

# **IMAGETREND ELITE PRODUCT UPGRADE SOFTWARE LICENSING AGREEMENT AMENDMENT**

**CONTRACT NO.: 1918**

**AMENDMENT: 002**

**BETWEEN**

**STURGIS AMBULANCE SERVICE  
1901 BALLPARK ROAD  
STURGIS, SD 57785**

**RAPID CITY FIRE DEPARTMENT  
10 MAIN ST.  
RAPID CITY, SD 57701**

**AND**

**IMAGETREND, INC.  
20855 KENSINGTON BLVD.  
LAKEVILLE, MN 55044**

 **IMAGETREND** INC.

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## OVERVIEW

ImageTrend is excited to release its new product platform, ImageTrend Elite. This platform will support the NEMESIS version 3 standard.

As part of this release to the new product platform, ImageTrend has renamed its product offerings as detailed below.

Existing Product Name	New Product Name
Service Bridge	ImageTrend Elite EMS
Rescue Bridge	ImageTrend Elite Rescue
Field Bridge and/or Field Bridge Xpress	ImageTrend Elite Field
Mobile Fire Inspections	ImageTrend Elite Mobile Fire Inspections

The recurring fees that each Client pays today will continue forward, however they will be established under the new product names. If Client would like to consolidate the recurring fees, please contact ImageTrend and we will work with you to complete this.

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## ELITE PRODUCT UPGRADE AGREEMENT

### PERPETUAL USE LICENSE, IMAGETREND HOSTED SOLUTION

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.**, a Minnesota corporation (hereinafter “IMAGETREND”)

**AND:**                      **Sturgis Ambulance Service** (hereinafter “STURGIS”) and **Rapid City Fire Department** (hereinafter “RAPID CITY”) (STURGIS and RAPID CITY collectively hereinafter “CLIENT”).

The CLIENT and IMAGETREND mutually agree to the following changes to the original Contract between Sturgis Ambulance Service and Rapid City Fire Department and ImageTrend, Inc. for Software Licensing Agreement.

1. The purpose of this Amendment is for CLIENT to upgrade to ImageTrend’s Elite Platform and receive the product(s) and module(s) as outlined in Exhibit B Pricing Agreement below.
2. This Amendment also includes updates and/or additions to the original Agreement as detailed in Exhibit A - Amended Language to Original Contract, Exhibit C – ImageTrend Elite Upgrade Transition Process, Exhibit D – Service Level Agreement and Exhibit E – Tax Exemption Certification.
3. The Amendment does not change any previously-agreed-to ending date for the original Contract itself.
4. All other terms and conditions remain the same.
5. Product functionality has been reviewed and no customization is anticipated. Out of Scope customization is \$125.00/hour and performed only under mutually agreed upon Statement of Work.
6. *IMAGETREND strongly advises against live data entry by CLIENT until your ImageTrend Representative authorizes you to do so.*

**WITNESS THE EXECUTION HEREOF** on the day and year last written below.

APPROVED AS:

"CLIENT" - City of Rapid City

"IMAGETREND"

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Michael J. McBrady

Title: \_\_\_\_\_

Title: President

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

ATTEST: \_\_\_\_\_

"CLIENT" - City of Sturgis

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

## EXHIBIT A – AMENDED LANGUAGE TO ORIGINAL CONTRACT

### REVISIONS TO ORIGINAL CONTRACT

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#### **SECTION 1. DEFINITIONS.**

**ePCR**” means an Electronic Patient Care Report

**“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 to a potential or actual patient.

**“Run(s)”** means an incident where the Client sends a vehicle to a potential or actual patient.

#### **SECTION 3. GRANT OF LICENSE.**

##### **A. NON-EXCLUSIVE USE LICENSE.**

In accordance with the terms and conditions hereof, IMAGETREND agrees to grant to CLIENT and CLIENT agrees to accept a non-transferable and non-exclusive perpetual use license of the Software. During the term of the agreement, the CLIENT shall have access to the Software, which will be installed on servers at the IMAGETREND hosting facility and subject to the Service Level Agreement attached as Exhibit B. CLIENT expressly acknowledges that all copies of the Software and/or Licensed Information in any form provided by IMAGETREND to CLIENT hereunder are the sole property of IMAGETREND and/or its suppliers, and that CLIENT shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this AGREEMENT.

##### **B. IMAGETREND ELITE DATA MARTS NON-EXCLUSIVE USE LICENSE**

In accordance with the terms and conditions hereof, IMAGETREND agrees to grant the use of the ImageTrend Elite Data Marts only via ImageTrend Elite Reporting Tools as included and detailed in Exhibit A. This AGREEMENT does not give the CLIENT 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 available via separately-priced product and service offerings from IMAGETREND. This Section 3.B, is subject to the Non-Exclusive Use License as covered in Section 3.A and terms of this AGREEMENT.

##### **C. PROTECTION OF SOFTWARE AND LICENSED INFORMATION.**

CLIENT agrees to respect and not 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 copy 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 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.

**D. DATA OWNERSHIP AND DATA PROTECTION.**

All CLIENT data collected with IMAGETREND Software remains at all times the property of the CLIENT. IMAGETREND will not to use or make available any personally identifiable information other than for administering the CLIENT's account and collecting usage statistics in order to improve our products and services specifications. During the term of this AGREEMENT and after termination or expiration of this AGREEMENT, IMAGETREND will not in any way transfer to any third party or use in direct or indirect competition with the other party any information or data posted by CLIENT's and others on IMAGETREND's website and acknowledges that all such information is confidential.

**E. CLIENT DATA.**

Within thirty (30) days after the expiration of this AGREEMENT, the termination of this AGREEMENT, or IMAGETREND is no longer in business, IMAGETREND will deliver to the CLIENT its data, in machine readable format, on appropriate media, at the CLIENT's option. If the CLIENT wants the data to be delivered in a medium other than tape or CD, IMAGETREND shall do its best to accommodate the CLIENT, provided the CLIENT shall provide the medium on which the data is to be provided and shall pay for any additional cost incurred by IMAGETREND in accommodating this request.

**SECTION 4. SOFTWARE ABSTRACT.**

A. The ImageTrend Service Bridge/State Bridge/Rescue Bridge/ImageTrend Elite contains and stores the data elements of an emergency medical database, including data schema and values that may originate from traditional computer aided dispatch (CAD) sources and data values that may be used in billing from pre-hospital patient care. The emergency medical database may contain certain vehicle transport information but does not contain data elements and/or values specific to the vehicle path tracking such as automatic vehicle location (AVL) or third party AVL integrations. The emergency medical database does support integrations to third party CAD and billing solutions. The emergency medical database does not support any AVL, CAD or billing functions executed directly from the database. CLIENT shall not use ImageTrend Software to integrate patient information from a clinical encounter associated with a patient incident requiring emergency medical care by the emergency transport crew with flight information relating to an emergency transport crew dispatch to produce an encounter record indicative of the patient's clinical encounter.

B. The ImageTrend Service Bridge/State Bridge/Rescue Bridge/ImageTrend Elite contains and stores the data elements of an emergency medical database as defined, described and mandated by the National EMS Information System (NEMSIS). The dataset was adopted by ImageTrend for State and local regulatory authorities as required by NEMSIS. The NEMSIS data schema and elements are the sole work of the NEMSIS organization in conjunction with the National Highway Traffic Safety Administration (NHTSA). The NEMSIS dataset contains data elements and data structures originating and potentially owned by a number of nonprofit third party organizations and government agencies such as the World Health Organization (ICD 9 and

ICD 10), International Health Terminology Standards Development Organization (SNOMED), U.S Department of the Interior and U.S. Geological Survey (GNIS), National Institute of Standards and Technology (FIPS), Health Level Seven International (HL7), Joint APCO/NENA Data Standardization Working Group (AACN). The NEMESIS dataset offers customer driven extensibility that allows the end user to extend and define the dataset at their own discretion.

## **SECTION 11. INDEMNIFICATION.**

### **A. INDEMNITY**

IMAGETREND (which includes its agents, employees and subcontractors, if any) agrees to indemnify CLIENT, as well as any agents thereof from all damages, judgments, loss and expenses, but not including consequential or incidental damages arising out of:

- (i) any personal injuries, property damage, or death that CLIENT may sustain while using IMAGETREND's, as well as any agents thereof, controlled property or equipment in the performance of this AGREEMENT; or
- (ii) any personal injury or death which results or increases by any action taken to medically treat CLIENT agents, employees and subcontractors; or
- (iii) any personal injury, property damage or death that CLIENT may sustain from any claim or action brought against CLIENT, as well as any agents thereof arising out of the negligence or recklessness of IMAGETREND in the performance of this AGREEMENT,

Except for the foregoing claims, CLIENT, as well as any agents thereof agrees to indemnify, defend, and hold harmless IMAGETREND from all claims, lawsuits, damages, judgments, loss, liability, or expenses, arising out of any claim or action brought against IMAGETREND arising out of the negligence or recklessness of CLIENT, as well as any agents thereof in the performance of this AGREEMENT.

### **B. ENTIRE LIABILITY**

SECTION 11 (A) ABOVE STATES THE PARTIES ENTIRE LIABILITY THE PARTIES SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS OF INDEMNIFICATION. SECTION 9 OF THIS AGREEMENT STATES THE FULL EXTENT OF IMAGETREND'S WARRANTY AND SECTION 11(A) PROVIDES NO ADDITIONAL WARRANTY OF ANY KIND. ANY OTHER WARRANTY, EXPRESS OR IMPLIED OUTSIDE OF THIS AGREEMENT, INCLUDING THOSE ARISING OUT OF THE UNIFORM COMMERCIAL CODE, ARE WAIVED.

## EXHIBIT B – PRICING AGREEMENT

Each client will get an included number of Project Management hours as identified below. Any additional hours may be purchased at the rates listed below.

IMAGETREND will utilize a multi-faceted implementation process to best fit the needs of the CLIENT and availability of system functionality. This process will include one-on-one phone/virtual correspondences with implementation staff, live webinar trainings and supplemental educational curriculum such as training documents, quick guides and pre-recorded trainings.

### RECURRING FEES PRICING AGREEMENT

Description	Units	Price	Extended
<b>Elite</b>			
<b>ImageTrend Elite Platform Upgrade</b>	1	Included	
<b>ImageTrend Elite Rescue Upgrade Implementation Package</b>	1	Included	
<i>10,001 - 25,000 annual EMS runs: Project Management hours include 6 hours with an Implementation staff member</i>	1	Included	
<b>*Note: All fees as contracted by each party will continue as contracted, however they will be established under the new Elite product names</b>			

Initial	Description	Units	Price	Extended
	<b>Additional Optional Items</b>			
	Project Management hours - block of 2 hours (Billed at IMAGETREND's standard rate of \$125.00/hour)		\$250.00	
	Onsite Training Sessions (Billed at IMAGETREND's standard rate of \$1,000/day, 1 Trainer)		\$1,000.00	
	Onsite Training Travel per Trainer (Billed at IMAGETREND's standard rate of \$1,500/day, 1 Trainer)		\$1,500.00	
	Custom Development requires separate Statement of Work – (Billed at IMAGETREND's standard rate of \$125.00/hour)		\$125.00	
*The Client may elect to purchase additional services as set forth in the options identified above at any time during the contract term. The Client shall exercise said options by written notice to ImageTrend. The prices above are valid for one year from contract signature.				

### Payment Terms:

- a. Payment Terms are net 30 days and based upon the existing invoice arrangement.
- b. The recurring Annual Fees will be billed annually in advance.

### Pricing escalation factors:

1. IMAGETREND will perform price increases of the recurring fees. The first price increase will occur with the fees due for Year 3 from Amendment signature. These price increases will occur once every year and may not exceed 3% of the price then currently in effect.
2. All hosting fees are based upon anticipated usage and include an average of 3 Mb Bandwidth and 30 GB of Storage total. These fees are subject to annual usage audits, which may affect future fees at an increase of \$15/Mb/month for Bandwidth and \$15/10GB/month for Storage.

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## **EXHIBIT C – IMAGETREND ELITE UPGRADE TRANSITION PROCESS**

This document outlines the Elite Upgrade Transition Process for IMAGETREND and the CLIENT.

### **INCLUDED IMPLEMENTATION SERVICES**

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The scope of this migration is to provide a seamless multi-faceted experience for the CLIENT. The CLIENT will receive all necessary documentation to support both the migration process with respective timelines and educational materials. This project is dependent on active collaboration and clear communications between both CLIENT and IMAGETREND.

#### Implementation Services include:

- a) IMAGETREND will collaborate with the CLIENT to facilitate an effective implementation process including system usage, data migration, and training. A gap analysis will be conducted between CLIENT's existing NEMESIS v2.2.1 database and IMAGETREND's Elite development roadmap to best assess feasibility of migration, timeline expectations, risk management and fostering transparency of communication between IMAGETREND and the CLIENT.
- b) IMAGETREND will utilize a multi-faceted implementation process to best fit the needs of the CLIENT and availability of system functionality. This process will include one-on-one phone/virtual correspondences with implementation staff, live webinar trainings and supplemental educational curriculum such as training documents, quick guides and pre-recorded trainings.
- c) IMAGETREND will provide migration of select demographic and resource data from NEMESIS v2.2.1 to the NEMESIS v3 product platform.
- d) IMAGETREND will provide reporting capabilities for NEMESIS v2.2.1 and NEMESIS v3, including canned reports that will be available for NEMESIS v3
- e) Any existing Ad Hoc Reports will need to be recreated by the CLIENT for NEMESIS v3.
- f) Standard integrations which have annual support fees will be covered under the support agreement. IMAGETREND will work with the CLIENT to determine the schedule and timeline of each integration.
- g) Any additional training for the Elite upgrade can be contracted separately.

### **ADDITIONAL IMPLEMENTATION SERVICES TO BE PERFORMED BY CLIENT**

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IMAGETREND will provide migration of select demographic and resource data from NEMESIS v2.2.1 to the NEMESIS v3 product platform. The following list provides a sample of key set up items needed to be performed by the CLIENT:

- |   |   |
|---|---|
| ▪ Run Form templates                                | ▪ Report Writer – Adhoc Reports                 |
| ▪ Data Element Manager                              | ▪ Active Protocols                              |
| ▪ Data Element mappings (i.e. billing integrations) | ▪ Auto-Narrative                                |
| ▪ Validation Rules                                  | ▪ CMS Billing Calculation Rules                 |
| ▪ PDF Reports                                       | ▪ Medications/Procedures By Certification Level |
| ▪ Power Tools                                       |   |

### **PROJECT COMPLETION**

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The Elite Upgrade Transition Process is considered complete once CLIENT is collecting live NEMESIS v3 data and IMAGETREND provides the Acceptance Form for CLIENT signature. Upon completion, the CLIENT will be transferred to IMAGETREND's Support Team for any additional needs and will receive communications of newly released functionalities as they are available.



## **EXHIBIT D – SERVICE LEVEL AGREEMENT**

### **PERPETUAL USE LICENSE, IMAGETREND HOSTED SOLUTION VERSION 4.0**

This agreement exists for the purpose of creating an understanding between ImageTrend and CLIENT who elect to host the application on ImageTrend's servers. It is part of our guarantee for exceptional service levels for as long as the system annual support fee is contracted. The Licensed ImageTrend Hosted Solution Service Level Agreement guarantees your web application's availability, reliability and performance. This Service Level Agreement (SLA) applies to any site or application hosted on our network as contracted.

#### **1. Hosting at the ImageTrend's Datacenter**

ImageTrend's hosting environment provides **99.9% availability** and is comprised of state-of-the-art Blade Servers and SAN storage that are configured with the no single point of failure through software and infrastructure virtualization, blade enclosure redundancies and backup storage policies. Our Compellent SAN has a fiber channel backend, currently hosts 8TB of storage, has dual storage controllers with redundant power supplies and redundant paths to disk, and hot swappable drives. We do offsite replication to disk on a second SAN. Scheduled maintenance and upgrades do not apply to the system availability calculation and all CLIENTs are properly notified of such scheduled occurrences to minimize accessibility interruptions.

##### ***Hardware***

ImageTrend server hardware is configured to prevent data loss due to hardware failure and utilize the following to ensure a quick recovery from any hardware related problems.

- Independent Application and Database Servers
  - Microsoft SQL Server 2012
  - Microsoft Windows Server 2008R2
- Redundant Power Supplies
- Off-Site Idle Emergency Backup Servers (optional)
- Sonicwall VPN Firewall
- Redundant Disk configuration
- Disk Space allocation and Bandwidth as contracted

##### ***Physical Facility***

The ImageTrend hosting facilities are located in downtown Minneapolis and Chicago with every industry standard requirement for hosting not only being met, but exceeded. Requirements such as power supply and power conditioning, normal and peak bandwidth capacity, security and fail over locations are all part of an overall strategy to provide the most reliable hosting facility possible.

- Redundant, high-speed Internet connections over fiber optics.
- Power protection via an in-line 80kVa UPS with a 150 KW backup diesel generator
- Temperature controlled
- Waterless Fire Protection and Clean agent fire suppression
- Secured site access
- Steel Vault Doors
- 21" concrete walls and ceiling

### ***Data Integrity***

ImageTrend applications are backed up daily allowing for complete recovery of data to the most recent backup:

- Daily Scheduled Database and Application Backups.
- Daily Scheduled backup Success/Failure notification to ImageTrend staff

## **2. Application and Hosting Support**

ImageTrend provides ongoing support as contracted for their applications and hosting services, including infrastructure. This includes continued attention to product performance and general maintenance needed to ensure application availability. Support includes technical diagnosis and fixes of technology issues involving ImageTrend software. ImageTrend has a broad range of technical support services available in the areas of:

- Web Application Hosting and Support
- Subject Matter Expert Application Usage Support
- Web Application Development/Enhancement
- Database Administration/Support
- Project Management
- Systems Engineering/Architecture

ImageTrend offers multi-level technical support, based on level-two user support by accommodating both the general inquiries of the administrators and those of the system users. We will give the administrators the ability to field support for the system as the first level of contact while providing them the option to refer inquiries directly to ImageTrend.

ImageTrend's Support Team is available Monday through Friday from 7:00 am to 6:00 pm CST via the Support Suite, email or telephone.

Support Suite: [www.imagetrend.com/support](http://www.imagetrend.com/support)

Email: [support@imagetrend.com](mailto:support@imagetrend.com)

Toll Free: 1-888-730-3255

Phone: 952-469-1589

### ***Online Support***

ImageTrend offers an online support system which incorporates around-the-clock incident reporting of all submitted tickets to ImageTrend's application support specialists. Once a client submits a support ticket, he or she can track the progress with a secure login to the support application. The system promotes speedy resolution by offering keyword-based self-help services and articles in the knowledgebase, should clients wish to bypass traditional support services. Ticket tracking further enhances the efforts of Support Desk personnel by allowing ImageTrend to identify patterns which can then be utilized for improvements in production, documentation, education and frequently asked questions to populate the knowledgebase. The support ticket tracking system ensures efficient workflow for the support desk specialists while keeping users informed of their incident's status. Support patterns can be referenced to populate additional knowledgebase articles.

### ***Incident Reporting Malfunctions***

ImageTrend takes all efforts to correct malfunctions that are documented and reported by the Client. ImageTrend acknowledges receipt of a malfunction report from a Client and acknowledges the disposition and possible resolution thereof according to the chart below.

<b>Severity Level</b>	<b>Examples of each Severity Level:</b>	<b>Notification Acknowledgement: ImageTrend Return Call to Licensee after initial notification of an Error</b>	<b>Action Expectation: Anticipated Error resolution notification after ImageTrend Return Call to Licensee of Notification Acknowledgement of an error.</b>
High/Site Down	<ul style="list-style-type: none"> <li>- Complete shutdown or partial shutdown of one or more Software functions</li> <li>- Access to one or more Software functions not available</li> <li>- Major subset of Software application impacted</li> </ul>	Within one (1) hour of initial notification during business hours or via support.imagetrend.com	Six hours
Medium	<ul style="list-style-type: none"> <li>- Minor subsystem failure</li> <li>-Data entry or access impaired on a limited basis – usually can be delegated to local client contact as a first level or response for resolution – usually user error (i.e. training) or forgotten passwords</li> </ul>	Within four (4) hours of initial notification	24 Business hours
Low	<ul style="list-style-type: none"> <li>- System operational with minor issues; suggested enhancements as mutually agreed upon – typically covered in a future release as mutually agreed upon.</li> </ul>	Same day or next business day of initial notification	Future Release

**Service Requests (enhancements)**

Any service requests that are deemed to be product enhancements are detailed and presented to the development staff, where the assessment is made as to whether these should be added to the future product releases and with a priority rating. If an enhancement request is specific to one client and deemed to be outside of the original scope of the product, then a change order is written and presented to the Client. These requests are subject to our standard rates and mutual agreement. Clients review and approve the scope, specification and cost before work is started to ensure goals are properly communicated.

Product release management is handled by ImageTrend using standard development tools and methodologies. Work items including, tasks, issues, and scenarios are all captured within the system. Releases are based on one or more iterations during a schedule development phase. This includes by not limited to: development, architecture, testing, documentation, builds, test and use cases. Submissions of issues or requests are documented within our Product Management system and from there workflow is created to track the path from initial request to resolution.

**Out of Scope**

Client may contract with ImageTrend for Out of Scope services. This will require a separate Statement of Work and will be billed at ImageTrend’s standard hourly rate.

**Maintenance and Upgrades**

System/product maintenance and upgrades, if applicable, are included in the ongoing support and warranty as contracted. These ensure continued attention to product performance and general maintenance. Scheduled product upgrades include enhancements and minor and major product changes. Customers are notified in advance of scheduled maintenance. It is the Client’s responsibility to accept all offered updates and upgrades to the system. If the Client does not accept these, Client should be advised that ImageTrend, at its discretion, may offer limited support for previous versions. All code releases also maintain the integrity of any client specific configurations (i.e. templates, addresses, staff information, active protocols, etc.) that have been implemented either by ImageTrend’s implementation staff or the client’s administrative staff.

**Escalation**

Our support staff is committed to resolving your issues as fast as possible. If they cannot resolve your issue, they will identify the course of action that they will be taking and indicate when an answer will be available. They in turn will seek assistance from the designated developer. The next level of escalation goes to the Project Manager, who also addresses all operational issues on an ongoing basis and reviews the issue log regularly to assess product performance and service levels. Senior Management will handle issues requiring further discussion and resolution. Any issues to be determined to be of a critical nature are immediately escalated accordingly.

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## **EXHIBIT E – TAX EXEMPTION CERTIFICATION**

Client to provide completed Tax Exemption Form, Tax Exemption Certificate, or other applicable documentation from the State Department regarding their Tax Exemption Status.