BUSINESS ASSOCIATE AGREEMENT

1. PREAMBLE AND DEFINITIONS.

1.1 Provider is subject to, and agrees to and acknowledges, the terms and conditions of this HIPAA Business Association Agreement (**"BAA"**) as defined under the privacy, security, breach notification, and enforcement rules at 45 C.F.R. Part 160 and Part 164 ("HIPAA Rules") hereunder with respect to Provider's performance of the Services on behalf of Company under the Provider Agreement to which this Exhibit is attached (the "Provider Agreement"). A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended. At all times both Company and Business Associate are acting as Business Associates and neither party is a "Covered Entity" as defined by HIPAA.

1.2 This BAA is intended to ensure that Business Associate will establish and implement appropriate safeguards for the Protected Health Information ("PHI") (as defined under the HIPAA Rules) that Business Associate may receive, create, maintain, use, or disclose in connection with the functions, activities, and services that Business Associate performs for Company. The functions, activities, and services that Business Associate performs for Company are defined in the Agreement the (**"Agreement"**).

1.3 Pursuant to changes required under the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act") and under the American Recovery and Reinvestment Act of 2009 ("ARRA**"**), this BAA also reflects federal breach notification requirements imposed on Business Associate when "Unsecured PHI" (as defined under the HIPAA Rules) is acquired by an unauthorized party, and the expanded privacy and security provisions imposed on business associates.

1.4 Unless the context clearly indicates otherwise, the following terms in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, disclosure, Electronic Media, Electronic Protected Health Information ("ePHI"), Health Care Operations, individual, Minimum Necessary, Notice of Privacy Practices, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured PHI, and use.

1.5 A reference in this BAA to the Privacy Rule means the Privacy Rule, in conformity with the regulations at 45 C.F.R. Parts 160-164 (the "Privacy Rule") as interpreted under applicable regulations and guidance of general application published by HHS, including all amendments thereto for which compliance is required, as amended by the HITECH Act, ARRA, and the HIPAA Rules.

a. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR 160.103, .304 and 164.501, and the final rule issued on January 17, 2013, effective March 26, 2013. For purposes of this section:

i. Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement mean the party listed above.

ii. Individual. "Individual" shall have the same meaning as the term "Individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

iii. HIPAA Rules. HIPAA Rules means the Privacy, Security, Breach Notifications, and

Enforcement Rules at 45 CFR Part 160 and Part 164.

iv. Privacy Rule. "Privacy Rule" shall mean the we for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

v. Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

vi. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.103.

vii. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or their designee.

viii. Security Incident. Security Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system

2. **GENERAL OBLIGATIONS OF BUSINESS ASSOCIATE**.

2.1 Business Associate agrees not to use or disclose PHI, other than as permitted or required by this BAA or as Required By Law, or if such use or disclosure does not otherwise cause a Breach of Unsecured PHI.

2.2 Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to ePHI, to prevent use or disclosure of PHI other than as provided for by the BAA.

2.3 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate as a result of a use or disclosure of PHI by Business Associate in violation of this BAA's requirements or that would otherwise cause a Breach of Unsecured PHI.

2.4 The Business Associate agrees to the following breach notification requirements:

(a) Business Associate agrees to report to Company any Breach of Unsecured PHI not provided for by the BAA of which it becomes aware within five (5) calendar days of "discovery" within the meaning of the HITECH Act. Such notice shall include the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed in connection with such Breach. In addition, Business Associate shall provide any additional information reasonably requested by Company for purposes of investigating the Breach and any other available information that Company is required to include to the Covered Entity or Individual under 45 C.F.R. § 164.404(c) at the time of notification or promptly thereafter as information becomes available. Business Associate's notification of a Breach of Unsecured PHI under this Section shall comply in all respects with each applicable provision of Section 13400 of Subtitle D (Privacy) of ARRA, the HIPAA Rules, and related guidance issued by the Secretary or the delegate of the Secretary from time to time.

2.5 Business Associate agrees, in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2),

if applicable, to require that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

2.6 Business Associate agrees to make available PHI in a Designated Record Set to Company as necessary to satisfy Company's Covered Entity's customer obligations under 45 C.F.R. § 164.524.

(a) Business Associate agrees to forward to Company any individual's request to restrict the disclosure of their personal PHI in a manner consistent with 45 C.F.R. § 164.522, except where such use, disclosure, or request is required or permitted under applicable law.

(b) Business Associate agrees that when requesting, using, or disclosing PHI in accordance with 45 C.F.R. § 164.502(b)(1) that such request, use, or disclosure shall be to the minimum extent necessary, including the use of a "limited data set" as defined in 45 C.F.R. § 164.514(e)(2), to accomplish the intended purpose of such request, use, or disclosure, as interpreted under related guidance issued by the Secretary from time to time.

2.7 Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to the Company as necessary to satisfy Company's Covered Entity customer's obligations under 45 C.F.R. § 164.528.

2.8 Business Associate agrees to make its internal practices, books, and records, including policies and procedures regarding PHI, relating to the use and disclosure of PHI and Breach of any Unsecured PHI received from Company, or created or received by the Business Associate on behalf of Company, available to Company (or the Secretary) for the purpose of Company or the Secretary determining compliance with the Privacy Rule (as defined in Section 8).

2.9 To the extent that Business Associate is to carry out one or more of Company's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to the Company in the performance of such obligation(s).

2.10 Business Associate agrees to account for the following disclosures:

(a) Business Associate agrees to maintain and document disclosures of PHI and Breaches of Unsecured PHI and any information relating to the disclosure of PHI and Breach of Unsecured PHI in a manner as would be required for Company to respond to a request by an individual, Covered Entity or the Secretary for an accounting of PHI disclosures and Breaches of Unsecured PHI.

(b) Business Associate agrees to provide to Company, or to an individual at Company's request, information collected in accordance with this Section 2.11, to permit Company to respond to a request by an individual, Covered Entity or the Secretary for an accounting of PHI disclosures and Breaches of Unsecured PHI.

(c) Business Associate agrees to account for any disclosure of PHI used or maintained as an Electronic Health Record (as defined in Section 5) ("EHR") in a manner consistent with 45 C.F.R. § 164.528 and related guidance issued by the Secretary from time to time; provided that an individual shall have the right to receive an accounting of disclosures of EHR by the Business Associate made on behalf of the Company only during the three years prior to the date on which the accounting is requested.

2.11 Business Associate agrees to comply with the "Prohibition on Sale of Electronic Health Records or Protected Health Information," as provided in Section 13405(d) of Subtitle D (Privacy) of ARRA, and the "Conditions on Certain Contacts as Part of Health Care Operations," as provided in Section 13406 of Subtitle D (Privacy) of ARRA and related guidance issued by the Secretary from time to time.

2.12 Business Associate acknowledges that, effective on the Effective Date of this BAA, it shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. § 1320d-5 and 1320d-6, as amended, for failure to comply with any of the use and disclosure requirements of this BAA and any guidance issued by the Secretary from time to time with respect to such use and disclosure requirements.

3. **PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**.

3.1 General Uses and Disclosures. Business Associate agrees to receive, create, use, or disclose PHI only in a manner that is consistent with this BAA, the Privacy Rule, or Security Rule (as defined in Section 5) and only in connection with providing services to Company; provided that the use or disclosure would not violate the Privacy Rule, including 45 C.F.R. § 164.504(e), if the use or disclosure would be done by Company.

3.2 Business Associate may use or disclose PHI as Required By Law. Business Associate may also use and disclose Protected Health Information for the proper management and administration of Business Associate or to carry out its legal responsibilities, provided Business Associate obtains reasonable assurances from the person to whom the information was disclosed that the information will remain confidential and used or further disclosed only as required by law, and the person notifies Business Associate of any instances of which it is aware that confidentiality has been breached.

3.3 Business Associate agrees to make uses and disclosures and requests for PHI: Consistent with Company's Minimum Necessary policies and procedures.

3.4 Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by the Company.

4. **OBLIGATIONS OF COMPANY**.

4.1 Company shall:

(a) Provide Business Associate with the Notice of Privacy Practices that Company produces in accordance with the Privacy Rule, and any changes or limitations to such notice under 45 C.F.R. § 164.520, to the extent that such changes or limitations may affect Business Associate's use or disclosure of PHI.

(b) Notify Business Associate of any restriction to the use or disclosure of PHI that Company has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI under this BAA.

(c) Notify Business Associate of any changes in or revocation of permission by an individual to use or disclose PHI, if such change or revocation may affect Business Associate's permitted or required uses and disclosures of PHI under this BAA.

4.2 Company shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rule if done by Company, except as provided under Section 3 of this BAA.

5. **COMPLIANCE WITH SECURITY RULE**.

5.1 Business Associate shall comply with the HIPAA Security Rule, which shall mean the Standards for Security of Electronic Protected Health Information at 45 C.F.R. Part 160 and Subparts A and C of Part 164, as amended by ARRA and the HITECH Act. The term Electronic Health Record or EHR as used in this BAA shall mean an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

5.2 In accordance with the Security Rule, Business Associate agrees to:

(a) Implement the administrative safeguards set forth at 45 C.F.R. § 164.308, the physical safeguards set forth at 45 C.F.R. § 164.310, the technical safeguards set forth at 45 C.F.R. § 164.312, and the policies and procedures set forth at 45 C.F.R. § 164.316, to reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of Company as required by the Security Rule. Business Associate acknowledges that, effective on the Effective Date of this BAA, (a) the foregoing safeguards, policies, and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to Company, and (b) Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. § 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards, policies, and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements;

(b) Require that any agent, including a Subcontractor, to whom it provides such PHI agrees to implement reasonable and appropriate safeguards to protect the PHI; and

(c) Report to the Company any Security Incident of which it becomes aware.

6. **INDEMNIFICATION**.

Business Associate shall indemnify, defend, and hold harmless the Company, its sponsor, if different from Company, and sponsor's and Company's affiliates ("Indemnified Parties"), from and against any and all losses, expense, damage, or injury (including, without limitation, all costs and reasonable attorneys' fees) that the Indemnified Parties may sustain as a result of, or arising out of (a) a breach of this BAA by Business Associate or its agents or Subcontractors, including but not limited to any unauthorized use, disclosure, or breach of PHI, (b) Business Associate's failure to notify any and all parties required to receive notification of any Breach of Unsecured PHI pursuant to Section 2.4, or (c) any negligence or wrongful acts or omissions by Business Associate or its agents or Subcontractors, including without limitations, failure to perform Business Associate's obligations under this BAA, the Privacy Rule, or the Security Rule.

Notwithstanding the foregoing, nothing in this Section shall limit any rights any of the Indemnified Parties may have to additional remedies under the Provider Agreement or under applicable law for any acts or omissions of Business Associate or its agents or Subcontractors.

7. **TERM AND TERMINATION**.

7.1 This BAA shall be in effect as of the Effective Date of the Provider Agreement, and shall terminate on the earlier of the date that:

(a) Either party terminates for cause as authorized under Section 7.2.

(b) All of the PHI received from Company, or created or received by Business Associate on behalf of Company, is destroyed or returned to Company. If it is not feasible to return or destroy PHI, protections are extended in accordance with Section 7.3.

7.2 Upon either party's knowledge of material breach by the other party, the non-breaching party shall provide an opportunity for the breaching party to cure the breach or end the violation; or terminate the BAA. If the breaching party does not cure the breach or end the violation within a reasonable timeframe not to exceed Fourteen (14) days from the notification of the breach, or if a material term of the BAA has been breached and a cure is not possible, the non-breaching party may terminate this BAA and the Provider Agreement, upon written notice to the other party.

7.3 Upon termination of this BAA for any reason, the parties agree that:

Upon termination of this BAA for any reason, Business Associate, with respect to PHI received from Company, or created, maintained, or received by Business Associate on behalf of Company, shall:

(a) Retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities.

(b) Return to Company or, if agreed to by Company, 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 C.F.R. Part 164 with respect to ePHI to prevent use or disclosure of the PHI, other than as provided for in this Section 7, 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 paragraphs (2) and (3) above which applied prior to termination.

(e) Return to Company or, if agreed to by Company, 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.

7.4 The obligations of Business Associate under this Section 7 shall survive the termination of this BAA.

8. **MISCELLANEOUS**.

8.1 The parties agree to take such action as is necessary to amend this BAA to comply with the requirements of the Privacy Rule, the Security Rule, HIPAA, ARRA, the HITECH Act, the HIPAA Rules, and any other applicable law.

8.2 The respective rights and obligations of Business Associate under Section 6 and Section 7 of

this BAA shall survive the termination of this BAA.

8.3 This BAA shall be interpreted in the following manner:

(a) Any ambiguity shall be resolved in favor of a meaning that permits Company to comply with the HIPAA Rules.

(b) Any inconsistency between the BAA's provisions and the HIPAA Rules, including all amendments, as interpreted by the HHS, a court, or another regulatory agency with authority over the Parties, shall be interpreted according to the interpretation of the HHS, the court, or the regulatory agency.

(c) Any provision of this BAA that differs from those required by the HIPAA Rules, but is nonetheless permitted by the HIPAA Rules, shall be adhered to as stated in this BAA.

8.4 This BAA constitutes the entire agreement between the parties related to the subject matter of this BAA, except to the extent that the Provider Agreement imposes more stringent requirements related to the use and protection of PHI upon Business Associate. This BAA supersedes all prior negotiations, discussions, representations, or proposals, whether oral or written. This BAA may not be modified unless done so in writing and signed by a duly authorized representative of both parties. If any provision of this BAA, or part thereof, is found to be invalid, the remaining provisions shall remain in effect.

8.5 This BAA will be binding on the successors and assigns of the Company and the Business Associate. However, this BAA may not be assigned, in whole or in part, without the written consent of the other party. Any attempted assignment in violation of this provision shall be null and void.