

FIRST COAST HEALTH ALLIANCE, LLC PRACTICE PARTICIPATION AGREEMENT

THIS PRACTICE PARTICIPATION AGREEMENT (the “Agreement”) is effective the _____ day of _____, 2013 (the “Effective Date”), between and among **FIRST COAST HEALTH ALLIANCE, LLC (“FCHA”)**, and _____ (“Practice”).

WHEREAS, FCHA operates as a clinically integrated network (“CIN”) whose participating physicians, hospitals, and other providers (“CIN Members”) have established and maintain a significant degree of interdependence and cooperation to provide high quality health care services in an efficient manner to improve the health status of their communities; and

WHEREAS, CIN Members intend to be accountable to each other and their communities by defining and enforcing clinical performance standards and coordinating and managing patient care; and

WHEREAS, FCHA intends to participate in the Medicare Shared Savings Program (“MSSP) and negotiate and manage payer contracts that promote and reward such collaboration among providers on behalf of CIN Members; and

WHEREAS, Practice is an individual in private medical practice or a professional corporation, limited liability company, or similar legal entity that is owned by, employs, and/or contracts with physicians and other licensed health care professionals ; and

WHEREAS, those physicians and other licensed professionals who own, are employed by, and/or contract with Practice and who are identified in Attachment A (“Providers”) desire to become CIN Members on the terms and conditions set forth herein; and

WHEREAS, FCHA desires to have Providers as CIN Members on the terms and conditions set forth herein.

WHEREAS, Providers have authorized Practice to enter into legally binding agreements on their behalf; and

WHEREAS, Practice is willing and able to support Providers in their roles as CIN Members.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

Article 1 - Definitions

- 1.1 **Board** means FCHA’s duly constituted governing body.
- 1.2 **CIN Members** means all persons and entities that have a current contractual commitment to participate in the CIN on terms approved by the Board contained in this Agreement.

- 1.3 ***MSSP Participant*** means an individual or group of providers/suppliers that is identified by a Medicare-enrolled Taxpayer Identification Number (“TIN”) that alone, or together with one or more other MSSP Participants, comprises an MSSP Accountable Care Organization as defined at 42 CFR § 425.20.
- 1.4 ***Payer Contract*** means any agreement FCHA has negotiated and entered into on behalf of CIN Members with a federal health care program (including, but not limited to, the Medicare Shared Savings Program); state or local health care program; or insurance company, health plan, employer, or other third-party payer (“Payers”) relating to payment for health care goods and services coordinated and/or furnished by CIN Members.
- 1.5 ***Policy*** means each and every standard, regulation, policy, procedure, protocol, practice, program, plan, process, and/or guideline approved by the Board and set forth in writing and made available to Practice. Unless specifically provided otherwise by the Board with respect to a specific Policy, each and every Board-approved Policy or amendment to a previously approved Policy shall become effective upon FCHA’s delivery of electronic notice to Practice’s designated representative and shall remain in effect until the Board takes action to revise or rescind the Policy.
- 1.6 ***Technology Solutions*** means those solutions approved by the Board for use by CIN Members for purposes of data analysis, data reporting, and electronic health information exchange between and among FCHA, CIN Members, Payers, and other properly authorized persons or entities.

Article 2 - Duties of Practice and Providers

- 2.1 **Agreement of Providers.** Practice, on behalf of itself and its Providers, as their duly authorized agent, assumes and accepts the duties of a CIN Member as set forth herein. Each and every Provider individually assumes and accepts the same duties as Practice.
- (a) Within five (5) business days of Practice’s execution of this Agreement, Practice shall obtain and deliver to FCHA the signature of each and every physician or other licensed professional who bills professional services through Practice’s TIN who desires to be a Provider.
- (b) Practice shall deliver written notice to FCHA of the termination of any Provider’s relationship with Practice within five (5) business days of the effective date of such termination. Such Provider’s Joinder Agreement shall terminate immediately upon Practice’s delivery of such notice.
- (c) Practice shall deliver to FCHA as soon as possible an executed Joinder Agreement for any physician or other licensed professional who desires to become a Provider subsequent to the Effective Date.

- 2.2 **CIN Participation.** Practice shall participate in the CIN on the terms and conditions contained in this Agreement. Practice shall comply fully and appropriately utilize Technology Solutions during the term of this Agreement and actively participate in CIN operations including, but not limited to, service on CIN committees. Practice authorizes FCHA to identify Practice and Providers as CIN Members to Payers and other third parties.
- 2.3 **Participation Fees.** Practice shall remit payment to FCHA of those Participation Fees specified in Attachment B. Such Participation Fees may be modified by the Board with sixty (60) days' written notice to Practice.
- 2.4 **Provider Credentialing.** Practice shall deliver to FCHA in a timely manner any and all information requested by FCHA for application, credentialing, and re-credentialing purposes. Practice warrants the accuracy and completeness of all such information upon submission to FCHA. Practice shall promptly notify FCHA if Practice learns any such information previously submitted to FCHA was not accurate or complete at the time of submission or requires updating due to a change in circumstances.
- 2.5 **Payer Contracts.**
- (a) With the exception of the MSSP, each Payer Contract approved by the Board (including any substantial modification and/or renewal of a Payer Contract previously approved by the Board) shall be presented to Practice, along with all relevant documentation and information, to allow Practice to evaluate Providers' capacity and capability to perform its duties and responsibilities under the Payer Contract. Practice may opt out of a particular Payer Contract (or renewal thereof) by providing FCHA a written notice within thirty (30) days' of receiving notice of the Board's approval of that Payer Contract. The Board shall issue reasonably prompt notices of its approval of any Payer Contract to the Practice, so as to not unreasonably delay or hinder Practice's consideration of whether it will opt out of a Payer Contract. If Practice has not provided such notice within such ten (10)-day period, Practice will be deemed to be bound to that Payer Contract as presented.
 - (b) Practice shall adhere to the applicable terms and conditions of each and every Payer Contract for which Practice has not opted out. Practice shall execute and return in a timely manner any and all documents presented by FCHA necessary for participation in a Payer Contract. To the extent Practice has any question or concern regarding any term or provision of a Payer Contract, Practice shall consult with FCHA regarding such provision.
 - (c) Practice acknowledges that:
 - (i) FCHA does not guarantee FCHA will enter into any Payer Contract in which Practice will be eligible to participate.
 - (ii) FCHA shall not be liable to Practice or any Provider for a Payer's performance or non-performance of a Payer Contract.

- (iii) FCHA's duty to make payment to Practice and/or Providers under any Payer Contract shall be contingent on FCHA's prior receipt of payment from the Payer.

2.6 General Obligations. Practice shall comply, and assure all its Providers comply, with all Policies duly adopted by FCHA, including, but not limited to, FCHA's corporate compliance program and anti-fraud initiatives; FCHA's conflict of interest policy; and any MSSP requirements which are applicable to "Other Entities" performing functions or services related to MSSP ACO activities undertaken by the CIN as contemplated in 42 CFR Part 425.

2.7 MSSP.

If and when FCHA applies for and is accepted for participation in the MSSP and enters into an MSSP Agreement with the Centers for Medicare and Medicaid Services ("CMS"), Practice, if it qualifies as an MSSP Participant, agrees to the following, in addition to the General Obligations as stated in Section 2.6 above:

- (a) Practice shall be an "ACO Participant" and each Provider shall be an "ACO Supplier/Provider" as those terms are defined by 42 CFR 425.20. Practice shall not be an ACO Participant with any other entity participating in the MSSP.
- (b) Practice shall comply with, and shall ensure each Provider complies with, the terms of the MSSP Agreement and each and every applicable regulatory requirement relating to the MSSP found at 42 CFR Part 425 including related guidance published by responsible federal agencies.

2.8 Technology. Practice shall, at Practice's own expense, maintain high-speed internet connectivity available for use by each Provider. Practice shall (a) allocate sufficient time and resources for the proper installation of and training for each Technology Solution; and (b) adhere to all applicable terms of any agreement between FCHA and any supplier of a Technology Solution.

2.9 Monitoring. Practice acknowledges FCHA may assume certain duties and obligations under one or more Payer Contracts, including, but not limited to, the MSSP Agreement. Upon request, Practice shall make available to FCHA any documentation or data, perform any specified administrative task, or provide any written certification FCHA deems necessary for FCHA to perform such duties and obligations. Additionally, Practice shall cooperate fully with FCHA's monitoring of Practice's compliance with this Agreement and with the Policies (including, but not limited to, FCHA's quality assurance and quality improvement program, evidence-based clinical guidelines, and patient-centeredness processes) in any manner FCHA determines necessary and appropriate.

2.10 Practice Representations. Practice represents and warrants the following statements now are true and shall remain true during the term of this Agreement:

- (a) Practice is authorized to act on behalf of its Providers, including assumption of contractual duties and obligations to be performed by Providers;

- (b) Practice and each of its Providers are Medicare participating providers in good standing;
- (c) Each Provider has an unrestricted active license to practice as a health care professional in the State of Florida;
- (d) Neither Practice nor any Provider is excluded, debarred, proposed for debarment, declared ineligible, or suspended from participation in any government health care program;
- (e) Neither Practice nor any Provider employs, obtains services from, or contracts with any person or entity that is excluded, debarred, proposed for debarment, declared ineligible, or suspended from participation in any government health care program; and
- (f) Practice and its Providers remain in compliance with all applicable federal and state laws, regulations, rules, and CMS instructions and guidance including, but not limited to (i) federal and state antitrust laws; (ii) the federal False Claims Act (31 USC 3729 *et seq.*); (iii) the federal Anti-Kickback Statute (42 USC 1320a-7b(b)); (iv) the civil monetary penalties law (42 USC 1320a-7a); and (v) the physician self-referral law (42 USC 1395nn).

2.11 Notices to FCHA.

- (a) Upon execution of this Agreement, Practice shall deliver written notice to FCHA designating Practice's contact person for all matters relating to this Agreement. Practice shall deliver written notice to FCHA of any change in Practice's address(es), telephone number(s), business hours, TIN, or contact person within three (3) business days of the effective date of such change.
- (b) Subject to any limitations or restrictions imposed by law, Practice shall deliver written notice to FCHA within three (3) business days of Practice's actual knowledge of any action taken by or against a Provider that may materially affect that Provider's ability to render professional services in one or more care setting.

2.12 Billing and Collection. Except as specifically provided otherwise in a Policy, Practice shall remain solely responsible for billing and collection for goods and services furnished to any patient by a Provider in compliance with all applicable regulatory and contractual requirements.

2.13 Physician-Patient Relationship. Notwithstanding any provision of this Agreement or any Policy, a Provider shall retain sole responsibility for medical decision-making with regard to a specific patient. Nothing in this Agreement nor any Policy shall be interpreted to supplant, interfere with, or impose restrictions on the traditional physician-patient relationship. No Policy shall substitute for or take precedence over any Provider's duty to render care within the standard of care and all applicable legal duties and regulatory requirements.

2.14 Referrals. Practice and its Providers shall use best efforts to refer patients to other CIN Members in accordance with the voluntary referral policies established by FCHA.

Notwithstanding the foregoing, no party shall require that any Medicare beneficiary be referred only to a CIN Member or related person or entity except as permitted by 42 C.F.R. 425.304(c)(2).

- 2.15. Prohibited Inducements.** Under no circumstances shall Practice offer or accept, directly or indirectly, any form of inducement to reduce or limit the provision of medically necessary goods or services for a patient. Practice acknowledges any provision for performance-based payment, shared savings distribution, or similar arrangement is intended solely to encourage Practice to adhere to FCHA policies and actively participate in FCHA's quality assurance and quality improvement program and care coordination activities.

Article 3 - FCHA Duties

- 3.1 CIN Infrastructure.** FCHA shall develop and maintain within its available resources an adequate and appropriate infrastructure to facilitate the CIN's processes as defined in the Policies.

- 3.2 Business Associate.** FCHA shall adhere to the terms of the HIPAA Business Associate Agreement included as Attachment C.

3.3 Payer Contracts.

- (a) FCHA shall make reasonable efforts to negotiate, enter into, and present to CIN Members for their consideration Payer Contracts on terms generally acceptable to CIN Members. In negotiating Payer Contracts (including any renewal or amendment of an existing Payer Contract), FCHA shall not have the apparent or actual authority to bind any CIN Member to any contractual obligation prior to the presentation and opportunity to opt out specified in Section 2.4 above. Each Payer Contract and each amendment to an existing Payer Contract shall be subject to the prior approval of the Board. To the fullest extent possible, FCHA shall not agree to a term in any Payer Contract that places one category of CIN Member at a significant disadvantage as compared to another category of CIN Member.
- (b) FCHA shall compile and submit CIN Member performance data as required under any Payer Contract, subject to Practice making available relevant information in a timely manner.
- (c) FCHA shall distribute any and all revenue received by FCHA under any Payer Contract only in a manner approved by the Board.
- (d) In negotiating and contracting with Payers and in the performance of Payer Contracts, FCHA shall make best efforts not to engage in any conduct that may potentially violate state and federal antitrust laws. FCHA shall not condone, encourage, or facilitate any form of anticompetitive behavior on the part of any CIN Member.

3.4 Non-Compliance. As appropriate, FCHA shall take steps to address non-compliance by Practice and/or Providers with the requirements of this Agreement and Policies, including adherence to the quality assurance and improvement program and evidence-based clinical guidelines. Such steps may include program implementation assistance, education, and mentoring to the Practice and/or Providers. Practice shall work in good faith with FCHA to improve performance and to identify and correct any areas of non-compliance. Practice acknowledges, however, that, if any Provider does not adhere to the quality assurance and improvement program, the evidence-based clinical guidelines, or the patient-centeredness processes, or is deficient in meeting specified quality performance standards, FCHA shall use progressive remedial processes and sanctions to improve compliance and performance. Such measures may include adoption and implementation of corrective action plans, the assessment of sanctions, the loss of the ability to receive shared savings, and expulsion.

3.5 FCHA Representations. FCHA represents and warrants the following statements now are true and shall remain true during the term of this Agreement:

- (a) FCHA has not been excluded, debarred, proposed for debarment, declared ineligible, or suspended from participation in any government health care program;
- (b) FCHA does not employ, obtain services from, or contract with any person or entity that is excluded, debarred, proposed for debarment, declared ineligible, or suspended from participation in any government health care program;
- (c) FCHA remains in compliance with all applicable federal and state laws, regulations, rules, and CMS instructions and guidance including, but not limited to (i) federal and state antitrust laws; and (ii) the federal False Claims Act (31 USC 3729 *et seq.*).
- (d) FCHA maintains an effective corporate compliance program designed and operated in a manner consistent with the Federal Sentencing Guidelines for Organizations and related guidance issued by the Department of Health and Human Services Office of Inspector General.

Article 4 - Term and Termination

4.1 Term. The term of the Agreement shall commence on the date first noted above and continue until December 31, 2016, unless otherwise terminated in accordance with Section 4.2 below. Upon expiration of the initial term, this Agreement shall automatically renew for successive three (3)-year terms unless otherwise terminated as provided in this Agreement.

4.2 Termination.

- (a) Either Party may terminate this Agreement without cause upon written notice to the other Party delivered at least one hundred and eighty (180) days prior to anticipated date of termination.

- (b) Either FCHA or Practice may terminate this Agreement immediately if a party commits an act of bankruptcy within the meaning of the bankruptcy, receivership, insolvency, reorganization, dissolution, or liquidation or other similar proceedings under either state or federal laws.
- (c) Either party may terminate this Agreement upon written notice if the other party fails to cure a material breach of this Agreement within thirty (30) days of written notice of such breach.

Article 5 - General

- 5.1 **Dispute Resolution.** In the event of any dispute under this Agreement, the parties initially shall attempt to resolve the dispute informally by meeting as often as necessary during a thirty (30)-day period. If a good-faith effort to resolve the dispute has not produced a mutually agreeable resolution during the thirty (30)-day period, the parties may mutually agree to extend the time period in which to settle their dispute, and, if no such extension is agreed upon, either party may pursue its rights in a judicial proceeding.
- 5.2 **Confidentiality.** Neither FCHA nor Practice shall disclose to any unauthorized third party any confidential and proprietary information collected or exchanged pursuant to this Agreement or any Policy (“**Confidential Information**”), unless such disclosure is (a) required by law; (b) authorized in writing by the other party; (c) disclosed to other CIN Members solely for the purpose of evaluating and/or improving clinical quality and efficiency pursuant to Policies; or (d) made to a party’s directors, managers, officers, employees, consultants, advisors, affiliates, counsel, and accountants (“**Agents**”) on an as-needed basis, but only if such Agent has agreed in writing to maintain confidentiality of such information. Any disclosure on the part of one party to the other party pursuant to this Agreement shall not constitute a transfer, assignment, or license of the same, and such information shall remain the sole and exclusive property of the disclosing party.
- 5.3 **Third-Party Beneficiaries.** This Agreement is entered into by and between FCHA and Practice and Providers for their respective benefit. Except as specifically provided herein, no third party shall have any right to enforce any right or enjoy any benefit created or established under this Agreement. The Parties acknowledge that, with respect to FCHA’s participation in the MSSP, CMS shall be deemed to be a third-party beneficiary to this Agreement.
- 5.4 **Waiver.** No waiver may be deemed to have been made unless made expressly in writing and signed by the waiving party. The waiving by either party of a breach of violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof. No failure by either party to insist upon the strict performance of any provision of this Agreement may be construed as depriving that party of the right to insist on strict performance of that provision or of any other provision in the future.
- 5.5 **Independent Contractor Relationship.** This Agreement is not intended to create nor shall be construed to create any relationship between FCHA and Practice and any Provider

other than that of independent entities contracting for the purpose of effecting provisions of this Agreement.

- 5.6 **Entire Agreement.** This Agreement, including all exhibits and attachments hereto, constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof and supersedes any prior or contemporaneous oral and written understandings or agreements.
- 5.7 **Jurisdiction.** This Agreement and any claim of any kind under any theory of law will be governed by and construed in accordance with the laws of the State of Florida, including all matters of construction, validity, performance, and enforcement and without giving effect to contrary principles of conflict of laws.
- 5.8 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Signatures to this Agreement that are distributed to the parties via facsimile or other electronic means (including PDF) shall have the same effect as if distributed in original form to all Parties.
- 5.9 **Severability.** Each provision of this Agreement is intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.
- 5.10 **Notices.** Any notices required by this Agreement, from one party to the other, shall be delivered in person, sent by e-mail message to the party's address indicated below, or sent by first-class mail, postage prepaid, to the party's address indicated below. For any notices required by this Agreement, the party receiving the notice shall issue a signature acknowledging receipt within a reasonable time frame (which signature may be issued by response e-mail message or without signature if the party sending the notice requests and receives an e-mail read receipt). If the party receiving the notice does not issue a signature acknowledging receipt within a reasonable time frame, such notice shall be deemed delivered and received within ten (10) business days from date of sending. All calendars and deadlines noted in this Agreement shall be measured from date of signature acknowledging receipt, where applicable.

Initial one of the following options:

_____ **MSSP ACO Participant.** By initialing here, the authorized signatory for Practice affirms that Practice intends to participate in the MSSP as a CIN Member and MSSP ACO Participant as defined herein. By so indicating, Practice affirms that *all* physicians and other licensed providers billing Medicare through Practice’s TIN have signed the Joinder Agreement attached hereto as Attachment A, that Practice will maintain such listing for its Providers pursuant to Section 2.1 above, and that Practice will remain in strict compliance with Section 2.7 above.

_____ **MSSP “Other Entities.”** By initialing here, the authorized signatory for Practice affirms that Practice and Providers intend to participate in the MSSP as CIN Members and “Other Entities” as defined by the MSSP regulations and CMS guidance.

_____ **No MSSP Involvement.** By initialing here, the authorized signatory for Practice affirms that Practice and Providers do not intend to participate in the MSSP in any capacity at the present time. Practice will notify FCHA if Practice and Providers reconsider MSSP involvement.

Practice

FCHA

FIRST COAST HEALTH ALLIANCE, LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Tax Identification No.: _____

Address for Notices:

Address for Notices:

E-Mail: _____

E-Mail: _____

ATTACHMENT A
JOINDER AGREEMENT

Each undersigned individual (“**Provider**”) hereby acknowledges, agrees, and confirms that, by execution of this Joinder Agreement, Provider shall be bound to perform those duties and obligations assumed by Practice on Provider’s behalf under the terms of the Agreement. Specifically, Provider agrees that should FCHA participate in the MSSP, Provider shall comply with all requirements of 42 CFR Part 425.

Print Name: _____
National Provider Identifier: _____
Primary Specialty: _____

Print Name: _____
National Provider Identifier: _____
Primary Specialty: _____

Print Name: _____
National Provider Identifier: _____
Primary Specialty: _____

Print Name: _____
National Provider Identifier: _____
Primary Specialty: _____

ATTACHMENT B

Participation Fee

Practice shall remit to FCHA One Thousand Dollars (\$1,000) on behalf of each Provider listed on Attachment A no later than ten (10) days following the Effective Date and each year thereafter on the anniversary date of the Effective Date. Notwithstanding the foregoing, the Board may, in its sole discretion, elect to waive some or all of this Participation Fee for those Providers whom the Board determines have devoted significant time and effort to the development and operation of FCHA.

ATTACHMENT C

HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (“BAA”) amends and is incorporated into the First Coast Health Alliance, LLC Participation Agreement (“Agreement”) by and between _____ (“Covered Entity”) and **First Coast Health Alliance, LLC** (“Business Associate”), for purposes of compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (“ARRA”), and their implementing regulations set forth at 45 CFR Parts 160 and 164, as amended (the “HIPAA Rules”).

The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: breach, data aggregation, designated record set, disclose and disclosure, health care operations, individual, minimum necessary, Notice of Privacy Practices, protected health information (referred to herein as “PHI”), required by law, secretary, security incident, subcontractor, unsecured PHI, and use.

1. Duties of Business Associate. Business Associate agrees to:

- 1.1 Use or disclose PHI received from or on behalf of Covered Entity for the following purposes only:
 - (a) to perform those services specified in the Agreement, provided such use or disclosure is done in a manner that would not violate Subpart E of 45 CFR 164 if done by Covered Entity;
 - (b) to make a disclosure required by law; and
 - (c) for the proper management and administration of Business Associate or to carry out Business Associate’s legal responsibilities.
- 1.2 Make uses and disclosures and requests for PHI consistent with Covered Entity’s minimum necessary policies and procedures.
- 1.3 Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for herein;
- 1.4 Report to Covered Entity any use or disclosure of PHI not provided for herein of which Business Associate becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any security incident of which Business Associate becomes aware;

- 1.5 In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information;
- 1.6 Make available PHI in a designated record set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;
- 1.7 Make any amendment(s) to PHI in a designated record set as directed or agreed to by Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;
- 1.8 Maintain and make available the information required to provide an accounting of disclosures to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528;
- 1.9 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s); and
- 1.10 Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

2. Notice to Business Associate Regarding Privacy Practices and Restrictions

- 2.1 Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's Notice of Privacy Practices under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- 2.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 2.3 Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

3. Permissible Requests by Covered Entity

- 3.1 Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity.

4. **Term and Termination**

- 4.1 The term of this BAA shall be the same as the term of the parties' Agreement, except Covered Entity may terminate this BAA for cause as authorized in Section 4.2
- 4.2 Business Associate authorizes termination of this BAA by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the BAA and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.
- 4.3 Upon termination of this BAA for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
- (a) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - (b) Return to Covered Entity (or, if agreed to by Covered Entity at the time, destroy) the remaining PHI that the Business Associate still maintains in any form;
 - (c) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - (d) Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above which applied prior to termination; and
 - (e) Return to Covered Entity (or, if agreed to by Covered Entity at the time, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

The obligations of Business Associate under this Section 4.3 shall survive the termination of this BAA.

5. Miscellaneous

- 5.1 A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended. The parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.
- 5.2 Nothing in this BAA shall be construed to create any rights or remedies in any third parties or any agency relationship between the parties.
- 5.3 The terms and conditions of this BAA override and control any conflicting term or condition of the Agreement. All non-conflicting terms and conditions of the Agreement remain in full force and effect.

COVERED ENTITY:

By: _____
(Signature)

Name: _____
(Please Print)

Title: _____
(Please Print)

Date: _____

BUSINESS ASSOCIATE:

By: _____
(Signature)

Name: _____
(Please Print)

Title: _____
(Please Print)

Date: _____