End User Services Agreement  
Between LIPTAK and Customer (including BAA)  

RESCUE SYSTEM SERVICES CLIENT AGREEMENT  

By this Backup and Disaster Recovery Services Agreement ("Agreement"), Liptak Digital Services Inc. ("Liptak"), and the customer identified as Dr. ("Client") agree as follows:

1. **Term.** This Agreement is effective upon the date signed, and shall remain in force for a period of one year. The Agreement automatically renews for a subsequent one year term beginning on the day immediately following the end of the Initial Term unless either party gives the other sixty days’ prior written notice of its intent not to renew this Agreement.

2. **Inclusion/Exclusion** Unless otherwise noted, the Rescue back-up system contains every file, folder, etc. on your Clients’ protected partitions. If the Client loses a document on a workstation that did not reside on a protected server, that file is not protected. Cleaning out old data, backup copies, music, movies, downloads, and other non essential business data storage that can affect Rescue tier and price is the sole responsibility of the Client and their IT support provider.

3. **Services Provided** An on-site, Linux driven Network Attached Storage (Rescue) Unit that acts as a local storage device and stand-by virtual server in the event of a protected server and/or workstation failure. (a) Incremental backups done on the Rescue System as frequently as every 60 minutes under ideal conditions. (b) Secure Remote (Off-site) Storage provided at two (2) secure data centers. (c) Day to day backup monitoring of Rescue Services and data availability of files, file folders, databases, and software. (d) Full data recovery from secure data centers with the most recent information stored offsite - in the event of total catastrophe, where the on-site server and Rescue System are lost. (e) Full management, monitoring, and testing of the Rescue System and remote storage. (f) Off-site virtualization of the most recently uploaded version of your server for data reference and single-station functions.

4. **Security** All data is fully encrypted during transmitting off-site and while stored off-site. All data is stored off-site, in encrypted form, on multiple servers in two (2) highly secure, bi-coastal, SAS Type II Certified data center facilities. The on-site Rescue System communicates with off-site remote servers. Data stored off-site remains encrypted at all times. Liptak’s encryption methods and technologies meet HIPAA’s standards for securing electronic Protected Health Information (ePHI).

5. **Backup Frequency** Servers and/or workstations will be configured to create a new onsite back-up every 60 minutes by default. Off-site backup traffic is continuous by default, and may be customized to meet Internet bandwidth limitations. One image per
day is backed up to the off site cloud storage. Off-site backup version frequency is ultimately dependent on total data size, data changes, and available Internet bandwidth.

6. **Remote Storage provided at two high availability Data Centers.** Highly redundant storage in multiple redundant cluster nodes at two (2) redundant bi-coastal data centers. (a) Connectivity provided by multiple providers with automatic failover capabilities. (b) Facilities power is supplemented with both battery backup and diesel generation capabilities. (c) Full physical security at each facility including global biometric authentication access methodology to track all authenticated data center personnel and prohibit the entry of any unauthorized persons. (e) Fire suppression and environmental control provided. All data is held in SSAE 16 Type II and ITIL v3 Certified facilities. Our most recent **SOC 2 Type II** audit is available upon request.

7. **Recovery Time Objective (RTO)** Liptak will manage all retrieval activities from the Client. (a) Liptak will attempt to resolve access, backup, or retrieval problems over the phone on first call within 24 hours of the first request. Liptak can restore a file, file folder or data base as needed. The Client may call our help desk for assistance. (b) In the event of a server failure, the proper channels of testing and notification must be followed to enact a failover. Once failover decision has been made, the RTO to enact the failover instance is approximately one hour or less. All work can be performed remotely by DDS Rescue support personnel. (c) In a disaster where the entire client network and/or server is destroyed, Liptak will have a new Unit imaged with the most current back-up information (usually the previous day’s data) and shipped within 48 hours VIA next business day delivery to a location of your Client’s choice. (d) The Rescue System can potentially be used to perform a bare metal restore to dissimilar hardware. This will be performed by DDS Rescue Support Personnel only. In this event, a new server is provided by the Client and the Rescue System is used to restore the most recent server image to the new server(s) and or workstation(s) regardless of hardware.

8. **Off-Site Virtualization** In a disaster where there is a loss of all physical servers and the Rescue System, servers and/or workstations may be virtualized off-site. (a) Servers can be virtualized in both off-site data centers. Currently there is no additional cost for this service if less than two weeks are needed. (b) A Public IP and/or VPN or RDP access will be given to connect to remote virtual machines. Off site virtualization is not intended to restore LAN data availability to Client. Off site virtualization is only a data reference point and software access in an emergency.

9. **Ownership of the Data** The backup data being stored on the DDS Rescue and at the Data Center remains the sole property of the Client. If the Client chooses to terminate services, Liptak will assist Client in the orderly termination of services within 30 days of termination. This could involve copying the backup image to an external drive which can be synchronized with the data on the DDS Rescue. The Client agrees to pay Liptak the costs of rendering such assistance.

10. **Interference** The Client shall not, directly or indirectly, during the term of this Agreement and for twelve (12) months following its termination, induce or influence any employee of Liptak or any other person or entity to terminate their relationship with Liptak.
11. **Warranty** Liptak warrants that the equipment will perform properly and in accordance with reasonable and customary practices prevailing at the time of the agreement for three (3) years from installation date. Issues and conflicts caused by the client network environment and protected systems are not covered by this warranty. (a) As long as the monthly fees are current within the three years, the DDS Rescue System is fully warranted and no additional charges will be incurred for hardware failure. Firmware and software updates are also included. (b) The DDS Rescue Systems cannot be modified in any way or the warranty and the management agreements are voided. This includes adding software applications to the DDS Rescue itself, adding memory and/or hard drives, etc. (c) DDS Rescue replacement parts will be shipped next business day air transportation and by Liptak. (d) Beyond parts warranty, a theft/loss/damage benefit applies to all DDS Rescue Systems still under service contracts within the three years. A new unit will be loaded with the Client data and images, then shipped out free of charge by overnight delivery. Any loss of the unit is covered, and the replacement can be used as a live server for an interim rescue implementation. (e) Execution of this loss replacement benefit will automatically renew this agreement for 12 months from the date of replacement. Declination of this renewal will result in the loss of the replacement unit benefit. (f) ALL WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF QUALITY, DURABILITY, FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY, CONTINUOUS USE, DESIGN, COMPLIANCE WITH APPLICABLE LAW, PERFORMANCE OR ERROR-FREE OPERATION ARE DISCLAIMED IN THEIR ENTIRETY.

12. **Equipment and Facilities** The Client agrees that Liptak may utilize certain items of The Client's equipment and may gain access to certain parts of The Client's facilities. The Client retains title and ownership in all of The Client's equipment owned by The Client and utilized by Liptak, and must grant authority for Liptak to access The Client's facility. Facility access may be denied for any reason at any time, however if access to facilities is denied, the Client understands that Liptak may be unable to perform their duties adequately and if such a situation should exist, Liptak will be held harmless.

13. **Benco Presale and Minimum Requirements and Preinstall Tasks** Client agrees that these processes are performed and the Client's system meets the minimum requirements for the DDS Rescue System as defined in the processes prior to installation.

14. **Responsibility of Client Network** Client agrees that it is the responsibility of the Client to maintain all systems in good working order, updates, management, etc. to ensure the performance of the DDS Rescue System. Performance and availability of the DDS Rescue System is dependent upon the condition of the Client systems and any DDS Rescue Services affected by client technical issues are the sole responsibility of the Client.

15. **Restarting Servers** Liptak may from time to time restart the client's server during the installation of the product, and other instances where the software may need to be reinstalled. This process will be done with a secure, remote connection and may require the client to be present during the restart process. Liptak is not liable for any issues that may result from the restart process such as a server not restarting, corrupt software or files, etc.
16. **Passwords** Client acknowledges that Liptak must have access to any and all systems and resources to perform their duties under this agreement. As such, Liptak must have access to any and all passwords. Bear in mind that the backup data will always be encrypted and not accessible to anyone who does not have the password. If the encryption password is lost, the backup data will be inaccessible.

17. **Termination and Additional Remedies** After the first year, this Agreement may be terminated by either party upon sixty (60) day written notice. This Agreement shall automatically renew every year on the anniversary date.

18. **No Third Party Beneficiary** Client shall not subcontract, assign, subrogate or transfer any interest, obligation or right under this Agreement without prior written consent from Liptak, and any such attempt shall be null and void. Any dissolution, merger, consolidation, reorganization or transfer of a majority of the assets or stock of Client shall constitute an attempted assignment of this Agreement. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.

19. **Jurisdiction** This Agreement shall be governed by the state and Federal laws applicable in California, U.S.A. Any dispute, claim, or controversy arising out of or relating to the subject matter of this Agreement shall be settled by mediation. The parties will select a mediator in a mutually agreed up manner. At all times during the mediation process, including the selection of the mediator, the parties will act in good faith to attempt to settle their dispute. At all times during the mediation process, the mediator will maintain impartial, though he/she may give his/her views, opinions or settlement proposals as a means to move the dispute toward resolution. However, the mediator’s views, opinions, proposals, etc. shall not be deemed to be legal advice. The parties agree that any settlement agreement that they may enter into during the mediation process is fully binding and enforceable by any Court with jurisdiction of the dispute thereof.

20. **Force Majeure & Malicious Acts** Liptak shall not be liable for any loss, damage or failure due to causes beyond its control, including strikes, riots, earthquakes, epidemics, wars, fires, floods, weather, power failure, telecommunications and/or internet interruptions, the failure or closure of a financial institution, computer malfunctions, acts of God or any other failure, interruption or error not directly caused, or reasonably anticipated, by Liptak.

21. **Limited Liability.** For the purposes of calculating availability, Liptak shall not be responsible for failures to provide service for any if the following exclusions exist: (a) Problems caused by resources on the Clients network that interfere with the service. (b) Changes made to the client network not communicated to Liptak. (c) Loss of internet connectivity to the client site for any reason. (d) Service failures that result from any actions or inactions of the Client contrary to Liptak’s recommendations. UNDER NO CIRCUMSTANCES, INCLUDING ANY INFRINGEMENT CLAIMS, SHALL LIPTAK BE LIABLE TO CLIENT OR ANY OTHER PARTY FOR ANY RE-PROCUREMENT COSTS, LOST REVENUE OR PROFITS OR FOR ANY OTHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF COMPANY HAS BEEN INFORMED OF SUCH POTENTIAL LOSS OR DAMAGE. CLIENT WILL HOLD LIPTAK HARMLESS AGAINST ANY AND ALL CLAIMS.
Signatures:
By signing this Contract, the Parties hereto agree to all terms, conditions and covenants contained herein and that they are authorized to make such decisions for their respective organizations. The Parties acknowledge that this is a legally binding Contract and the Parties fully acknowledge that they each have accepted this Contract of their own free will and that the signing of this document was not the result of coercion or duress and that both Parties sought and received, or had the opportunity to seek and receive, the advice of legal counsel, of their choice, prior to signing this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be signed by their duly authorized representatives as of the date set forth below.

Business Name:

Client Name: Dr.

Doctor’s Last Name:

Practice Name:

Doctor’s Cell #:

Office Phone #:

Practice Street Address:

City:

State:

Zip:

Date:

Liptak Digital Services, Inc.:

Liptak Agent:

Date:
The Server and Network Prep form must now be completed by your qualified local IT provider as mentioned above. The form is available online here:

Please have your IT provider review the steps and then schedule the prep work at a time when you can have one or two reboots of the server in question. This prep work should take about an hour and is the responsibility of the business owner to arrange. The installation can be scheduled once this work is complete by calling DDS Rescue Support at 1-800-509-0344.