deficient or late.
- All Annual SaaS Fees are based upon anticipated transaction volumes (as provided by Client) and are subject to an annual usage audit. ImageTrend reserves the right to increase fees in accordance with increased transaction volume per the Unit Price listed in the tables above. ImageTrend will provide Client with thirty (30) days’ advance written notice of any increase in fees due to increased transaction volume.
- ImageTrend will not be responsible for third-party fees related to this Agreement unless specifically outlined by this Agreement

Additional Optional Items

Items in the table below are not goods or services currently contracted or provided by this Agreement, rather, they are included to allow Client to add those goods or services by first providing written notice to ImageTrend, subsequently ImageTrend will provide Client with a Work Order for the Optional item, and an amendment to the Agreement will be created for signature by both Parties. Upon full execution of such amendment, ImageTrend will begin the work.

Product	SKU	Unit Price	Description
Custom Development for Enterprise Resource Planning API (REST)	LMS_Prog_Dev	\$175.00	
\$175.00/hr SOW REQUIRED to determine scope & total price			
NREMT	LMS.002.003.001	\$5,000.00	The NREMT Integration offers two capabilities: 1) Real-time NREMT certification verification - When applicants submit specific applications, verify that their NREMT certification is correct and current based on their SSN, date of birth and NREMT level. Check manually with the click of a button, or build an automated workflow to initiate the check when the application is submitted. 2) Retrieve Cognitive Exam data - An automated

			licensing workflow can be configured to verify whether applicants passed or failed the NREMT Cognitive Exam, and set alerts or other actions to activate based on the results.
Skill Exam Module	LMS.002.003.020	\$15,000.00	The skill exam module allows you to verify your licensees for the necessary skills to provide the certified level of service. The solution included seven major components: Skill Questions Library, Exam Forms, Exam Form Packets, Scheduling Exam Sessions, Conducting Exams, Workflow Automation, and Data Reporting. This tool allows the licensing authority to schedule, conduct, and document the skill exam through the Public Portal. The exam pass or fail result can be used for automate licensing process and training course status. *Estimated to be available 2020 Q1*

MILESTONE 1

Site Available. ImageTrend software is available via the Web. This Site Available Milestone is complete when ImageTrend has provided Client: 1) at least one web URL to the ImageTrend software, and 2) a system administrator account with login credentials, and 3) Client is able to log into the ImageTrend software at that URL.

Description	Unit Price	Quantity	Extended Amount
License Management Trainer Setup	\$0.00	1	\$0.00
License Management SaaS - Trainer	\$54,527.08	1	\$54,527.08
Investigations	\$0.00	1	\$0.00
Account Advisement Services Level 1	\$12,600.00	1	\$12,600.00
		Milestone 1 Total	\$67,127.08

ATTACHMENT C

SERVICE LEVEL AGREEMENT

ImageTrend is committed to offering exceptional levels of service to our customers. This Service Level Agreement (“SLA”) guarantees your website or application’s availability, reliability and performance. This SLA applies to any site or application hosted on our network.

1. Customer Support

ImageTrend is committed in providing an exceptional level of customer support. ImageTrend’s servers are monitored twenty-four (24) hours per day, seven (7) days per week, three hundred and sixty-five (365) days per year and our support staff is available via phone (888.469.7789) and email (www.imagetrend.com/support) as posted on the company’s website. ImageTrend works to promptly resolve all issues reported by customers, and will acknowledge the disposition and potential resolution according to the chart below:

Severity Level	Example	Acknowledgement of Error Notice	Response Goal
High/Site Down	<ul style="list-style-type: none"> - Complete shutdown or partial shutdown of one or more Software functions - Access to one or more Software functions not available - Major subset of Software application impacted that is necessary for usage of the software 	Within one (1) hour of initial notification during business hours or via support.imagetrend.com	Six (6) hours
Medium	<ul style="list-style-type: none"> - Minor subsystem failure -Data entry or access impaired on a limited basis. 	Within four (4) hours of initial notification	24 Business hours
Low	<ul style="list-style-type: none"> - User error (i.e. training) or forgotten passwords - Issue can or must be delegated to local Client contact as a first level of response for resolution 	Same day or next business day of initial notification	As appropriate depending on nature of issue and party responsible for resolution

2. Data Ownership

All customer data collected and maintained by ImageTrend shall at all times remain the property of the customer.

3. Data Protection

ImageTrend takes data privacy and cybersecurity very seriously. ImageTrend utilizes compliant and industry recognized best practices to ensure data security and does not use or make available any personally identifiable information to third parties without customer consent or as required by law. ImageTrend acknowledges that its handling of information on behalf of customers may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. ImageTrend agrees to comply with all of such laws, rules, regulations and restrictions at its sole cost and expense.

4. Suspension of Service

ImageTrend reserves the right to suspend and limit network resources to customers failing to pay the monthly fee in advance at its own discretion. In the event of service suspension, full-service delivery will be restored within forty-eight (48) hours from the date and time that payment is received.

5. Availability

ImageTrend is fully committed to providing quality service to all customers. To support this commitment, ImageTrend offers the following commitments related to application server Availability:

Availability Objective: ImageTrend will provide 99.5% Availability (as defined below) for the ImageTrend network services within ImageTrend's Immediate Control. For purposes, hereof, "Availability" or "Available" means the ImageTrend Services are available for access and use through the Internet.

"Immediate Control" includes ImageTrend's network services within the ImageTrend data center which extends to, includes, and terminates at the Internet Service Provider ("ISP") circuit termination point on the router in ImageTrend's data center (*i.e.*, public Internet connectivity).

Specifically excluded from the definition of "Immediate Control" are the following:

- a. Equipment, data, materials, software, hardware, services and/or facilities provided by or on behalf of Client or a third-party entity (or any of their vendors or service providers) and Client's or a third party entity's network services or end-user hardware.
- b. Acts or omissions of Client, their employees, contractors, agents, or representatives, third party vendors or service providers or anyone gaining access to the ImageTrend Services at the request of Client.
- c. Issues arising from bugs, defects, or other problems in the software, firmware, or hardware of third parties.
- d. Delays or failures due to circumstances beyond ImageTrend's reasonable control that could not be avoided by its exercise of due care.
- e. Any outage, network unavailability or downtime outside the ImageTrend data center.

Availability Calculation: Availability is based on a monthly calculation. The calculation will be as follows: $((a - b) / a) \times 100$, where "a" is the total number of hours in a given calendar month, excluding Scheduled Maintenance (as defined below), and "b" is the total number of hours that service is not Available in a given month.

Offline Capability: The Software may have offline capability which provides redundancy when network or server back-end capability is not available. Periods of time when the Software's primary functions continue to function offline shall be excluded from the unavailability calculation "b" above.

Scheduled Maintenance: ImageTrend conducts scheduled maintenance, as necessary, every last Wednesday of the month. ImageTrend will perform scheduled maintenance within that maintenance window between the hours of 9:00 p.m. CST to 11:00 p.m. CST. ImageTrend may change the regularly scheduled maintenance window from time to time at ImageTrend's discretion upon reasonable notice to Client.

Service Disruption: Upon customer's written notice to ImageTrend, if Availability for the month is below the guaranteed level, ImageTrend will issue a credit to customer in accordance with the schedule below:

Availability: 99.0% - 99.5% = 5% of monthly hosting fee credited
95.0% - 98.99% = 10% of monthly hosting fee credited
90.0% - 94.99% = 15% of monthly hosting fee credited
89.99% or below = 2.5% for every 1% of lost Availability (in no event exceeding 50% of monthly hosting fees)

ImageTrend maintains precise and objective Availability metrics, which shall be determinative when calculating any customer requested credit. ImageTrend maintained Availability metrics shall only be requested in good faith to address material customer concerns. To receive a credit, customers must specifically request it during the month following the month for which the credit is requested. Credits shall not be issued if a customer account is past due, suspended or pending suspension.

6. General

ImageTrend reserves the right to change or modify this SLA and the related services being provided to benefit its customers, including changes to hosting environments and infrastructure, provided that any such improvements shall adhere to the regulatory guidelines and best practices referenced herein.

ATTACHMENT D

PRODUCT SPECIFIC TERMS

LICENSE MANAGEMENT SYSTEM - TERMS OF USE

DEFINITIONS

“Client” means the Southern Nevada Health District

“ImageTrend” means Contractor

“Agreement” means the Master Software and Services Agreement, the Work Orders issued hereunder, Statements of Work, all Attachments and Exhibits attached hereto, and any Amendments made hereto, between the Parties.

“Bespoke Deliverable” means a custom or non-standard deliverable, good, or service; including but not limited to reports, custom software, documentation creation, evidence gathering and analysis, log delivery, or any other task that is not a part of ImageTrend’s standard off the shelf product offering purchased under this Contract as documented below in “License Management Product and Service Specification” below. For clarity, any deliverable, good, or service, which is not explicitly described in the License Management Product and Service Specification is not a part of this Agreement except as a Bespoke Deliverable.

“Office” means the political subdivision of the State and Department having responsibility for licensing Emergency Medical Services personnel, here .

“CLIENT Support Staff” means CLIENT information technology personnel, managers, or other access which may be required for funding, maintaining, administrating or otherwise supporting or managing the function of Authorized Personnel.

“Software” means the computer program(s) in machine readable object code form listed in Exhibit “A”, including the executable processing programs comprising the various modules from the Software and the Licensed Information.

“Licensed Information” means any information pertaining to the Software which is owned by IMAGETREND and is licensed to CLIENT. Licensed Information includes such information as input form, user manuals and user documentation, interface format and input/output format, and any other materials pertaining to the Software.

“Authorized Personnel” means employees of CLIENT, in CLIENT’s Office, that use the Software in the scope of their employment, or CLIENT’s contractors where the contractor’s services must necessarily require access to the Software. Personnel who intend to: reverse engineer, disclose, or use or acquire

for any purpose not in the scope of the personnel's employment or necessary for contractor services, any Confidential Information are not Authorized Personnel. CLIENT support staff shall be Authorized Personnel.

"Custom Development" means software issuing from CLIENT's engagement with IMAGETREND through a signed and accepted Statement of Work to customize the software. Such software may then become a part of the core product and be distributed. Custom Development may require ongoing support and/or hosting and shall be subject to support and/or hosting fee increases per the Fees section above. IMAGETREND maintains ownership of all Custom Development work product and intellectual property.

- **GRANT OF LICENSE.** In accordance with the terms and conditions hereof, IMAGETREND agrees to grant to CLIENT and CLIENT agrees to accept a non-transferable and non-exclusive perpetual use license of the Software. During the term of the AGREEMENT, the CLIENT' shall have access to the Software, which will be installed on servers at the IMAGETREND hosting. CLIENT expressly acknowledges that all copies of the Software and/or Licensed Information in any form provided by IMAGETREND to CLIENT hereunder are the sole property of IMAGETREND and/or its suppliers, and that CLIENT shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this AGREEMENT. Under this license, only Authorized Personnel may access or use the Software. All other rights not granted herein are reserved by ImageTrend.
- **CUSTOM DEVELOPMENT.** New or updated features are out-of-scope for this AGREEMENT and considered Custom Development. CLIENT may submit enhancement requests per the attached Attachment C above. Custom Development will only be undertaken subsequent to a written, signed mutually agreed Statement of Work which outlines the scope and cost of the Custom Development project.
- **BESPOKE DELIVERABLES.** The parties agree this Contract is for the purchase of Commercial-Off-The-Shelf Software ("COTS"). Accordingly, to the degree any requirement in this Contract and AGREEMENT require the creation of Bespoke Deliverables, Contractor shall have no obligation to produce such Bespoke Deliverables except as mutually agreed to in a signed, written Statement of Work or Project Plan which details the scope and cost of creating such Bespoke Deliverables.