

RESOLUTION 24-148

**A RESOLUTION TO APPROVE FIRE DEPARTMENT CONTRACT WITH
IMAGETREND FOR FIRE REPORTING SOFTWARE**

WHEREAS, the City of Spring Hill operates a career fire department that responds to all hazards within the City; and

WHEREAS, the department is mandated to complete an electronic report for all incidents and to submit those reports electronically into a state and federal database commonly referred to as the National Fire Incident Reporting System (NFRIS); and

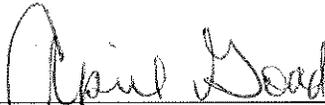
WHEREAS, the department participated over the last several months with members of Williamson County Public Safety in a Request for Proposal selection process that reviewed numerous software systems, five in total; and

WHEREAS, the workgroup's RFP process met City of Spring Hill Purchasing Policy standards in their selection of ImageTrend as the winning vendor.

NOW, THEREFORE BE IT RESOLVED, by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee to authorize the City to enter into an annual contract with ImageTrend, for fire incident reporting software.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee, this 17th Day of June, 2024.

ATTEST:



April Goad, City Recorder



Jim Hagan, Mayor

LEGAL FORM APPROVED:



Patrick Carter, City Attorney



REQUEST: *Approval of Resolution 24-148*

SUBMITTED BY: Graig Temple, Fire Chief

DATE: June 17, 2024

RE: Fire Incident Reporting Contract

PURPOSE:

Resolution will allow the Fire Department to enter into a piggyback contract with Williamson County Office of Public Safety to establish a service contract with ImageTrend as the software vendor by which the City of Spring Hill completes all State and Federally mandated Fire and Incident Reports.

BACKGROUND:

The Fire Department is required by State and Federal regulations to submit electronic incident reports into a national database called the National Fire Incident Reporting System (NFRIS). The department was part of a county-wide work group that evaluated both current software systems and proposed software systems in an Request for Proposal (RFP) process that meets and exceeds City of Spring Hill Purchasing requirements. The workgroup chose to engage ImageTrend as the winning proposal. As the City of Spring Hill has an existing contract for dispatch services with Williamson County, and where this product is tied directly into the Computer Aided Dispatch System, this contract will allow for a seamless connection to needed data and information. The implementation for the change over will happen by the end of July 2024.

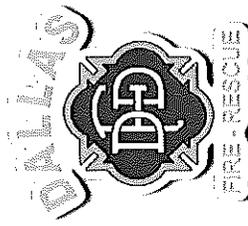
FINANCIAL IMPACT:

The first year contract price including initial set up and training is \$14,355.88 while annual renewal amounts are estimated at \$11,867.125 per year (call volume may increase rate). This amount is less than projected and less than what was set in the FY25 Budget.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 24-148 to authorize the City to enter into an annual contract with ImageTrend for use of the Fire Incident Reporting Software.

We can do it together.



IMAGETREND

We know TN

- **TN NEMIS Repository since 2018**
 - **Over 5.3M TN records captured**
- **Your Peers on ImageTrend:**
 - **State of TN (EMS)**
 - **Nashville FD**
 - **Maury County FD**
 - **Bristol Fire Rescue**
 - **Trousdale County EMS**
 - **Anderson County EMS**
 - **Tri-Star Mobile Medicine**
 - **LeBonheur Patient Transport**



<u>Steps & Milestones</u>	<u>Responsibility</u>	<u>Status</u>	<u>Target Date / Notes</u>
Initial discovery conversation	Both	Complete	Call w/ Chief Bonson on 10/23/23
1 st demo – Group Demo for Chiefs	Both	Complete	Onsite Demo on 2/21/24
Preliminary solution design	ImageTrend	Complete	Drafted quote on 2/20/24
Initial Quote Review	Both	Complete	Chief Bonson and Kyle on 2/26/24
Quote Delivery	Both	Complete	Kyle sent on 2/26/24
Clarification Call w/ Jay	Both	Complete	Meeting on 3/13 – discussed configurability of ePCR vs NFIRS forms
Vendor / Partner Selection	Williamson Co.	Complete	3/18/24
Revise/finalize success criteria for solution design	ImageTrend	In Progress	Discuss needs on 5/9
IT sign-off	County	In Progress	5/8 – Kyle sent CAD workbook for IT review
Terms & Conditions sent for legal review	Municipals/county/IT	In Progress	W9/MSA/Procurement docx sent to Todd and Jay on 3/29/24
Legal review completed and approved	Williamson Co.	Incomplete	**discuss municipal legal process on 5/9**
Final leadership approvals	Williamson Co.	Incomplete	Discuss needs on 5/9
Funding released	Williamson Co.	Incomplete	Targeting 5/9/24
Agreements signed	Both	Incomplete	7/1/24
Transition to implementation, kick-off call held	ImageTrend	Incomplete	Targeting 5/31
Go-live	Both	Incomplete	Targeting 1 st half of June
			Targeting 8/1/24

What We've Heard...

Current State

- Currently using ER, which has been bought out by ESO – sunseting product in 2024
- Your team's contract with ER expires on 7/31/24 and ESO isn't renewing legacy ER contracts, so you need a new RMS live by 8/1
- 7 agencies make up the county, including 3 municipalities
- Total Annual Call Volume is roughly 11k
 - Medical 1st Responders, but the County EMS is the transport agency
 - Nolensville is the only ALS registered agency in the group
- Cost are increasing
- Support / Customer Service is lacking with current provider

Desired State

- Have a NFIRS (soon-to-be NERIS) compliant partner
- All the agencies in are operating from the same system, but still allows each agency's data to live separately
- NFIRS run forms that are easy-to-use for crews (especially volunteers)
- Ability for Admins to extract any data through report generator/builder for any 1 or all the agencies
- Consolidated solution for all/most of the departments needs
- Reliable and responsive support / customer service
- Aligned with budgetary needs

ImageTrend's Proposed Solution Design

<p><u>Elite™ Fire – SaaS (for all)</u></p>	<ul style="list-style-type: none"> • NFIRS compliant (will be NERIS compliant) • End-to-end RMS software solution with an intuitive interface that includes: NFIRS reporting, Report-builder, Locations/Occupants/Inspections, Preplans, CQI, Inventory/Maintenance and Repairs, Checklists, Training & Activities, and Hydrants • Multi-agency site setup, so all agencies are operating out of the same system/ability to share data easier, and have added flexibility with permission settings
<p><u>Mobile Fire Inspections (for some)</u></p>	<ul style="list-style-type: none"> • Elite Mobile Fire Inspections allows you to enter or edit location, occupant, and inspection records while offline and working in the field • It synchronizes all data bidirectionally with Elite Web.
<p><u>Agency Level Validation Fire (for all)</u></p>	<ul style="list-style-type: none"> • Agency level validation allows each agency to build their own fire-related validity rules (required fields) • This will provide added flexibility for each agency to operate separately out of the county site (parent)
<p><u>CAD Distribution (for all)</u></p>	<ul style="list-style-type: none"> • The ability to easily integrate CAD data into run reports is beneficial in ensuring accurate data, adding another layer of risk mitigation for the crews in the county • CAD data will be obtained via, (1) a file export, (2) a query or (3) sent directly to the ImageTrend web service • Only fields listed in the CAD integration workbook are available for population through the integration
<p><u>Slate™ (for some)</u></p>	<ul style="list-style-type: none"> • Slate™ is a standalone operations management solution with the first-released module for scheduling with certification tracking • With Slate, you get unlimited time off requests, shift trades, work requirements, seniority lists and fill rules • Connects with the Aware™ app for end users to view and manage their own schedules • Integrated with ImageTrend Elite to prepopulate run forms with shift personnel and apparatus
<p><u>Slate™ Text/SMS (for some)</u></p>	<ul style="list-style-type: none"> • Provides the ability to send a variety of individual or bulk text/SMS notifications and alerts to your personnel directly from Slate.

Budgetary Quote (based on annual run volume of 11,654)

Description	Qty	Frequency	Unit Price	Total
One-Time Fees				
Elite™ Fire Setup & Implementation	1	One Time	\$5,500.00	\$5,500.00
Existing CAD Feed - Sub Agency Setup	3	One Time	\$650.00	\$1,950.00
Webinar Training 2hr Session	6	One Time	\$450.00	\$2,700.00
Recurring Fees				
Elite™ Fire - SaaS	1	Recurring	\$17,500.00	\$17,500.00
Agency Level Validation Fire	3	Recurring	\$1,000.00	\$3,000.00
CAD Distribution	1	Recurring	\$5,000.00	\$5,000.00
- CAD Vendor: Other CAD Vendor Continuum® for Fire	1	Recurring	\$8,500.00	\$8,500.00
			TOTAL Year 1	\$44,150.00
			*Annual Fees after Year 1	\$34,000.00

Account Advisement Services Level 1	1	Recurring	\$20,800.00	\$20,800.00
Onsite Training Session - 8 Hours	2	One Time	\$1,800.00	\$3,600.00
Travel	2	One Time	\$1,750.00	\$3,500.00

OPTIONAL Add-ons (per agency):

Add ePCR to County Site	\$	800.00
Mobile Inspections	\$	2,500.00
Slate (Scheduling) + Text/SMS	\$	3,062.00
Continuum	\$	3,750.00

Demo links

- [5/9/24 - Contract Details Group Meeting \(38 min\)](#)
- [3/28/24 - Demo w/ Todd and Jay \(83 min\)](#)
- [2/21/24 - Onsite Group Demo \(84 min\)](#)

Procurement Resources

- [CAD Workbook \(IT\)](#)
- [Data Migration Services \(IT / RMS Admins\)](#)
- [SAMPLE Implementation Plan \(RMS Admins\)](#)
- [Signed W9 \(Legal\)](#)
- [Cert of Insurance \(Legal\)](#)
 - ImageTrend's policy is with CAC Specialty
 - Please let Kyle Kane know if your agency has specific insurance requirements

Elite™ Fire Preset Values

Elite Fire Preset Values

Find field...

(Sections) Preset Buttons

(Panel) Cancel/Not Needed

EMS & TC

Vehicle Fires- General/Unintentional

Alarms

Cooling Fires

Outside Fires

Troubleshooting/Clear and Undo Presets

Hyperlink

Basic

EMS

Hazmat

EMS & TC

EMS - ALS/Transport (NOT MVC)

EMS - BLS (Transfer or other No-Tnsprt, NOT MVC)

MVC w/Injuries (ALS, xport)

MVC w/Injuries (BLS, Care Xfer)

Preset Value - Vehicle Accident W/Extrication 352 ALS

Preset Value - Vehicle Accident W/Extrication 352 BLS

Next

Elite™ Fire Preset Values

Apply New Values?

Field Name	Current Value	New Value
Air Clean or Received	None	None
Additional Actions Taken	<None>	32-Transport person 35-Remove hazard 52-Establish safe area; 75-Control traffic 81-Incident command
Incident Type	<None>	322-Labor vehicle accident with injuries
Primary Action Taken	<None>	33-Provide advanced life support (ALS)
Primary Narrative	<None>	1-Rear Vehicle Accident with Injuries. Fire apparatus positioned for traffic control. EMS provided ALS patient care and transport. Fire crews removed debris from roadway; provided traffic control and incident command.

1 - 5 of 5

Apply Changes Cancel

EMS & TC

Status: Draft

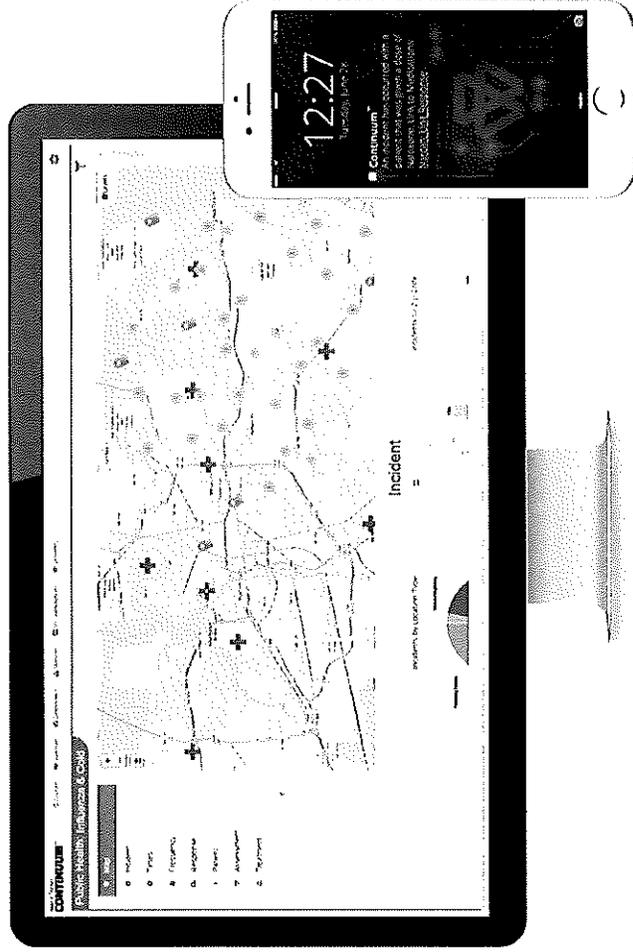
95

Validation

ImageTrend Continuum[®]

Active Data Monitoring[™]

- Near real-time alerting and notifications
- Predefined analytics, no reports to build
- Sent when you want, to who you want, how you want
- View domains and dashboards
- Create playlists and shared URLs
- Fire Accreditation dashboard
- Share data with crews using Performance Insights[™]



IMAGETREND[®]

ImageTrend Team Supporting Williamson County FD



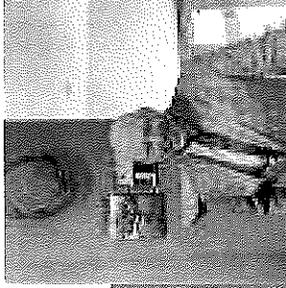
Kyle Kane

Account Executive

kkane@imagetrend.com

(o) 952-469-6304

(c) 816-835-7310



Brad Eckhart

Sales Engineer

beckhart@imagetrend.com

(c) 419-308-3295



Rock Toone

Strategic Account Advisor

rtoone@imagetrend.com

IMAGETREND®

ARISDELSY ELLER:DEBERG - aellerdeber@2.com

1060 ALICE SPRINGS CIR, SPRING HILL, TN 37174

Balance: \$136.26

Enter Edit Mo

Settings

- Shortcuts ...
- Transactions
- Service Orders
- General
- Services
- Home
- Profile
- Financial
- Billing
- Past Due
- History
- Documents
- Devices

Account Info		Status	Past Due Status	Billing Cycle
ARISDELSY ELLER:DEBERG...		Active	None	1
3023 TURNSTONE TRACE SPRING HILL, TN 37174		Start Date	Cutoff	Class
Draft		8/3/2023		RES
Disconnect Date		Arrangements		
Statement Group		None		
Delivery Method		Additional Contacts		Credit Status
None		None		FCOA

Information	

Financial		Last Payment	
Current Due	\$136.26	Paid	5/9/2024
Arrears	\$0.00	Amount	(\$153.36)
Balance	\$136.26	Last Billing	
Pending Activity	\$0.00	Billed Through	5/23/2024
		Due By	6/17/2024
Total Balance	\$136.26	Total	\$136.26

Account Service List				
Service	Rate	Service Description	Status	Meter Number
100	1-W	WATER	Active	40038483
101-WTR BASE	1-W	WATER BASE	Active	
400-SVTR	51	SEWER	Active	
500-GRB	41	GARBAGE	Active	
600-STW	RES	STORMWATER	Active	
700-REC	1	RECYCLING	Active	

Account Deposit Summary					
Deposit Code	Total Deposit	Total Collected	Total Refunded	Total Transferred	Unbilled

PIGGYBACK AGREEMENT

Contract Details			
Master Contract Number ("Master Contract")	00009396.0	Piggyback Contract Number	00009402.0

This Piggyback Agreement (hereinafter referred to as this "Agreement" or "Piggyback") is binding as of the date executed by the last of the parties named below:

BETWEEN: ImageTrend, LLC, a Minnesota corporation (hereinafter "ImageTrend")

AND: **Spring Hill Fire Department** (hereinafter "Client")

The Client and ImageTrend mutually agree establish a contractual relationship between Spring Hill Fire Department and ImageTrend, LLC based on the terms first established between Williamson County Office of Public Safety ("System Administrator") and ImageTrend.

Purpose. The purpose of this Piggyback is to procure the following items as outlined below in the Price Sheet attachment. The good delivery date or service period(s) will begin on the date of the last signature hereto ("the Effective Date").

Master Agreement Incorporated by Reference. The body of the Master Contract (e.g. excluding the attachments and exhibits) is hereby incorporated by reference as the terms for this Piggyback. The attachments and exhibits to this Agreement replace the exhibits and attachments of the Master Contract, for purposes of this Agreement. Where the System Administrator's name appears in the Master Contract, for purposes of this Agreement, all instances are replaced with the Client's name as detailed in this Agreement. The attachments and exhibits to this Agreement, and the incorporated body of the Prime Contract as detailed in this section, form the complete Agreement between the Parties related to the topics herein.

System Administrator's Rights. To the degree this Piggyback Agreement is made with Client to use functionality or make decisions regarding the modification, disposition, operation, usage, or non-usage of goods or services originally procured for Client by System Administrator or other party to the Master Agreement (e.g. System Administrator's ImageTrend provided software systems), Client's rights are subordinate to those of the parties to the Master Contract. To the degree Client's requests require modification or otherwise impact the parties to the Prime Contract, Client must seek and obtain written permission from the affected parties in the Prime Contract (i.e. System Administrator). Should System Administrator deny this permission, ImageTrend may rightfully withhold performance under this Agreement to the extent it is not permitted by System Administrator, or not permitted by law or regulation in ImageTrend's sole interpretation. CLIENT is advised ImageTrend is a Business Associate and/or under data confidentiality provisions to the System Administrator and has duties under HIPAA and other data privacy laws which may not be waived or modified without System Administrator's written consent.

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

Client _____

ImageTrend _____

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PRICE SHEET AND WORK ORDER ATTACHMENT

The prices below are based on the following SaaS transaction volumes, as provided by Client:
3,813 Incidents Annually

Total Year One Fees

Description	SKU	Unit Price	Qty	Extended Amount	Custom Description
Elite™ Fire Setup & Implementation	ELT.003.002.002	\$2,091.06	1	\$2,091.06	Year 1 - Splitting Fee with Williamson County Office of Public Safety
Existing CAD Feed – Sub Agency Setup	ELT.003.002.024	\$650.00	1	\$650.00	
Modules Setup & Implementation	ELT.003.002.037	\$675.00	1	\$675.00	
CAD Distribution	ELT.002.007.001	\$1,435.00	1	\$1,435.00	Year 1 - Splitting Fee with Williamson County Office of Public Safety
Elite™ Fire - SaaS	ELT.001.002.013	\$6,653.38	1	\$6,653.38	Year 1 - Splitting Fee with Williamson County Office of Public Safety
Other CAD Vendor	ELT.002.007.019	\$0.00	1	\$0.00	
Continuum® for Fire	CTM.001.002.064	\$2,851.45	1	\$2,851.45	Year 1 - Splitting Fee with Williamson County Office of Public Safety

Total Year One Fees: \$14,355.88

Recurring Fees

Description	SKU	Unit Price	Qty	Extended Amount
Agency Level Validation Fire	ELT.001.002.002	\$927.30	1	\$927.30
Mobile Fire Inspections - SaaS	ELT.001.002.014	\$2,500.00	1	\$2,500.00

Total Recurring Fees: \$3,427.30

Send Invoices To:

Griag Temple
gtemple@springhilltn.org
199 Town Center Parkway
Spring Hill, TN 37174-2460

Payment Terms:

1. "Total Year One Fees" are due once upon contract signature.
2. "Recurring Fees" are annual fees which are due once upon contract signature and recur each year.
3. The Recurring Fees will escalate in price annually by 3% beginning one year from the last signature hereto and each year thereafter.
4. 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.
5. ImageTrend may charge to Client a late fee of 1.5% per month, or the highest rate allowed under the law, whichever is lower, on any overdue amounts. 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.
6. 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.
7. ImageTrend will not be responsible for third-party fees related to this Agreement unless specifically outlined by this Agreement.

SOFTWARE LICENSING TERMS ATTACHMENT

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, 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.

ImageTrend Hosted License (“License”)	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.
Client Hosted License (“On Premise License”)	<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.</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 4 and 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 Service Level Attachment, below.

SOFTWARE SUPPORT. ImageTrend shall provide Software Support as detailed in the Service Level Attachment, below.

TRAINING USAGE AND EXPIRATION. The training line items and quantities as detailed in price table attached must be delivered within 2 years of the Effective Date. It shall be Client’s responsibility to request the training session(s). Training not used within the 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, Griag Temple or their successor, conducts their job duties most frequently.
State, County, Region, City for its constituents	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	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.
Group Purchase (Multi-Agency)	Client(s) are a plurality of Private Agencies and/or Public Agencies	All employees & contractors of each named organization, who respond to emergency medical incidents
Financing Party (e.g. billing company) on behalf of Agency/City/County third party beneficiary	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.	All employees & contractors of third party beneficiary Public or Private Agency, who respond to emergency medical incidents in the regular scope of their employment.

SERVICE LEVEL AGREEMENT ATTACHMENT

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 24 hours per day, 7 days per week, 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 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.

BUSINESS ASSOCIATE AGREEMENT ATTACHMENT

This Business Associate Agreement (“Agreement”) dated 06/20/2024 (the “Effective Date”), is entered into by and between **Spring Hill Fire Department** located at 199 Town Center PKWY, Spring Hill, TN 37174-2460 (the “Covered Entity”) and ImageTrend, LLC, a Minnesota corporation (the “Business Associate”).

WHEREAS, Covered Entity (also referred to as “Client”) and Business Associate have entered into, or are entering into, or may subsequently enter into, agreements or other documented arrangements (collectively, the “Business Arrangements”) pursuant to which Business Associate may provide products and/or services for Covered Entity that require Business Associate to access, create and use health information that is protected by state and/or federal law; and

WHEREAS, pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the U.S. Department of Health & Human Services (“HHS”) promulgated the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Standards”), at 45 C.F.R. Parts 160 and 164, requiring certain individuals and entities subject to the Privacy Standards (each a “Covered Entity”, or collectively, “Covered Entities”) to protect the privacy of certain individually identifiable health information (“Protected Health Information”, or “PHI”); and

WHEREAS, pursuant to HIPAA, HHS has issued the Security Standards (the “Security Standards”), at 45 C.F.R. Parts 160, 162 and 164, for the protection of electronic protected health information (“EPHI”); and

WHEREAS, in order to protect the privacy and security of PHI, including EPHI, created or maintained by or on behalf of the Covered Entity, the Privacy Standards and Security Standards require a Covered Entity to enter into a “business associate agreement” with certain individuals and entities providing services for or on behalf of the Covered Entity if such services require the use or disclosure of PHI or EPHI; and

WHEREAS, on February 17, 2009, the federal Health Information Technology for Economic and Clinical Health Act was signed into law (the “HITECH Act”), and the HITECH Act imposes certain privacy and security obligations on Covered Entities in addition to the obligations created by the Privacy Standards and Security Standards; and

WHEREAS, the HITECH Act revises many of the requirements of the Privacy Standards and Security Standards concerning the confidentiality of PHI and EPHI, including extending certain HIPAA and HITECH Act requirements directly to business associates; and

WHEREAS, Business Associate and Covered Entity desire to enter into this Business Associate Agreement.

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement and the Business Arrangements, and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. **Business Associate Obligations.** Business Associate may receive from Covered Entity, or create or receive on behalf of Covered Entity, health information that is protected under applicable state

and/or federal law, including without limitation, PHI and EPHI. All capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the Privacy Standards, Security Standards or the HITECH Act, as applicable (collectively referred to hereinafter as the “Confidentiality Requirements”). All references to PHI herein shall be construed to include EPHI. Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the Confidentiality Requirements if the PHI were used or disclosed by Covered Entity in the same manner.

2. **Use of PHI.** Except as otherwise required by law, Business Associate shall use PHI in compliance with 45 C.F.R. § 164.504(e). Furthermore, Business Associate shall use PHI (i) solely for Covered Entity’s benefit and only for the purpose of performing services for Covered Entity as such services are defined in Business Arrangements, and (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Covered Entity shall retain all rights in the PHI not granted herein.
3. **Disclosure of PHI.** Subject to any limitations in this Agreement, Business Associate may disclose PHI to any third party persons or entities as necessary to perform its obligations under the Business Arrangement and as permitted or required by applicable federal or state law. Further, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that (i) such disclosures are required by law, or (ii) Business Associate: (a) obtains reasonable assurances from any third party to whom the information is disclosed that it will be held confidential and further used and disclosed only as required by law or for the purpose for which it was disclosed to the third party; (b) requires the third party to agree to immediately notify Business Associate of any instances of which it is aware that PHI is being used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the Confidentiality Requirements. Additionally, Business Associate shall ensure that all disclosures of PHI by Business Associate and the third party comply with the principle of “minimum necessary use and disclosure,” i.e., only the minimum PHI that is necessary to accomplish the intended purpose may be disclosed; provided further, Business Associate shall comply with Section 13405(b) of the HITECH Act, and any regulations or guidance issued by HHS concerning such provision, regarding the minimum necessary standard and the use and disclosure (if applicable) of Limited Data Sets. If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor (collectively, “Recipients”), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Covered Entity any use or disclosure of PHI not permitted by this Agreement, of which it becomes aware, such report to be made within three (3) business days of the Business Associate becoming aware of such use or disclosure. In addition to Business Associate’s obligations under Section 9, Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Covered Entity in writing or as directed by or as a result of a request by Covered Entity to disclose to Recipients, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI by Business Associate or Recipients in violation of this Agreement.
4. **Individual Rights Regarding Designated Record Sets.** If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate shall (i) provide access to, and permit inspection and copying of, PHI by Covered Entity or, as directed by Covered Entity, an individual who

is the subject of the PHI under conditions and limitations required under 45 CFR §164.524, as it may be amended from time to time, and (ii) amend PHI maintained by Business Associate as requested by Covered Entity. Business Associate shall respond to any request from Covered Entity for access by an individual within five (5) days of such request and shall make any amendment requested by Covered Entity within ten (10) days of such request. Any information requested under this Section 4 shall be provided in the form or format requested, if it is readily producible in such form or format. Business Associate may charge a reasonable fee based upon the Business Associate's labor costs in responding to a request for electronic information (or a cost-based fee for the production of non-electronic media copies). Covered Entity shall determine whether a denial is appropriate or an exception applies. Business Associate shall notify Covered Entity within five (5) days of receipt of any request for access or amendment by an individual. Covered Entity shall determine whether to grant or deny any access or amendment requested by the individual. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set, as requested by Covered Entity.

5. **Accounting of Disclosures.** Business Associate shall make available to Covered Entity in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual in accordance with 45 CFR §164.528, as amended by Section 13405(c) of the HITECH Act and any related regulations or guidance issued by HHS in accordance with such provision. Business Associate shall provide to Covered Entity such information necessary to provide an accounting within thirty (30) days of Covered Entity's request or such shorter time as may be required by state or federal law. Such accounting must be provided without cost to the individual or to Covered Entity if it is the first accounting requested by an individual within any twelve (12) month period. For subsequent accountings within a twelve (12) month period, Business Associate may charge a reasonable fee based upon the Business Associate's labor costs in responding to a request for electronic information (or a cost-based fee for the production of non-electronic media copies) so long as Business Associate informs the Covered Entity and the Covered Entity informs the individual in advance of the fee, and the individual is afforded an opportunity to withdraw or modify the request. Such accounting obligations shall survive termination of this Agreement and shall continue as long as Business Associate maintains PHI.
6. **Withdrawal of Authorization.** If the use or disclosure of PHI in this Agreement is based upon an individual's specific authorization for the use of his or her PHI, and (i) the individual revokes such authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Confidentiality Requirements expressly applies.
7. **Records and Audit.** Business Associate shall make available to the U.S. Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Covered Entity for the purpose of determining Covered Entity's compliance with the Confidentiality Requirements or any other health oversight agency, in a time and manner designated by the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity immediately upon receipt by Business Associate of any and all requests by or on behalf of any and all federal, state and local government authorities served upon Business Associate for PHI.

8. **Implementation of Security Standards; Notice of Security Incidents.** Business Associate will use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement. Business Associate will implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate acknowledges that the HITECH Act requires Business Associate to comply with 45 C.F.R. §§ 164.308, 164.310, 164.312, 164.314, and 164.316 as if Business Associate were a Covered Entity, and Business Associate agrees to comply with these provisions of the Security Standards and all additional security provisions of the HITECH Act. Furthermore, **to the extent feasible, Business Associate will use commercially reasonable efforts** to ensure that the technology safeguards used by Business Associate to secure PHI will render such PHI unusable, unreadable and indecipherable to individuals unauthorized to acquire or otherwise have access to such PHI in accordance with HHS Guidance published at 74 Federal Register 19006 (April 17, 2009), or such later regulations or guidance promulgated by HHS or issued by the National Institute for Standards and Technology (“NIST”) concerning the protection of identifiable data such as PHI. Business Associate acknowledges and agrees that the HIPAA Omnibus Rule finalized January 25, 2013 at 78 Fed. Reg. 5566 requires Business Associate to comply with new and modified obligations imposed by that rule under 45 C.F.R. §164.306, 45 C.F.R. § 164.308, 45 C.F.R. § 163.310, 45 C.F.R. § 164.312, 45 C.F.R. § 164.316, 45 C.F.R. § 164.502, 45 C.F.R. § 164.504. Lastly, Business Associate will promptly report to Covered Entity any successful Security Incident of which it becomes aware. At the request of Covered Entity, Business Associate shall identify: the date of the Security Incident, the scope of the Security Incident, the Business Associate’s response to the Security Incident and the identification of the party responsible for causing the Security Incident, if known. Business Associate and Covered Entity shall take reasonable measures to ensure the availability of all affirmative defenses under the HITECH Act, HIPAA, and other state and federal laws and regulations governing PHI and EPHI.

9. **Data Breach Notification and Mitigation.**

a. **HIPAA Data Breach Notification and Mitigation.** Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any “breach” of “unsecured PHI” as those terms are defined by 45 C.F.R. §164.402 (hereinafter a “HIPAA Breach”). The parties acknowledge and agree that 45 C.F.R. §164.404, as described below in this Section 9.1, governs the determination of the date of a HIPAA Breach. In the event of any conflict between this Section 9.1 and the Confidentiality Requirements, the more stringent requirements shall govern. Business Associate will, following the discovery of a HIPAA Breach, notify Covered Entity immediately and in no event later than three (3) business days after Business Associate discovers such HIPAA Breach, unless Business Associate is prevented from doing so by 45 C.F.R. §164.412 concerning law enforcement investigations. For purposes of reporting a HIPAA Breach to Covered Entity, the discovery of a HIPAA Breach shall occur as of the first day on which such HIPAA Breach is known to the Business Associate or, by exercising reasonable diligence, would have been known to the Business Associate. Business Associate will be considered to have had knowledge of a HIPAA Breach if the HIPAA Breach is known, or by exercising reasonable diligence would have been known, to any person (other than the person committing the HIPAA Breach) who is an employee, officer or other agent of the Business Associate. No later than seven (7) business days following a HIPAA Breach, Business Associate shall provide Covered Entity with sufficient information to permit Covered Entity to comply with the HIPAA Breach notification requirements set forth at 45 C.F.R. §164.400 *et seq.* Specifically, if the following information

is known to (or can be reasonably obtained by) the Business Associate, Business Associate will provide Covered Entity with: (i) contact information for individuals who were or who may have been impacted by the HIPAA Breach (e.g., first and last name, mailing address, street address, phone number, email address); (ii) a brief description of the circumstances of the HIPAA Breach, including the date of the HIPAA Breach and date of discovery; (iii) a description of the types of unsecured PHI involved in the HIPAA Breach (e.g., names, social security number, date of birth, address(es), account numbers of any type, disability codes, diagnostic and/or billing codes and similar information); (iv) a brief description of what the Business Associate has done or is doing to investigate the HIPAA Breach, mitigate harm to the individual impacted by the HIPAA Breach, and protect against future HIPAA Breaches; and (v) appoint a liaison and provide contact information for same so that the Covered Entity may ask questions or learn additional information concerning the HIPAA Breach. Following a HIPAA Breach, Business Associate will have a continuing duty to inform Covered Entity of new information learned by Business Associate regarding the HIPAA Breach, including but not limited to the information described in items (i) through (v), above.

- b. Data Breach Notification and Mitigation Under Other Laws. In addition to the requirements of Section 9.1, Business Associate agrees to implement reasonable systems for the discovery and prompt reporting of any breach of individually identifiable information (including but not limited to PHI, and referred to hereinafter as “Individually Identifiable Information”) that, if misused, disclosed, lost or stolen, Covered Entity believes would trigger an obligation under one or more State data breach notification laws (each a “State Breach”) to notify the individuals who are the subject of the information. Business Associate agrees that in the event any Individually Identifiable Information is lost, stolen, used or disclosed in violation of one or more State data breach notification laws, Business Associate shall promptly: (i) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach; (ii) cooperate and assist Covered Entity with any investigation into any State Breach or alleged State Breach conducted by any State Attorney General or State Consumer Affairs Department (or their respective agents); (iii) comply with Covered Entity’s determinations regarding Covered Entity’s and Business Associate’s obligations to mitigate to the extent practicable any potential harm to the individuals impacted by the State Breach; and (iv) assist with the implementation of any decision by Covered Entity or any State agency, including any State Attorney General or State Consumer Affairs Department (or their respective agents), to notify individuals impacted or potentially impacted by a State Breach.
- c. Breach Indemnification. Business Associate shall indemnify, defend and hold Covered Entity and its officers, directors, employees, agents, successors and assigns harmless, from and against all reasonable losses, claims, actions, demands, liabilities, damages, costs and expenses (including costs of judgments, settlements, court costs and reasonable attorneys’ fees actually incurred) (collectively, “Information Disclosure Claims”) arising from or related to: (i) the use or disclosure of Individually Identifiable Information (including PHI) by Business Associate in violation of the terms of this Agreement or applicable law, and (ii) whether in oral, paper or electronic media, any HIPAA Breach of unsecured PHI and/or State Breach of Individually Identifiable Information by Business Associate. If Business Associate assumes the defense of an Information Disclosure Claim, Covered Entity shall have the right, at its expense and without indemnification notwithstanding the previous sentence, to participate in the defense of such Information Disclosure Claim. Business Associate shall not

take any final action with respect to any Information Disclosure Claim without the prior written consent of Covered Entity. Covered Entity likewise shall not take any final action with respect to any Information Disclosure Claim without the prior written consent of Business Associate. To the extent permitted by law and except when caused by an act of Covered Entity or resulting from a disclosure to a Recipient required or directed by Covered Entity to receive the information, Business Associate shall be fully liable to Covered Entity for any acts, failures or omissions of Recipients in furnishing the services as if they were the Business Associate's own acts, failures or omissions.

- i. **If Client is a Governmental Entity the following clause does not apply:** Covered Entity shall indemnify, defend and hold Business Associate and its officers, directors, employees, agents, successors and assigns harmless, from and against all reasonable losses, claims, actions, demands, liabilities, damages, costs and expenses (including costs of judgments, settlements, court costs and reasonable attorneys' fees actually incurred) (collectively, "Information Disclosure Claims") arising from or related to: (i) the use or disclosure of Individually Identifiable Information (including PHI) by Covered Entity, its subcontractors, agents, or employees in violation of the terms of this Agreement or applicable law, and (ii) whether in oral, paper or electronic media, any HIPAA Breach of unsecured PHI and/or State Breach of Individually Identifiable Information by Covered Entity, its subcontractors, agents, or employees.
- ii. Covered Entity and Business Associate shall seek to keep costs or expenses that the other may be liable for under this Section 9, including Information Disclosure Claims, to the minimum reasonably required to comply with the HITECH Act and HIPAA. Covered Entity and Business Associate shall timely raise all applicable affirmative defenses in the event a violation of this Agreement, or a use or disclosure of PHI or EPHI in violation of the terms of this Agreement or applicable law occurs.

10. **Term and Termination.**

- a. This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section 10, provided, however, that termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.
- b. Covered Entity shall have the right to terminate this Agreement for any reason upon thirty (30) days written notice to Business Associate.
- c. Covered Entity, at its sole discretion, may immediately terminate this Agreement and shall have no further obligations to Business Associate if any of the following events shall have occurred and be continuing:
 - i. Business Associate fails to observe or perform any material covenant or obligation contained in this Agreement for ten (10) days after written notice thereof has been given to the Business Associate by Covered Entity; or
 - ii. A violation by the Business Associate of any provision of the Confidentiality Requirements or other applicable federal or state privacy law relating to the obligations of the Business Associate under this Agreement.

- d. Termination of this Agreement for either of the two reasons set forth in Section 10.c above shall be cause for Covered Entity to immediately terminate for cause any Business Arrangement pursuant to which Business Associate is entitled to receive PHI from Covered Entity.
- e. Upon the termination of all Business Arrangements, either Party may terminate this Agreement by providing written notice to the other Party.
- f. Upon termination of this Agreement for any reason, Business Associate agrees either to return to Covered Entity or to destroy all PHI received from Covered Entity or otherwise through the performance of services for Covered Entity, that is in the possession or control of Business Associate or its agents. In the case of PHI which is not feasible to “return or destroy,” Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. Business Associate further agrees to comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment of such PHI.

11. **No Warranty.** PHI IS PROVIDED TO BUSINESS ASSOCIATE SOLELY ON AN “AS IS” BASIS. COVERED ENTITY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

12. **Ineligible Persons.** Business Associate represents and warrants to Covered Entity that Business Associate (i) is not currently excluded, debarred, or otherwise ineligible to participate in any federal health care program as defined in 42 U.S.C. Section 1320a-7b(f) (“the Federal Healthcare Programs”); (ii) has not been convicted of a criminal offense related to the provision of health care items or services and not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs, and (iii) is not under investigation or otherwise aware of any circumstances which may result in Business Associate being excluded from participation in the Federal Healthcare Programs. This shall be an ongoing representation and warranty during the term of this Agreement, and Business Associate shall immediately notify Covered Entity of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give Covered Entity the right to terminate this Agreement immediately for cause.

13. **Miscellaneous.**

- a. **Notice.** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (i) personal delivery; (ii) certified or registered United States mail, return receipt requested; or (iii) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below. Neither party shall refuse delivery of any notice hereunder.

If to Covered Entity:

ATTN: Compliance Department
199 Town Center PKWY
Spring Hill, TN 37174-2460

If to Business Associate:

ImageTrend, LLC
Attn: Legal Department
20855 Kensington Blvd.
Lakeville, MN 55044

14. **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.
15. **Assignment.** Neither Party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of Business Associate.
16. **Severability.** Any provision of this Agreement that is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.
17. **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangements or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangements are more strict with respect to PHI and comply with the Confidentiality Requirements, or the parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either Party; provided, however, that upon the enactment of any law, regulation, court decision or relevant government publication and/or interpretive guidance or policy that the Covered Entity believes in good faith will adversely impact the use or disclosure of PHI under this Agreement, Covered Entity may amend the Agreement to comply with such law, regulation, court decision or government publication, guidance or policy by delivering a written amendment to Business Associate which shall be effective thirty (30) days after receipt. No obligation on either Party to enter into any transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.
18. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the state in which Business Associate is located, excluding its conflicts of laws provisions. Jurisdiction and venue for any dispute relating to this Agreement shall exclusively rest with the state and federal courts in the county in which Business Associate is located.
19. **Equitable Relief.** The parties understand and acknowledge that any disclosure or misappropriation of any PHI in violation of this Agreement will cause the other irreparable harm, the amount of which

may be difficult to ascertain, and therefore agrees that the injured party shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as the injured party shall deem appropriate. Such right is to be in addition to the remedies otherwise available to the parties at law or in equity. Each party expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond.

20. **Nature of Agreement; Independent Contractor.** Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, or (ii) a relationship of employer and employee between the parties. Business Associate is an independent contractor, and not an agent of Covered Entity. This Agreement does not express or imply any commitment to purchase or sell goods or services.
21. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought. Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in portable document format (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same force and effect as physical execution and delivery of the paper document bearing the original signature.

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

Client	ImageTrend
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____