

SOFTWARE OR SERVICES AGREEMENT AMENDMENT

Contract Details			
Original Contract Number ("Original Contract")	258-S1711 (FENIX #496)	Amendment Contract Number	00003878.0

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

BETWEEN: **ImageTrend, Inc.** Minnesota corporation (hereinafter "IMAGETREND")

AND: **County of El Dorado** (hereinafter "CLIENT").

The CLIENT and IMAGETREND mutually agree to the following changes to the Original Contract between County of El Dorado and ImageTrend, Inc.

1. The purpose of this Amendment is for CLIENT to modify the Original Contract and CLIENT's existing product orders and add new product items as outlined in the attached Exhibit A1 - Pricing Agreement, Word Order Attachment, and Data Exchange Authorization.
2. The attached Exhibit B1 – Service Level Agreement, replaces, in its entirety, Exhibit B – Service Level Agreement attached to the Original Contact.
3. The Attached Exhibit C 1– HIPAA Business Associate Agreement hereby replaces, in its entirety, Exhibit C attached to the Original Contract.
4. Section 2. Term of Agreement of the Software Licensing Agreement is here by replaced in its entirety to read as follows:

The term of this Agreement shall be February 23, 2017– February 23, 2027.

5. Section 19. Notices of the Software Licensing Agreement is here by amended to modify CLIENT's notice recipients and addresses as follows:

TO CLIENT: County of El Dorado
 Chief Administrative Office
 330 Fair Lane
 Placerville, CA 95667

ATTENTION: Michele Weimer, Procurement and Contracts Manager

And

County of El Dorado
 Emergency Medical Services Agency
 2900 Fairlane Court
 Placerville, CA 95667

ATTENTION: Michelle Patterson, EMS Manager, MHOAC

- 6. Section 34. Administrator of the Software Licensing Agreement is here by replaced in its entirety to read as follows:

The County Officer or employee with responsibility for administering the Original Contract and this Agreement is:

Michelle Patterson
 EMS Manager, MHOAC, or successor

- 7. Except as otherwise amended herein, all other terms and conditions remain the same.

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: _____

EXHIBIT A1 – PRICING AGREEMENT, WORK ORDER ATTACHMENT, AND DATA EXCHANGE AUTHORIZATION

The prices below are based on the following SaaS transaction volumes, as provided by CLIENT:
18,000 Incidents annually.

Previously Contracted Recurring Fees

Description	Unit Price	Qty	Extended Amount
Elite EMS Support	\$6,182.85	1	\$6,182.85
Elite EMS Hosting	\$9,936.73	1	\$9,936.73
Elite EMS Field Site License Support	\$4,416.32		\$4,416.32
Elite EMS CAD Integration Support	\$6,182.85	1	\$6,182.85
Hospital Hub SaaS	\$2,070.16	1	\$2,070.16
Elite EMS Visual Informatics Support	\$2,649.80	1	\$2,649.80
Elite EMS Health Information Hub (HIH) Support	\$7,500.00	1	\$7,500.00
Elite EMS Health Information Hub (HIH) Support – Bi-Directional Exchange	\$5000.00	2	\$10,000.00
Elite EMS MARS (Mapping) Transactional Fee	\$5,520.40	1	\$5,520.40

Newly Contracted Recurring Fees

Description	SKU	Unit Price	Qty	Extended Amount
FirstWatch Distribution	ELT.002.010.006	\$5,000.00	1	\$5,000.00

Total Newly Contracted Recurring Fees: \$5,000.00

TOTAL 2022: \$59,459.11

TOTAL 2023: \$61,242.89

TOTAL 2024: \$63,080.18

TOTAL 2025: \$64,972.58

TOTAL 2026: \$66,921.76

TOTAL AMOUNT NOT TO EXCEED: \$315,676.52

Send Invoices To:

Michelle Patterson
michelle.patterson@edcgov.us
2900 Fairlane Ct.
Placerville, CA 95667

Payment Terms:

1. “Previously Contracted Recurring Fees” will be invoiced as previously agreed. Previously Contracted Recurring Fees will escalate in price annually by 3% beginning with fees due for 2023 and each year thereafter.

2. “Newly Contracted Recurring Fees” are annual fees which recur each year. For the first year of the FirstWatch Distribution, 50% will be paid upon execution and 50% upon implementation. The newly Contracted Recurring First Watch Distribution Fee of \$5,000.00 will be due annually on the anniversary of the execution of the amendment. The Newly Contracted Recurring Fees will escalate in price annually by 3% one year from execution of this amendment and each year thereafter.
3. IMAGETREND may temporarily suspend performance (e.g. cease to provide access, hosting, support) due to CLIENT’s breach of contract provided CLIENT shall have thirty (30) days to cure such breach before IMAGETREND may suspend performance. IMAGETREND shall provide written notice of CLIENT’s breach of Contract with ten (10) days’ notice.
4. 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.
5. IMAGETREND will not be responsible for third-party fees related to this Agreement unless specifically outlined by this Agreement.

DATA EXCHANGE AUTHORIZATION

Between the Parties to this Agreement with CLIENT as “Data Controller”

Whereas; IMAGETREND is a provider of data management services and a current Business Associate to the Data Controller and;

Whereas; the Data Controller wishes IMAGETREND to exchange certain ePHI data from and to the Data Controller’s System, in IMAGETREND’s capacity as a Business Associate

Data Exchange Purpose The purpose of this Data Exchange Authorization is to exchange Data Controller’s data in accordance with the table below that lists the data exchange work items to be fulfilled by IMAGETREND (“the Identified Data Exchanges”). It is Data Controllers sole obligation to ensure the “Destination” column is accurate. IMAGETREND will fulfill and exchange data with the listed Destination party, and will not deviate from the identified destination unless IMAGETREND is directed otherwise in writing by Data Controller. Notwithstanding any term to the contrary, IMAGETREND shall not be liable in any manner for sending or receiving data as outlined below; Data Controller assumes all risk for the data source(s) and destination(s) identified below.

Description	Quote Description	Data Source	Data Destination
FirstWatch Distribution	One (1) NEMESIS 3.4.0 file per event is submitted to the FirstWatch web service based upon workflow defined during the implementation process. A client key needs to be provided to us by FirstWatch for the integration to be successful. A list of agencies to include in the integration should be included in the contract. No attachments will be included in this export. NOTE: Legacy Data Migration is not included, but is available for an additional cost.	ImageTrend at Lakeville, MN55044	FirstWatch

Authorization. Data Controller hereby authorizes IMAGETREND to transmit, import, and/or disclose in accordance with the Identified Data Exchanges, and to transmit, import and/or disclose other data reasonably necessary to achieve the purpose of each work line item outlined in the table above. This Agreement modifies any prior agreements of the parties only to the extent necessary to effect this agreement, and does not otherwise change the terms of any prior agreements between the parties.

Right to Revoke or Terminate. Data Controller may terminate or revoke the right to transmit or disclose data granted to IMAGETREND by this Agreement at any time by providing reasonable written notice to IMAGETREND and providing a commercially reasonable period of time in which to effect the termination.

The Parties hereby agree to this Data Exchange Authorization:

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: _____

EXHIBIT B1 - 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 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.

EXHIBIT C1 - HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is made part of the base contract (“Underlying Agreement”) to which it is attached, as of the date of commencement of the term of the Underlying Agreement (the “Effective Date”).

RECITALS

WHEREAS, CLIENT and IMAGETREND (hereinafter referred to as Business Associate (“BA”)) entered into the Underlying Agreement pursuant to which BA provides services to CLIENT, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and Electronic Protected Health Information (“EPHI”) may be disclosed to BA for the purposes of carrying out its obligations under the Underlying Agreement; and

WHEREAS, the CLIENT and BA intend to protect the privacy and provide for the security of PHI and EPHI disclosed to BA pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the “HITECH” Act), and regulation promulgated thereunder by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws as may be amended from time to time; and

WHEREAS, CLIENT is a Covered Entity, as defined in the Privacy Rule and Security Rule, including but not limited to 45 CFR Section 160.103 ; and

WHEREAS, BA, when a recipient of PHI from CLIENT, is a Business Associate as defined in the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to 42 USC Section 17938 and 45 CFR Section 160.103; and

WHEREAS, “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.202(g);

WHEREAS, “Breach” shall have the meaning given to such term under the HITECH Act under 42 USC Section 17921; and

WHEREAS, “Unsecured PHI” shall have the meaning to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to 42 USC Section 17932(h).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Definitions.** Unless otherwise provided in this Business Associate Agreement, capitalized terms shall have the same meanings as set forth in the Privacy Rule, as may be amended from time to time.

2. Scope of Use and Disclosure by BA of CLIENT Disclosed PHI
- A. BA shall not disclose PHI except for the purposes of performing BA's obligations under the Underlying Agreement. Further, BA shall not use PHI in any manner that would constitute a violation of the minimum necessary policies and procedures of the CLIENT, Privacy Rule, Security Rule, or the HITECH Act.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Business Associate Agreement or required by law, BA may:
- (1) use the PHI in its possession for its proper management and administration and to fulfill any legal obligations.
 - (2) disclose the PHI in its possession to a third party for the purpose of BA's proper management and administration or to fulfill any legal responsibilities of BA, or as required by law
 - (3) disclose PHI as necessary for BA's operations only if:
 - (a) prior to making a disclosure to a third party, BA will obtain written assurances from such third party including:
 - (i) to hold such PHI in confidence and use or further disclose it only for the purpose of which BA disclosed it to the third party, or as required by law; and,
 - (ii) the third party will immediately notify BA of any breaches of confidentiality of PHI to extent it has obtained knowledge of such breach.
 - (4) aggregate the PHI and/or aggregate the PHI with that of other data for the purpose of providing CLIENT with data analyses related to the Underlying Agreement, or any other purpose, financial or otherwise, as requested by CLIENT.
 - (5) not disclose PHI disclosed to BA by CLIENT not authorized by the Underlying Agreement or this Business Associate Agreement without patient authorization or de-identification of the PHI as authorized in writing by CLIENT.
 - (6) de-identify any and all PHI of CLIENT received by BA under this Business Associate Agreement provided that the de-identification conforms to the requirements of the Privacy Rule, 45 CFR and does not preclude timely payment and/or claims processing and receipt.
- C. BA agrees that it will neither use nor disclose PHI it receives from CLIENT, or from another business associate of CLIENT, except as permitted or required by this Business Associate Agreement, or as required by law, or as otherwise permitted by law.
3. Obligations of BA. In connection with its use of PHI disclosed by CLIENT to BA, BA agrees to:
- A. Implement appropriate administrative, technical, and physical safeguards as are necessary to prevent use or disclosure of PHI other than as permitted by the Agreement that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI in accordance with 45 CFR

164.308,164.310,164.312, and 164.504(e)(2). BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule.

- B. Report to CLIENT within 24 hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
 - C. Report to CLIENT in writing of any access, use or disclosure of PHI not permitted by the Underlying Agreement and this Business Associate Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than five (5) days. To the extent the Breach is solely a result of BA's failure to implement reasonable and appropriate safeguards as required by law, and not due in whole or part to the acts or omissions of the CLIENT, BA may be required to reimburse the CLIENT for notifications required under 45 CFR 164.404 and CFR 164.406.
 - D. BA shall not use or disclose PHI for fundraising or marketing purposes. BA shall not disclose PHI to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates. BA shall not directly or indirectly receive remuneration in exchange of PHI, except with the prior written consent of the CLIENT and as permitted by the HITECH Act, 42 USC Section 17935(d)(2); however, this prohibition shall not affect payment by CLIENT to BA for services provided pursuant to the Agreement.
4. PHI Access, Amendment and Disclosure Accounting. BA agrees to:
- A. Provide access, at the request of CLIENT, within five (5) days, to PHI in a Designated Record Set, to the CLIENT, or to an Individual as directed by the CLIENT. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CLIENT to fulfill its obligations under the HITECH Act, including, but not limited to, 42 USC Section 17935(e).
 - B. Within ten (10) days of receipt of a request from CLIENT, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule in the event that the PHI in BA's possession constitutes a Designated Record Set.
 - C. To assist the CLIENT in meeting its disclosure accounting under HIPAA:
 - (1) BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosure from Electronic Health Record for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the

extent that BA maintains an electronic health record and is subject to this requirement. At the minimum, the information collected shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed and; (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.

(2) Within in 30 days of notice by the CLIENT, BA agrees to provide to CLIENT information collected in accordance with this section to permit the CLIENT to respond to a request by an Individual for an accounting of disclosures of PHI.

D. Make available to the CLIENT, or to the Secretary of Health and Human Services (the "Secretary"), BA's internal practices, books and records relating to the use of and disclosure of PHI for purposes of determining BA's compliance with the Privacy Rule, subject to any applicable legal restrictions. BA shall provide CLIENT a copy of any PHI that BA provides to the Secretary concurrently with providing such information to the Secretary.

5. Obligations of CLIENT.

A. CLIENT agrees that it will promptly notify BA in writing of any restrictions on the use and disclosure of PHI agreed to by CLIENT that may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

B. CLIENT agrees that it will promptly notify BA in writing of any changes in, or revocation of, permission by any Individual to use or disclose PHI, if such changes or revocation may affect BA's ability to perform its obligations under the Underlying Agreement, or this Business Associate Agreement.

C. CLIENT agrees that it will promptly notify BA in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect BA's use of disclosure of PHI.

D. CLIENT shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by CLIENT, except as may be expressly permitted by the Privacy Rule.

E. CLIENT will obtain any authorizations necessary for the use or disclosure of PHI, so that BA can perform its obligations under this Business Associate Agreement and/or the Underlying Agreement.

6. Term and Termination.

A. Term. This Business Associate Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement, as provided therein when all PHI provided by the CLIENT to BA, or created or

received by BA on behalf of the CLIENT, is destroyed or returned to the CLIENT, or, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

B. Termination for Cause. Upon the CLIENT's knowledge of a material breach by the BA, the CLIENT shall either:

- (1) Provide an opportunity for the BA to cure the breach or end the violation and terminate this Agreement if the BA does not cure the breach or end the violation within the time specified by the CLIENT.
- (2) Immediately terminate this Agreement if the BA has breached a material term of this

Agreement and cure is not possible; or

- (3) If neither termination nor cures are feasible, the CLIENT shall report the violation to the Secretary.

C. Effect of Termination.

(1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, the BA shall, at the option of CLIENT, return or destroy all PHI that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI.

(2) In the event that the CLIENT determines that returning or destroying the PHI is infeasible, BA shall provide to the CLIENT notification of the conditions that make return or destruction infeasible, and . BA shall extend the protections of this Agreement to such PHI to those purposes that make the return or destruction infeasible, for so long as the BA maintains such PHI. If CLIENT elects destruction of the PHI, BA shall certify in writing to CLIENT that such PHI has been destroyed.

7. Indemnity

A. BA shall indemnify and hold harmless all Agencies, Districts, Special Districts and Departments of the CLIENT, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (collectively "CLIENT") from any liability whatsoever, based or asserted upon any services of BA, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to BA's performance under this Business Associate Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever including fines, penalties or any other costs and resulting from any reason whatsoever to the extent arising from the performance of BA, its officers, agents, employees, subcontractors, agents or representatives under this Business Associate Agreement. BA shall defend, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, defense and settlements or awards against the CLIENT in any claim or action based upon such alleged acts or omissions.

- B. With respect to any action or claim subject to indemnification herein by BA, BA shall, at its sole cost, have the right to use counsel of its choice, subject to the approval of CLIENT, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of CLIENT; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes BA's indemnification of CLIENT as set forth herein. BA's obligation to defend, indemnify and hold harmless CLIENT shall be subject to CLIENT having given BA written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at BA's expense, for the defense or settlement thereof. BA's obligation hereunder shall be satisfied when BA has provided to CLIENT the appropriate form of dismissal relieving CLIENT from any liability for the action or claim involved.
- C. The specified insurance limits required in the Underlying Agreement of this Business Associate Agreement shall in no way limit or circumscribe BA's obligations to indemnify and hold harmless the CLIENT herein from third party claims arising from the issues of this Business Associate Agreement.
- D. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve the BA from indemnifying the CLIENT to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Business Associate Agreement, this indemnification shall only apply to the subject issues included within this Business Associate Agreement.
8. Amendment The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for CLIENT to comply with the Privacy Rule, 45 CFR, and HIPAA generally.
9. Survival The respective rights and obligations of this Business Associate Agreement shall survive the termination or expiration of this Business Associate Agreement.
10. Regulatory References A reference in this Business Associate Agreement to a section in the Privacy Rule means the section as in effect or as amended.
11. Conflicts Any ambiguity in this Business Associate Agreement and the Underlying Agreement shall be resolved to permit CLIENT to comply with the Privacy Rule, 45 CFR, and HIPAA generally.