



**ALLIANCE**  
IMAGING TECHNOLOGIES

Alliance Imaging Technologies, LLC  
**Service Specification**

---

Version 1.0  
June 5, 2006

Presented by:  
Martin Deal

# Service Specification

---

## Introduction

THIS PROFESSIONAL MASTER SERVICES AGREEMENT (this "Agreement") is made effective this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ (the "Effective Date"), by and between ALLIANCE IMAGING TECHNOLOGIES, LLC, a Pennsylvania limited liability corporation, with its principal place of business at 1418 Baltimore Street, Suite 12, Hanover, PA 17331 ("Provider") and \_\_\_\_\_, a \_\_\_\_\_ corporation, with its principal place of business at \_\_\_\_\_ ("Client") (Provider and Client sometimes referred to individually as a "Party" and collectively as the "Parties").

WHEREAS, Provider delivers certain professional services, including, but not limited to, programming services and software installation; and

WHEREAS, Client wishes to obtain certain professional services from Provider from time to time on the terms set forth herein.

NOW, THEREFORE, intending to be legally bound hereby, and in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound agree as follows:

---

## Services offered

### 1.1. Statement of Work

Provider will provide certain professional services (the "Services") to the Client to create the "Work Product" (as defined in Section 12.6), all as set forth in each statement of work agreed to by the Parties from time to time and issued pursuant to this Agreement (the "Statement of Work"). Each Statement of Work will incorporate all of the terms and conditions of this Agreement by reference as though fully set forth therein, and shall contain, at a minimum, the following information: (a) a description of the Services and Work Product; (b) responsibilities of the Client; (c) the commencement and termination dates of the Services; (d) price, expenses and payment terms (e) warranty of services. In the event that the terms of a Statement of Work and this Agreement conflict, then in that event this Agreement shall prevail.

### 1.2. Changes

Additions or modifications to the Statement of Work may be accomplished through the use of a "Change Order" (as defined below). A Change Order must be in writing and signed by both Parties in order to be effective. The procedure for creating a Change Order is as follows: (a) Either Party shall submit a written request to the other Party specifying the additions or modifications to the Statement of Work desired (the "Change Notice"); (b) after the exchange of such Change Notice, the Provider shall submit a change order proposal (the "Change Order") to Client which shall include a statement of any additional fees and any changes to the delivery dates, if any. Upon Client's written signature to the Change Order,

the Change Order will become part of the Statement of Work. Without a Change Order, Provider shall have no duty to commence work in connection with any requested change.

### **1.3 Personnel**

Provider shall have the exclusive authority to make staffing decisions with respect to use of its personnel in the provision of the Services. This authority includes the right to reassign personnel; provided, however, that the Services shall continue to be provided in accordance with the terms of this Agreement. Notwithstanding the foregoing, Client may request the removal of any Provider personnel that Client reasonably determines are not satisfactorily performing the Services (including interpersonal skills) and Provider shall use all commercially reasonable efforts to comply with any such request.

---

## **Fees, payments, and service terms**

### **2.1 Fees**

Client shall pay to Provider the fees for Provider's Services described in each Statement of Work.

### **2.2 Expenses**

Client shall pay to Provider the expenses described in each Statement of Work. These expenses may include, but not limited to, the reasonable travel, lodging, communications charges, meals, telephone, postage, courier and other expenses incurred by Provider personnel in the course of performing the Services hereunder.

### **2.3 Out of Scope Services and Lost Time**

If the Statement of Work indicates a fixed payment, then such payment is subject to additional fees due to: (a) the performance of services beyond those described in the Statement of Work; or (b) delays or additional costs incurred by Provider and which arise solely as a result of Client's failure to perform Client's obligations (collectively, the "Out of Scope Services"). The Out of Scope Services include, without limitation, (a) the performance of services other than those described in the Statement of Work; and (b) any commercially unreasonable time Provider stands idle as a result of any failure of Client to materially perform Client's obligations as described in Section 3 of this Agreement (or otherwise pursuant to this Agreement). All Out of Scope Services shall be chargeable to Client on a time and materials basis at Provider's then-current rates for such services.

### **2.4 Taxes**

In addition to the fees described in the Statement of Work, Client shall be responsible for paying any applicable sales, use, excise, consumption, services, withholding, value added, or similar taxes or assessments, including any interest and penalties from any related deficiency, imposed upon the Services rendered, Work Product, or other deliverables provided hereunder, by any federal, state, or local government authority, exclusive of any taxes based upon Provider's income or payroll. The parties shall cooperate in good faith to minimize such tax liabilities to the extent legally permissible.

## **2.5 Payment Terms**

Provider will invoice Client in accordance with the payment schedule specified in the applicable Statement of Work. Provider shall separately invoice Client monthly for any Out of Scope Services. All invoices shall be due and payable in United States Dollars on the date specified in the Statement of Work, or, if no date is specified, within thirty (30) calendar days after receipt of invoice, and shall thereafter accrue interest, until paid, at the lesser of 1.5% per month or the maximum interest rate permitted under applicable law.

---

## **Term and termination**

### **3.1 Term**

The term of this Agreement shall commence on the Effective Date and shall continue until the completion of all Services and the delivery of all Work Product described in the Statement of Work (the "Term"), unless earlier terminated as provided herein. The issuance and acceptance of a Statement of Work after the Agreement has lapsed upon completion of a prior Statement of Work shall reinstate this Agreement.

### **3.2 Material Breach Termination**

Either Party may terminate this Agreement or a Statement of Work upon the occurrence of a material breach by the other Party, which material breach has not been cured within thirty (30) days after receipt of written notice thereof by the breaching Party from the other, unless the cause for termination is a failure to pay, in which event this Agreement may be terminated upon seven (7) calendar day's' notice and opportunity to cure.

### **3.3 Non-Breach Termination of a Statement of Work or this Agreement**

Either Party may terminate a Statement of Work by giving sixty (60) days written notice of termination to the other Party unless otherwise specified in the applicable Statement of Work. Termination of a Statement of Work shall have no impact upon this Agreement or any other Statement of Work. Either Party may at any time and without cause terminate this Agreement by giving sixty (60) days written notice of termination to the other Party. Termination of this Agreement shall have no impact upon performance of any Statement of Work then under performance unless the parties otherwise specifically agree in writing and then in that case, this Agreement shall continue to govern such Statement of Work until performance has been completed. Upon such termination, Client shall pay Provider for all Services rendered and expenses incurred by Provider prior to the date of termination provided in accordance with a Statement of Work and this Agreement. In the event of termination by Client, Client shall also pay Provider for any reasonable demobilization or other reasonable costs resulting from such early termination.

### **3.4 Dispute Resolution**

The Parties agree that, in the event of a dispute or any alleged breach, they will work together in good faith first, to resolve the matter internally by escalating it to higher levels of management and, then if necessary, to use arbitration. This provision shall not apply to disputes involving confidentiality or infringement of intellectual property rights (in which case either Party shall be free to seek available remedies in any forum). All disputes arising under or in connection with this Agreement, or the interpretation or enforcement thereof,

shall be decided by arbitration held in Philadelphia, Pennsylvania. The arbitration shall be conducted in accordance with the rules of commercial arbitration of the American Arbitration Association. The arbitrators shall be chosen as follows: one by Provider, one by Client, and one by the two arbitrators so chosen, or if they cannot agree, then by the American Arbitration Association. All arbitrators shall be selected within thirty (30) days after the demand for arbitration is filed and served upon the other party, failing which, the American Arbitration Association shall make the selections not completed within that time period. The third arbitrator shall be neutral and unbiased and shall serve as the chairman of the tribunal. The decision of the arbitrators shall be final and binding upon the parties, and non-appealable except in accordance with the commercial arbitration rules of the American Arbitration Association, unless otherwise mutually agreed upon by the parties hereto. The decision of the arbitrators may be entered as a judgment, and enforced as such, in any court of competent jurisdiction. This agreement to arbitrate shall be specifically enforceable by a court of competent jurisdiction. Each party shall bear the fees and expenses of its arbitrator, counsel and witnesses and shall share equally the fees and expenses of the third arbitrator. The cost of the arbitration shall be borne in accordance with the award of the arbitrators; otherwise the parties shall share the same equally.

### **3.5 Effect of Termination**

Sections 2, 4, 6, 7, 8, 9.3, 10, 11 and 13 shall survive any termination or expiration of this Agreement. In the event Client terminates the Agreement prior to acceptance of the Services and the Work Product, Provider shall provide to Client the Work Product in process provided Client first pays to Provider a fee agreed to by both Parties as appropriate given the completeness of the Services and the Work Product.

---

## **Privacy statement**

### **4.1 Confidential Information**

The Parties acknowledge that it will be necessary for each of them to disclose or make available to each other information and materials in hard copy, digital or electronic form (collectively the "Confidential Information") that may be confidential or proprietary or may contain valuable trade secrets, and that some such information may already have been disclosed prior to the Effective Date. Prior to disclosure, the disclosing Party shall use reasonable efforts to designate all Confidential Information by marking the information with the word "Confidential" or similar legend. However, Client and Provider agree that, even if not so marked, the Client Properties and the Provider Properties (as defined in Sections 12.1 and 12.2) are Confidential Information and all documentation, descriptions and embodiments of any of them. Notwithstanding the foregoing provisions, all information which Provider or its personnel receives from Client and which Provider scans in connection with the Services provided hereunder shall be considered Confidential Information of Client.

### **4.2 Non-Disclosure**

Both during and after the term of this Agreement, each of the Parties agrees: (a) to use commercially reasonable efforts to protect the Confidential Information of the other Party from unauthorized use or disclosure and to use at least the same degree of care with regard thereto as it uses to protect its own Confidential Information of a like nature; (b) to use and reproduce the Confidential Information of the other Party only as permitted under this Agreement or as needed to perform its duties there under; and (c) not to disclose or

otherwise permit access to the Confidential Information of the other Party to any third-party, without the other Party's prior written consent.

### **4.3 Exceptions**

Information will not be considered to be Confidential Information if it: (a) is already, or otherwise becomes, publicly known by third Parties as a result of no act or omission of the receiving Party; (b) is lawfully received, after disclosure hereunder, from a third-party having the right to disseminate the information without restriction in disclosure; (c) is furnished to others by the disclosing Party without restriction on disclosure; or (d) can be shown by the receiving Party to have been independently developed by such Party prior to the execution of this Agreement. Any Party asserting that information is not Confidential Information by virtue of any of (a) through (d) hereof shall have the burden of proof on such issue. Furthermore, it is understood that each Party shall be free to use any ideas, concepts, know-how and techniques related to the scope of its practice, provided they contain no specific or identifiable elements unique to the other Party hereto or its operations.

### **4.4 Injunctive Relief**

The Parties agree that any breach by either Party or any of its officers, directors, or employees, of any provisions of Section 6 may cause immediate and irreparable injury to the other Party and that, in the event of such breach, the injured Party will be entitled to seek injunctive relief as well as any and all other remedies available at law or in equity.

### **4.5 Copies/Reproduction**

The Confidential Information may not be copied or reproduced without the disclosing Party's prior written consent. All Confidential Information made available hereunder, including copies thereof, shall be returned or destroyed upon the first to occur of (a) completion and the delivery of the Services or (b) request by the disclosing Party, unless the receiver is otherwise allowed to retain such Confidential Information. Provider may retain, subject to the terms of this Section, copies of Client's Confidential Information required for compliance with its record keeping or quality assurance requirements.

### **4.6 Judicial/Legal Request**

If either Party receives a subpoena or other validly issued administrative or judicial process requesting Confidential Information of the other Party, it shall provide prompt notice to the other of such receipt. The Party receiving the subpoena shall thereafter be entitled to comply with such subpoena or other process to that extent permitted by law provided, however, that the receiving Party shall first have given prior written notice to the disclosing Party and made a reasonable effort to obtain a protective order requiring that the Confidential Information not be disclosed; and further provided that the receiving Party shall use reasonable efforts to minimize such disclosure and to obtain an assurance that the judicial/subpoena recipient shall accord confidential treatment to the Confidential Information. Services provided hereunder in no event include Provider acting as an expert witness or otherwise providing litigation support services.

## **Ownership**

### **5.1 Ownership of Solution**

All Work Product shall at all times be and remain the sole and exclusive property of Provider. Except as expressly authorized in this Agreement, Client will not copy, modify, distribute or transfer (by any means), display, sublicense, rent, reverse engineer, de-compile or disassemble the Work Product.

---

## **Client responsibilities**

### **6.1 Cooperation**

Client shall cooperate with and assist Provider by providing to Provider such information and such access to Client's personnel, facilities, equipment, databases, software, and other resources as are described in the Statement of Work, or as Provider may reasonably request, and perform those tasks and fulfill those responsibilities specified in the Statement of Work, but only as required by Provider to perform the Services. Such material performance by Client and all such material information and access will be considered Client's deliverables, the timely, complete, and accurate performance of the material components of which is a condition upon Provider meeting its delivery dates described in each Statement of Work. In addition to any particular items specified in each Statement of Work, Client shall supply on-site Provider personnel with suitable office space, desks, storage, furniture, and other normal office equipment support, adequate computer resources (including necessary third-party rights to use software), telephone and facsimile service, and general office supplies for Account Managers and IT personnel, which may be necessary in connection with Provider's performance of the Services (collectively, the "Client Provided Facilities and Support"). No bailment shall be created and no interest or obligation shall be conferred upon Provider regarding Client's property or the property of Client's employees, agents, vendors, or other contractors, beyond the limited right to use such property in furtherance of this Agreement. All such property, regardless of its physical location or use, shall be deemed to be in the care, custody and control of Client. Provider shall be responsible for the grossly negligent or intentional acts and omissions of the Provider personnel utilizing the Client Provided Facilities and Support and any injuries or damages caused thereby and shall indemnify, defend and hold Client harmless there from.

### **6.2 Availability**

Client shall ensure the availability of its broadcasting signal (analog and/or digital), and internal computing networks and environments as necessary to support the Services and acceptance testing set forth in this Agreement, if and to the extent required in connection with the particular Services.

---

## **Licenses provided**

### **7.1 Copyrights**

Provider retains all copyright(s) in the Work Product and any derivative works created thereof. Upon Client's full satisfaction of Section 4 of this Agreement, Provider grants to Client a non-exclusive, non-transferable worldwide license to use the Work Product in accordance with this Agreement and the applicable Statement of Work. Provider grants no rights other than those explicitly granted herein, and Client shall not exceed the scope of its license

## **7.2 Trademarks**

Client hereby grants to Provider, only as necessary to complete the Services, a limited non-exclusive, non-sublicenseable, royalty-free, worldwide license to use Client's trademarks, service marks, trade names, logos or other commercial or product designations (collectively, "Marks"). Client may terminate Provider's right to use Client's Marks, in whole or in part, if the usage of such Marks does not adhere to Client's then-current standards for such Marks.

---

## **Indemnity**

### **8.1 Mutual Indemnification**

Each Party shall indemnify, defend and hold harmless the other, its employees, directors, officers, principals (partners, stockholders or holders of an ownership interest, as the case may be) and agents, from and against any third-Party claims, demands, loss, damage or expense relating to bodily injury or death of any person or damage to real and/or tangible personal property directly caused by the negligence or willful misconduct of the indemnifying Party, its personnel or agents in connection with the performance of the Services hereunder.

### **8.2 Indemnification Procedure**

If Client promptly notifies Provider in writing of a third-party claim against Client that any Work Product or the unmodified Provider's Services infringes a United States patent in existence as of the date of the applicable Statement of Work, a copyright or a trade secret of any third-party Provider will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Client. Provider will not indemnify Client, however, if the claim of infringement is caused by (1) Client's misuse or modification of the Work Product; (2) Client's failure to use corrections or enhancements made available by Provider; (3) Client's distribution, marketing or use for the benefit of third parties of the Work Product or (4) information, direction, specification or materials provided by Client or any third-party. If any Work Product is, or in Provider's opinion is likely to be, held to be infringing, Provider shall at its expense and option either (a) procure the right for Client to continue using it, (b) replace it with a non-infringing equivalent, (c) modify it to make it non-infringing; if none of the foregoing alternatives is reasonably available, Provider may terminate Client's right to use the disputed portion of the Work Product upon thirty (30) days' written notice and Provider shall refund a pro rata portion of fees paid by Client to Provider for the disputed portion of the Work Product. The foregoing remedies constitute Client's sole and exclusive remedies and Provider's entire liability with respect to infringement.



### **8.3 Client Indemnification**

Except to the extent any such claim is covered by the indemnity obligations of Provider described in Sections 8.1 and 8.2, Client agrees to defend, indemnify and hold harmless Provider and its officers, directors, partners and employees from and against any loss, claim, damage or liabilities (or actions in respect thereof that may be asserted by any third-party) that may result from any third-party claims arising out of or relating to Provider's Services or any use by the Client of any Work Product or deliverable and will reimburse Provider for all expenses (including counsel fees) as incurred by Provider in connection with any such action or claim, except to the extent any such claim is covered by the preceding indemnity obligations of Provider.

### **8.4 Control of Claim**

To receive the foregoing indemnities, the Party seeking indemnification must promptly notify the other in writing of a claim or suit and provide reasonable cooperation (at the indemnifying Party's expense) and full authority to defend or settle the claim or suit. The indemnifying Party shall have no obligation to indemnify the indemnified Party under any settlement made without the indemnifying Party's written consent or in the event the indemnified Party fails to cooperate fully (at the indemnifying Party's expense) in the defense of any such claim.

### **8.5 Insurance**

Each Party will determine the types and amounts of insurance coverage it requires in connection with this Agreement. Neither Party is required to obtain insurance for the benefit of the other Party. Each Party shall pay all costs and receive all benefits under policies arranged by it. Each Party waives rights of subrogation it may otherwise have regarding the other Party's insurance policies, including but not limited to property insurance, business interruption insurance, and other first-Party insurance.

---

## **Warranties**

### **9.1 Provider Warranties**

Subject to the terms contained in this Section 9, Provider warrants that the Work Product will substantially conform to the functionality and other objective requirements ("Acceptance Criteria") described in the applicable Statement(s) of Work. All Work Product delivered under this Agreement shall be subject to testing by Client to determine whether the Work Product delivered meets the Acceptance Criteria. This acceptance test shall run for thirty (30) days after delivery of the Work Product (the "Testing Period"). During the Testing Period, Client shall either: (a) notify Provider of its acceptance of the Work Product; or (b) provide Provider with written notice of any defects which cause the Acceptance Criteria not to be met. Provider shall use commercially reasonable efforts to cure any defects at Provider's sole cost and expense described in such written notification and Client will have an additional ten (10) days to retest the Work Product to determine whether Provider has cured the defects listed in Client's notice. This process shall be repeated until the Work Product is accepted or deemed to have been accepted. All Work Product (or revised Work

Product) will be deemed to have been accepted if no written notice of defects is provided to Provider within ten (10) days after delivery of the Work Product. Provider does not warrant that the Services and the Work Product or Tools will be error-free.

## 9.2 Client Warranties

Client represents and warrants that: (a) Client has all rights necessary for the production, distribution, exhibition and exploitation of the Client Properties as part of the Work Product consistent with the license granted in this Agreement; and (b) there is no outstanding contract, commitment or agreement to which Client is a Party, or legal impediment of any kind known to Client which conflicts with this Agreement or might limit, restrict or impair the rights granted hereunder.

## 9.3 Disclaimer

THE FOREGOING WARRANTIES BY EACH PARTY CONCERNING THE SERVICES, ANY DELIVERABLES AND ANY WORK PRODUCT, ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER PARTY SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY COVER OR SET-OFF NOR FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

---

## Limitation of liability

EXCEPT WITH RESPECT TO EACH PARTY'S INDEMNITY OBLIGATIONS DESCRIBED IN SECTION 8, EACH PARTY'S LIABILITY TO THE OTHER PARTY FOR ANY REASON AND UPON ANY CAUSE OF ACTION, WHETHER SOUNDING IN TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR ANY OTHER LEGAL THEORY, SHALL AT ALL TIMES AND IN THE AGGREGATE BE LIMITED TO AN AMOUNT OF FIFTY PERCENT (50%) OF THE FEES PAID TO PROVIDER BY CLIENT DURING THE ONE (1) MONTH IMMEDIATELY PRECEDING IN WHICH THE EVENT THE LIABILITY IS PREDICATED FOR SERVICES PROVIDED BY PROVIDER HEREUNDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED OR IMPLIED HEREIN, PROVIDER SHALL HAVE NO LIABILITY FOR ANY DAMAGES WHATSOEVER RELATING TO THE TOOLS, THIRD-PARTY PRODUCTS, OR ANY GOODS OR SERVICES NOT DEVELOPED OR PROVIDED BY PROVIDER. CLIENT'S EXCLUSIVE REMEDY FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT SHALL BE FOR PROVIDER, UPON RECEIPT OF WRITTEN NOTICE PURSUANT, TO USE COMMERCIALY REASONABLE EFFORTS TO CURE THE BREACH AT ITS EXPENSE, AND FAILING THAT, THE RETURN OF FEES PAID TO PROVIDER FOR THE WORK RELATED TO THE BREACH IN ACCORDANCE WITH THIS SECTION 10.

In no event shall either Party be liable for consequential, incidental or punitive loss, damage or expenses (including but not limited to business interruption, lost business, or lost savings) even if it has been advised of their possible existence. Any action by either Party must be brought within two (2) years after the cause of action arose. The allocations of

liability in this Section 10 represent the agreed and bargained-for understanding of the parties and Provider's compensation for the Services reflects such allocations.

---

## **Definitions**

### **11.1 "Client Properties"**

shall mean all software, code, equipment, records, digital information, text, pictures, converted images, graphics, and other data supplied by Client to Provider.

### **11.2 "Provider Properties"**

shall mean the Services and the Work Product, except for the Client Properties and any tools.

### **11.3 "Location"**

shall mean \_\_\_\_\_.

### **11.4 "Third-Party Products"**

shall mean the computer hardware, computer software, files, and all other technology owned or distributed by third parties, and delivered to Client by Provider in accordance with the terms and conditions of this Agreement or a Statement of Work, excluding the Tools.

### **11.5 "Tools"**

shall mean any tools, in object code form, which Provider licenses from a third-party, but shall not include any tools which Provider has already developed or creates pursuant to this Agreement, which shall be considered "Work Product."

### **11.6 "Work Product"**

shall mean all software, code, files, digital files, graphic files, animation files, data files, technology, scripting and programming (in object code, source code, or other form), all documentation, and each and every deliverable developed and/or authored by Provider in accordance with the terms and conditions of this Agreement and each Statement of Work, but excluding the Client Properties, Tools and the Third-Party Products.

---

## **No employee solicitation/hiring**

During the period beginning with the Effective Date and ending twelve (12) months after the termination of this Agreement, Client nor any of its affiliates will offer employment to or hire any employee of Provider or its affiliates without the prior written consent of Provider. For purposes of the preceding sentence, the terms "employment" and "employee" shall include any form of employment, consulting, contract relationship, or other arrangement pursuant to which such individual will, directly or indirectly, perform services for Provider. Violation of this Section 11 shall subject Client to liquidated damages to equal to 150% of

the greater of: (a) the first year's compensation promised to such employee; (b) the first year's compensation actually paid to such employee; or (c) the last year's compensation paid to such employee. Compensation for purposes of the preceding sentence shall include of the value of any fringe benefits, bonuses, stock, stock options, use of automobiles or other compensation.

---

## **General**

### **13.1 Complete Agreement.**

This Agreement, including any Statement of Work hereunder, is the complete and exclusive statement of the agreement of the Parties with respect to the subject matter hereof and supersedes and merges all prior proposals and agreements, oral or written, between the Parties with respect to the subject matter hereof. This Agreement may not be modified except by a written instrument duly executed by the Parties hereto.

### **13.2 Headings and Subsections.**

Section headings are provided for convenience of reference and do not constitute part of this Agreement. Any references to a particular section of this Agreement shall be deemed to include reference to any and all subsections thereof.

### **13.3 Severability; No Waiver.**

If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The Parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision. The waiver by either Party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

### **13.4 Enforceability.**

If any part of this Agreement shall be adjudged by any court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby and shall be enforced to the maximum extent permitted by applicable law. If any remedy set forth in this Agreement is determined to have failed of its essential purpose, then all other provisions of this Agreement, including the limitations of liability and exclusions of damages, shall remain in full force and effect.

### **13.5. Assignment.**

Neither Party may assign or delegate any or all of its rights (other than the right to receive payments) or its duties or obligations hereunder without the consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that either Party may assign this Agreement, without the need to obtain consent of the other Party, to an affiliate of such Party or to a successor in interest to substantially all of the business of that Party to which this Agreement relates. An assignee of either Party authorized hereunder shall be bound by the terms

of this Agreement and shall have all of the rights and obligations of the assigning Party set forth in this Agreement.

### **13.6 No Third Party Benefit.**

The provisions of this Agreement are for the sole benefit of the Parties hereto. This Agreement confers no rights, benefits, or claims upon any person or entity not a Party hereto.

### **13.7 Independent Contractors.**

The Parties to this Agreement are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement. Neither Party shall have the power to obligate or bind the other Party. Personnel supplied by Provider shall work exclusively for Provider and shall not, for any purpose, be considered employees or agents of Client. Provider assumes full responsibility for the acts of such personnel while performing services hereunder and shall be solely responsible for their supervision, direction and control, compensation, benefits and taxes.

### **13.8 No Construction Against Drafter.**

If an ambiguity or question of intent arises with respect to any provision of this Agreement, the Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of authorship of any of the provisions of this Agreement.

### **13.9 Force Majeure.**

Either Party shall be excused from performance and shall not be liable for any delay in whole or in part, caused by the occurrence of any contingency beyond the reasonable control either of the excused Party or its subcontractors or suppliers including, but not limited to, war, sabotage, insurrection, riot or other act of civil disobedience, act of public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms hereof, accident, fire, explosion, flood, severe weather or other act of God, or shortage of labor or fuel or raw materials.

### **13.10 Notices.**

Any notice required or permitted hereunder to the Parties hereto will be deemed to have been duly given only if in writing and delivered by: (a) certified U.S. mail, return receipt requested or via overnight courier, postage prepaid, to the address of the receiving Party as set forth on the initial page hereof or such other address as may be specified by such Party in a notice delivered to the other Party in accordance with this Section, or (b) via hand delivery. Notices shall be deemed delivered when received by the Party being notified.

### **13.11 Governing Law, Jurisdiction and Venue.**

This Agreement shall be deemed to have been made in, and shall be construed pursuant to the laws of, the State of Arizona, without giving effect to conflict of laws rules.

**13.12 Counterparts.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

IN WITNESS WHEREOF, each of the Parties hereto have executed this Agreement as of the date first written above.

**ALLIANCE IMAGING TECHNOLOGIES, LLC**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CLIENT**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_