

Wyoming Ambulance Trip Reporting System End User License Agreement

PLEASE READ THE FOLLOWING LEGAL AGREEMENT CAREFULLY

SELECTING YES TO ENTER WATRS MEANS YOU AGREE TO THE TERMS OF THIS
AGREEMENT AND DATA PRIVACY STATEMENT

ImageTrend users, by accepting this Data Privacy Statement, you agree to keep the information contained within this site private and confidential. Any reporting or exporting of data must be done securely using industry standards and best practices for data privacy and adhering to all applicable federal and state data privacy requirements. It is the responsibility of the user to ensure that all applicable requirements are adhered to.

The State has taken steps to ensure that all information contained within this site is secure to protect against unauthorized access and use. All information is protected by our security measures, which are periodically reviewed. Information is protected through the use of passwords, strictly controlled server access, physical security of the hosting site, and 128-bit SSL encryption.

Although the State can assure the security and privacy of the data that has been submitted, we have no control over how individual users may handle their own data, either before or after they have submitted data. In order to protect the security and privacy of your records before or after you have submitted data, we recommend adopting the following procedures/practices:

1. Do not send patient care records via email. Email does not offer the same level of security as submitting data via the internet to Elite because it is not encrypted.
2. Only assign user names and passwords to individuals who have responsibility for Elite.
3. Regularly change passwords.

If you have questions about the Privacy or Security of this site, please contact:
support@imagetrend.com

Wyoming Department of Health
Wyoming Ambulance Trip Reporting System (WATRS)
End User License Agreement (EULA) and Terms of Use

This End User License Agreement and Terms of Use (this Agreement) for the Wyoming Department of Health (WDH) Wyoming Ambulance Trip Reporting System (the System) governs the use of all software, applications, tools, and data provided or accessible at watrs.wyo.gov. Please read this Agreement carefully before proceeding.

Selecting "YES" (to enter WATRS) constitutes your acceptance of the terms of this Agreement and creates a binding and enforceable contract between you, the Authorized User and the WDH, Office of Emergency Medical Services (OEMS). This Agreement can be accessed at any time by copying and pasting the *User Agreement* LINK <https://health.wyo.gov/publichealth/ems/ems-program-2/watrs/> Failure to follow the terms and conditions for use of the System, may result in suspension or termination of access to the System with or without notice.

1. DEFINITIONS

- a. **Authorized User** means an individual who has been issued a username and password by the OEMS or designee to access the System.
- b. **Data** means protected health information, or information that identifies a patient that is created, used, maintained, or exchanged in the System.
- c. **Data Exchange** means the health information exchange managed and operated by the WYFI.
- d. **EMS Agency** means the agencies, personnel, and institutions involved in planning for, providing response to, treatment of, and monitoring emergency medical care for those suffering illness or injury.
- e. **Office of EMS (OEMS)** means the Wyoming Department of Health, Office of Emergency Medical Services.
- f. **HIPAA** means the Health Insurance Portability and Accountability Act of 1996.
- g. **Intellectual Property** means all intangible rights to be the products of intellectual, regardless of the method of expression or storage, which concern the business, processes, techniques, or affairs of the WDH, including, without limitation, intellect that is known by the general public or is generally unavailable to the public at large. The WDH asserts any rights relating to Intellectual Property regardless of whether the information was, is, or will be disclosed to the EMS Agency by WDH, its agents, clients, providers, or others.
- h. **Larger Work** means a work that combines any of the Software or portions thereof with code, software, or processes not governed by the terms of this Agreement.
- i. **Services** means any one or more of the following:
 - i. Access to the System, which is a web-based comprehensive statewide electronic health record and patient care reporting system. The System is hosted by the WDH and maintained by its vendor. System access is granted to Authorized Users by their respective EMS Agency through the user management process specified by the OEMS, including acceptance of this Agreement.
 - ii. Access to data created, maintained, and transmitted by the WYFI Data Exchange.
- j. **Wyoming Frontier Health Information (WYFI)** means the Wyoming Department of Health program that operates and manages the Data Exchange.

2. ACCESS TO SERVICES

The Services are offered to Authorized Users by the WDH who owns and operates the System. The WDH vendor, ImageTrend, Inc., maintains the System. Authorized Users, including authorized WDH workforce, its vendor, and the vendor's subcontractors may access the System to the extent permitted by HIPAA, HITECH, and applicable state and federal law or regulations, for the purposes of payment, treatment, and health care operations, as defined by the HIPAA Privacy Rule.

3. WYFI DATA EXCHANGE

The Data Exchange is a federated data repository that facilitates the exchange of Data between WYFI Participants, Authorized Users, other health information exchanges, and public health registries. The Data Exchange license granted to Authorized Users by this Agreement is limited to the Data Exchange Services available through the System's connection to the Data Exchange, including transmitting trip reports to receiving facilities, patient look up integration and outcome reporting (if the individual has not opted-out of the Data Exchange). Authorized Users shall comply with the HIPAA Regulations, all applicable state and federal law, and the WYFI Policy and Procedure Manual, which can be found on the

WYFI website at: https://health.wyo.gov/healthcarefin/wyoming_frontier_information_wyfi/wyfi-privacy-security-committee/.

4. LICENSE

The WDH grants the Authorized User a limited, non-transferable, non-sub-licensable, non-exclusive, terminable license to access and use the System, Services, Software and connected Data Exchange for the Authorized User's assigned EMS Agency. The license granted by this Section is subject to the terms of this Agreement and the provisions of HIPAA, HITECH, and other applicable state and federal intellectual property and other substantive law. Authorized Users may not use, copy, translate, modify, deploy, disassemble, decompile, create, or attempt to create by reverse engineering or otherwise, the Software or Services, the tools or applications used to access the System, Software, or Services, or use any Intellectual Property to create a Larger Work or a derivative work of any kind or for any purpose.

The term of this Agreement and the license granted to a particular Authorized User by this section runs from the date the Authorized User electronically accepts the terms and conditions of this Agreement and remains in effect until this Agreement is terminated by any of the following:

- a. The Authorized User notifies the WDH of his/her intention to stop using the System to access and use the Services;
- b. The Authorized User is suspended or terminated as a licensed EMT or EMS provider; and
- c. The WDH terminates this Agreement pursuant to the rights of termination described in Section 17.

5. RESPONSIBILITIES OF AUTHORIZED USERS

Authorized Users must provide all computer hardware, internet browser software, and internet access necessary to access the System and the Services and the WDH has no duty to take any action to facilitate an Authorized User's access to the System and the Services. The WDH is not obligated to provide any corrections, upgrades, modifications, enhancements to, or new versions of the System or the Services, but may do so at its sole discretion, with reasonable notice to Authorized Users.

6. ISSUANCE AND USE OF SITE PASSWORDS

The Authorized Users right and license to use the System, the Services, and the Software is personal to the Authorized User. The Authorized User is responsible for all use or activity under their account.

7. REPORT OF UNAUTHORIZED USE

Each Authorized User agrees to report to the WDH any use or disclosure of the Data or Service not provided for by this Agreement immediately following the discovery of such unauthorized use or disclosure. **Each Authorized User agrees that upon any event which may compromise the security of his or her account, including without limitation, the loss, theft, or unauthorized disclosure or use of a username and password, the Authorized User will immediately change his or her password and immediately call:**

- WDH-OEMS at (307) 777-7955; and
- WDH-Office of Privacy, Security & Contracts (OPSC) at 1 (866) 571-0944.

8. AGREEMENT PERSONAL TO USER

The Authorized User may not sublicense, transfer, sell, or assign any of its rights or obligations under this Agreement or the Authorized Users use of the System, the Software, the Services, or Data Exchange access to any third party without the WDH's prior written approval, which may be withheld at the sole discretion of the WDH. Any attempt to sublicense, transfer, sell, or assign this Agreement will be null and void ab initio and is a material breach of this Agreement. The Authorized User may not use this Agreement or any portion thereof for collateral for

any financial obligation without the prior written permission of the WDH which may be withheld at the sole discretion of the WDH.

9. AMENDMENTS

The WDH reserves the right to amend this Agreement at any time. Authorized Users will be notified of any change to this Agreement when logging on to the System and continued access to the System after such notice will constitute the Authorized User's acceptance of the changes. The date of the most recent amendment will appear on this Agreement and this Agreement will be available for review at the System Site.

10. AUDIT AND ACCESS TO RECORDS

The Authorized User grants the WDH and its authorized agents the right, upon reasonable advance notice, to audit and inspect any Authorized User's access and use of the System, the Services, or the Software in order to verify compliance with this Agreement.

11. DISPUTES AND REMEDIES

Any dispute or claim arising out of or relating to this Agreement may be assigned to non-binding mediation upon mutual agreement of the parties, in accordance with the Wyoming rules for alternative dispute resolution. The State of Wyoming and WDH do not waive sovereign immunity, as in Section 20 of this Agreement, including any applicable notice requirements, by participating in such non-binding mediation. The parties to the dispute shall bear their respective costs of the mediation. The rights and remedies of the parties provided for in these clauses are in addition to any other rights provided by law.

12. INDEMNIFICATION

The Authorized User releases, indemnifies, and holds harmless the State of Wyoming, WDH and their officers, agents, employees, successors, and assignees from any cause of action or claims or demands arising out of the Authorized Users use of the System, Services, and Software. Without limiting the foregoing, this indemnification specifically applies to use and disclosure of protected health information, as that term is defined by HIPAA.

13. INFRINGEMENT

If any portion of functionality implemented by the System, the Services, the Software, or Data Exchange use and access becomes the subject of a claim of infringement, the WDH may, in its sole discretion, attempt to procure the rights necessary to continue use of the System, Services, or Software, modify the System, Services, Software or Data Exchange use or access so that it is no longer infringing, or suspend Authorized User's rights to use the System, Services, Software, or Data Exchange use or Access until a final determination of the infringement claim is made and the WDH lifts the suspension. A suspension of Authorized User's rights to use is effective immediately upon the WDH's posting of a notice to that effect on the System.

14. PUBLICITY

Any publicity given to the System, including, but not limited to notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the WDH, must identify the WDH as the sponsoring agency and may not be released without prior written approval from the WDH.

15. PRIVACY AND PROTECTION OF PERSONAL INFORMATION

The Services contain information protected from disclosure by HIPAA, HITECH, and other federal and state laws and regulations. By using these Services, the Authorized User, agrees to be bound by and comply with all applicable federal and state privacy laws and regulations. Without limiting the foregoing, Authorized User agrees to maintain as confidential and not disclose any of the data maintained, transmitted, or used in Services or Software or Data Exchange, including Protected Health Information, to any third party without the WDH's prior consent and authorization, unless otherwise permitted by this Agreement, or permitted or required by law. The Authorized User

agrees to use appropriate safeguards to prevent use or disclosure of the Services other than as allowed by this Agreement.

16. NOTICE SPECIFIC TO SOFTWARE AND SERVICES

The Authorized User obtains no rights of ownership or control over the System, Services, Software, or Intellectual Property contained in or that are otherwise a part of the System. The Authorized User will be unable to access any Software or Services unless they agree to the terms of this Agreement. Access shall likewise be limited until the Authorized User accepts the terms of any amendments to this Agreement.

The Software is made available for use by Authorized Users according to this Agreement. Authorized Users may not, in any way, make unauthorized use of the System, Services, Software, material, data processes, electronic documentation, or Intellectual Property obtained through this site, by publication, duplication or copying, re-transmission, distribution, performance, caching or otherwise. Any reproduction or redistribution of the Software, associated web pages and screens, or downloadable documentation is expressly prohibited by law, and may result in civil and criminal penalties. Violators will be prosecuted to the maximum extent possible.

WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED.

The Authorized User agrees not to disrupt, modify, or interfere with this System, or its associated software, hardware, and/or servers in any way, and agrees not to impede or interfere with other users' use of this System. The Authorized User further agrees not to alter or tamper with any information or materials on or associated with this System.

Other than connecting to the servers hosting any part of the System, the Services, or the Software by https requests using a web browser, the Authorized User may not attempt to gain access to those servers by any means, whether by using administrator passwords, by masquerading as an administrator, or otherwise.

17. TERMINATION

The WDH shall have the right to terminate all or any portion of an Authorized User's access to the System, the Services, or the Software, all or any portion of this Agreement, or all or any portion of the license granted by Section 4 of this Agreement, automatically and immediately, for any reason, with or without notice. No penalty accrues to the WDH if this termination provision is exercised and the WDH is not obligated or liable for any damages as a result of the termination.

Upon the termination or expiration of this Agreement, the Authorized User must (a) immediately cease attempts to access the System or use the Services or Software; (b) within twenty-four (24) hours irretrievably delete and remove the System access codes and passwords from the Authorized User's systems, computer terminals, workstations, and application servers, and destroy all copies of the access codes and passwords; and (c) upon request by the WDH, certify in writing to the WDH that the Authorized User has performed the foregoing.

18. EXPRESS DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

The WDH expressly disclaims all warranties or conditions express or implied, including, but not limited to the implied warranties or conditions of merchantability or satisfactory quality and fitness for a particular purpose and non-infringement of third party rights. The WDH does not warrant the functions contained in the System, Services, or Software will meet the Authorized User's requirements, that they operation of the System, Services, or Software will be uninterrupted or error free, or that the defects in the System, Services, or Software will be corrected. No oral or written information or advice given by the WDH or a WDH authorized representative shall create any warranty

by the WDH.

The System, Services, and Software are provided “as is.” The WDH makes no warranty or representation regarding the accuracy of the Services, including the accuracy of Data viewed or obtained through the System. The Authorized User bears all risk arising out of use or performance of the System, the Services, or the Software.

The Authorized User acknowledges that it is using the services and software at its own risk. In no event shall the WDH be liable for any special, incidental, consequential, or indirect damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or data, computer failure or malfunction, work stoppage, loss of goodwill, exemplary or punitive damages, or any other commercial tort or pecuniary loss) arising out of, or in relation to or based on the Authorized User’s use of the System, the Services, or the Software, or out of this Agreement. This limitation of liability applies whether the alleged damages arise under a theory of contract, warranty, tort (including without limitation negligence or medical malpractice), whether or not the WDH has been advised of the possibility of damages and notwithstanding the failure of essential purpose of any other remedy.

The WDH makes no representation that the System, Services, or Software is appropriate, available, or legal in any particular location. Authorized Users who choose to access the System or use the Services or Software do so on their own initiative and are responsible for compliance with all laws, including applicable local laws.

The Authorized User hereby agrees to release the WDH, its affiliates and third party service providers, and each of their respective directors, officers, employees, and agents from claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed (collectively referred to as “claims”) arising out of or in any way connected with the Authorized User’s use of the System, the Services, or the Software.

19. JURISDICTION AND VENUE

Authorized User agrees that this Agreement, for all purposes, is governed and construed in accordance with the laws of the State of Wyoming, that the Courts of the State of Wyoming have jurisdiction over this Agreement and the parties, and that venue is the First Judicial District, Laramie County, Wyoming.

20. SOVEREIGN IMMUNITY

The parties intend and agree that the State of Wyoming and the WDH do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other state or federal laws. The parties intend and agree that the State of Wyoming and the WDH do not waive sovereign immunity by performing any duty or obligation under this Agreement, including without limitation any actions taken for purposes of dispute resolution or determining remedies under Section 11 of this Agreement.

21. SURVIVABILITY

The provisions of Section 10--Audit/Access to Records; Section 14--Privacy and Protection of Personal Information; Section 18--Express Disclaimer of Warranty and Limitation of Liability; Section 20--Sovereign Immunity; and Section 26--Injunctive Relief, shall survive expiration or termination of this Agreement.

22. FORCE MAJEURE

The WDH shall not be liable for delays in performing or failure to perform this Agreement or any obligations hereunder, for any reason beyond the WDH’s control, including, but not limited to, acts of God, fires, terrorism, strikes, labor disputes, war, acts or intervention by any government authority, failure of a common carrier, supplier, hardware, software, browser, or communications equipment, or network failure, congestion, or malfunction, or any

other reason.

23. HEADINGS

All headings are for reference only and shall not affect interpretation of this Agreement.

24. THIRD-PARTY BENEFICIARIES

There are no intended third-party beneficiaries of this Agreement.

25. INTERPRETATION

If any term, condition, or provision of this Agreement is determined by a court jurisdiction in a final judgement or decree to be invalid, unlawful, or unenforceable, such finding shall in no way affect the remaining obligations and all other provisions shall survive, and the invalid or unenforceable provision shall be interpreted to accomplish the intent of the parties, and to provide the parties with the benefits of this Agreement, as determined by such court.

26. INJUNCTIVE RELIEF

The Authorized User agrees that (a) a remedy at law for a breach or threatened breach of the Agreement by an Authorized User, will be inadequate by its nature; (b) that the WDH shall be entitled to obtain an injunction and other appropriate remedies at law or in equity (without posting bond) to stop an ongoing breach, and prevent any future breach, by an Authorized User, and (c) that obtaining such an injunction or other relief or in equity shall not constitute an election of remedies by the WDH.

27. ELECTRONIC SIGNATURE AND EXECUTION

The Authorized User agrees that acceptance of this agreement by electronic means constitutes a valid formation of a contract in accordance with the Wyoming Uniform Electronic Transactions Act (Wyo. Stat. §§ 40-21-101, et. seq.) and that this Agreement has been properly.

Selecting Yes (to enter WATRS) means that you agree to the Terms of this Agreement and Data Privacy Statement