

WELLSKY DISCLOSURE ITEMS

ISSUE	CONTRACT LANGUAGE	ETS OR COUNTY COMMENTS/RESPONSE
Indemnification	Wellsky indemnification limited to (a) bodily injury/death or property damages arising from Contractor's intentional or willful misconduct or gross negligence; or (b) intellectual property infringement. (9.1)	This is standard in the industry and approved by the using agency.
Limitation of Liability	- Liability limited to \$100k or 2x's fees paid in 12 month period (9.4.1) except as noted below. - Indemnification obligations for IP or intentional or fraudulent misconduct are not subject to liability limitation (9.4.2) - Section 9.4.1 liability cap does not apply to County liability for violation of prohibited use or either party violation of confidential information (9.4.2 and 3.2.4) \$1M liability cap on County liability for violation of permitted use/authorized users, either party breach of confidentiality, Wellsky indemnification obligation for bodily injury/death or property damage (9.4.3) - No consequential damages and Wellsky not responsible for medical services or professional judgment (9.4.4; 13.32)	This is standard in the industry and approved by the using agency.
Warranties	- Breach of warranties re: limited warranty, viruses/PCI compliance, ADA compliance, and performance: remedy limited to use of commercially reasonable efforts to correct (8.17.1) - All other warranties disclaimed (8.18)	This is standard in the industry and approved by the using agency.
Confidential Information	Wellsky System and Subscriptions and intangible Work Product are all stipulated as confidential (7.1)	This is standard in the industry and approved by the using agency.
Liquidated Damages	County standard liquidated damages provisions removed per negotiation (5.5; 13.4; SLA)	This was specifically negotiated and is acceptable to the using agency under the circumstances.
Security	County is contractually obligated to use solution in a secure manner consistent with County's security obligations and policies (7.9)	This is standard in the industry and approved by the using agency.

Use Limitations	• Use limited to within the United States (3.2.1)	This is standard in the industry and approved by the using agency.
Subcontractors	• Agreement approves SAP Solutions and Iron Mountain as approved subcontractors, and excludes such subcontractors from certain normal obligations (e.g., insurance, audit rights, everify, etc.). • For audit rights, Wellsky shall obtain any documents from subcontractors reasonably necessary for County to complete audit (13.4)	This was specifically negotiated and is acceptable to the using agency under the circumstances.
Final Acceptance	• No final acceptance for current System as already in use (6.2) • For future solutions/subscriptions, live production use for 10 days constitutes acceptance (6.2)	This was specifically negotiated and is acceptable to the using agency under the circumstances.
ADA Compliance	• Vendor is working toward ADA compliance but has not yet achieved; will achieve within timing required by Interim Rule (8.4)	This was specifically negotiated and is acceptable to the using agency under the circumstances.