**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (the “Agreement”) is made and entered into the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_ (the “Effective Date”), by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(“Business Associate”), with its principal place of business and mailing address at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Covered Entity”), with its principal place of business and mailing address at: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. This Agreement is intended to amend, restate and replace, effective as of the date set forth above, any and all prior agreements between Business Associate and Covered Entity with respect to the parties’ rights and responsibilities under the Health Insurance Portability and Accountability Act of 1996 (as such may be amended from time to time) and regulations promulgated pursuant to such Act (collectively, “HIPAA”).

**RECITALS**

A. Covered Entity is a “health care provider” as defined pursuant to 45 C.F.R. § 160.103 of the HIPAA Standards (as defined in Section I of this Agreement) pursuant to HIPAA.

B. Business Associate qualifies as a “Business Associate” under the HIPAA Standards.

C. In order for Business Associate to provide services (“Services”) for Covered Entity, Covered Entity may disclose certain Protected Health Information (as defined in Section I of this Agreement) of Covered Entity’s patients (“PHI”) to Business Associate and anticipates that Business Associate will create and/or receive PHI on behalf of Covered Entity (collectively, Business Associate and Covered Entity are referred to as the “Parties”).

D. The Parties anticipate that Business Associate will be required to use and disclose PHI in order to provide Services to Covered Entity.

E. The Parties anticipate that Business Associate will be required to create, receive, maintain, or transmit ePHI (as defined in Section I of this Agreement) on behalf of Covered Entity in order to provide Services to Covered Entity as described above.

F. Covered Entity may not transfer or transmit PHI or ePHI to Business Associate or permit Business Associate to create, receive, or transmit PHI or ePHI on behalf of Covered Entity without satisfactory assurances from Business Associate that it will appropriately safeguard the information.

G. Business Associate desires to provide the satisfactory assurances of compliance with the HIPAA Standards to Covered Entity and to further define the rights and responsibilities of the Parties under the HIPAA Standards for the exchange of PHI, including ePHI.

H. Pursuant to the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009 (“HITECH”) and within the time frames set forth under HITECH and its accompanying regulations, Business Associate shall implement the necessary administrative, physical, and technical safeguards, shall implement the appropriate policies and procedures to document the same, shall be subject to certain standards under the HIPAA Standards, and shall have procedures in place to comply with the Breach Notification Rule (as defined in Section I of this Agreement).

NOW, THEREFORE, the Parties, in consideration of the mutual agreements herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, do hereby agree as follows:

# Definitions

For the purposes of this Agreement, the following defined terms shall have the following definitions. Capitalized terms used within this Agreement without definition set forth herein shall have the respective meanings assigned to such terms in the HIPAA Standards.

## Breach shall have the meaning given the term “breach” in 45 C.F.R. § 164.402.

## Breach Notification Rule shall mean the requirements set forth under the Notification in the Case of Breach of Unsecured Protected Health Information, as found in Subpart D of 45 C.F.R. Part 164.

## Business Associate shall mean the Business Associate named above.

## Covered Electronic Transactions shall have the meaning given the term “transaction” in 45 C.F.R. § 160.103.

## Covered Entity shall mean the Covered Entity named above.

## Designated Record Set shall have the meaning prescribed to it in the HIPAA Standards in 45 C.F.R. § 164.501.

## Electronic Health Record shall have the same meaning as the term “electronic health record” under Section 13400(5) of HITECH.

## Electronic Media shall have the meaning prescribed to it in 45 C.F.R. § 160.103.

## Electronic Protected Health Information (“ePHI”) shall mean PHI that is transmitted or maintained in Electronic Media.

## HHS shall mean the U.S. Department of Health and Human Services.

## HIPAA Standards shall mean the standards for privacy and security of Individually Identifiable Health Information as set forth in 45 C.F.R. Parts 160, 162, and 164.

## Individual shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with the HIPAA Standards.

## Individually Identifiable Health Information shall have the meaning prescribed to it in 45 C.F.R. § 160.103.

## Privacy Standards shall be the requirements set forth under the Privacy of Individually Identifiable Health Information, as found in 45 C.F.R. Part 160, and Subparts A and E of 45 C.F.R. Part 164.

## Protected Health Information (“PHI”) shall have the meaning prescribed to it in the HIPAA Standards limited to Individually Identifiable Health Information transmitted or maintained in any form or medium that Business Associate creates or receives from or on behalf of Covered Entity in the course of fulfilling its obligations. PHI includes ePHI.

## Required by Law shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.

## Secretary shall mean the Secretary of HHS or his or her designee.

## Standards for Electronic Transactions Rule shall mean the final regulations issued by HHS concerning standard transactions and code sets under the Administrative Simplification provisions of HIPAA found at 45 C.F.R. Parts 160 and 162.

## Security Incident shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.

## Security Standards shall be the Security Standards for the Protection of Electronic Protected Health Information, as found in 45 C.F.R. Part 160 and Subpart C of 45 C.F.R. Part 164.

## Subcontractor shall have the meaning prescribed to it in 45 C.F.R. § 160.103.

## Unsecured PHI shall have the same meaning as the term “unsecured protected health information” in 45 C.F.R. § 164.402.

# Business Associate Use and Disclosure of PHI

## Purpose. Covered Entity has entered into an agreement with Business Associate for Business Associate to perform Services for Covered Entity.

## Receipt and Use of PHI. In order to provide such Services, and except as otherwise limited in this Agreement, Business Associate may have access to, receive, use, or disclose PHI obtained from or on behalf of Covered Entity and may access, create, receive, disclose, maintain or transmit ePHI on behalf of Covered Entity, if such use or disclosure of PHI would not violate the HIPAA Standards if done by Covered Entity. However, Business Associate also may use PHI internally if necessary to carry out its legal responsibilities and for its proper management and administration, and, at the request of Covered Entity, to provide Data Aggregation (as defined in the HIPAA Standards) services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B). Business Associate shall use, disclose, or request for use or disclosure only the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request for use or disclosure, in accordance with the requirements of HIPAA.

## Disclosure of PHI. If necessary for the performance of Services, Business Associate may disclose PHI to Subcontractors that create, receive, maintain, or transmit PHI on Business Associate’s behalf and with whom it contracts to assist in providing Services and to carry out Business Associate’s legal responsibilities for proper management and administration. Such disclosure to Subcontractors may be made only if: (1) Business Associate obtains reasonable written assurances from such Subcontractors that the PHI will be held by them confidentially and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to them; (2) such Subcontractors agree in writing to be bound by the same restrictions and conditions that apply to Business Associate with respect to PHI under this Agreement; (3) such Subcontractors agree in writing to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of ePHI; and (4) such Subcontractors agree in writing to notify Business Associate of any instance of which they are aware that a Breach, potential Breach, or Security Incident with respect to PHI has occurred. Any disclosure of PHI to another business associate (as defined in 45 C.F.R. § 160.103) of Covered Entity not in accordance with the foregoing shall require the prior written consent or written direction of Covered Entity.

## Obligation for Use and Disclosure of PHI. All PHI does not fall within the definition of ePHI and therefore not all PHI is subject to the Security Standards. However, all ePHI falls within the meaning of PHI and is therefore subject to the Privacy Standards in the same manner as other PHI.

## Training of Workforce. Business Associate shall train the members of its workforce whose function involves contact with PHI to appropriately handle and safeguard PHI.

# Duties of Business Associate

## Limitations on Use of PHI. Business Associate shall not use PHI except as permitted or required by this Agreement or as Required by Law. Business Associate shall only use PHI in a manner consistent with the HIPAA Standards. This Agreement does not authorize Business Associate to use Covered Entity’s PHI in a manner that would violate the HIPAA Standards if done by Covered Entity.

## Limitations on Disclosure of PHI. Business Associate shall not disclose PHI except as permitted or required by this Agreement or as Required by Law. Business Associate shall only disclose PHI in a manner consistent with the HIPAA Standards. This Agreement does not authorize Business Associate to disclose Covered Entity’s PHI in a manner that would violate the HIPAA Standards if done by Covered Entity.

## Safeguarding PHI. Business Associate shall use reasonable and appropriate safeguards to prevent the use or disclosure of PHI other than as permitted by this Agreement and to prevent a Security Incident or Breach. Business Associate shall develop, implement, maintain, document, and use administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Standards. Without limiting the foregoing, in accordance with HITECH and the regulations thereunder, Business Associate shall comply with the administrative safeguards, the physical safeguards, the technical safeguards, and the policies and procedures and documentation requirements, as set forth under 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316 (as may be amended from time to time) in the same manner as such requirements apply to Covered Entity to the extent applicable to Business Associate.

## Restriction Agreements. Business Associate will comply with any agreement that Covered Entity makes that restricts use or disclosure of Covered Entity’s PHI pursuant to 45 C.F.R. § 164.522(a), provided that Covered Entity notifies Business Associate in writing of the restriction or confidential communication. Covered Entity will promptly notify Business Associate in writing of the termination of any such restriction agreement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Covered Entity’s PHI will remain subject to the terms of the restriction agreement.

## Reporting of Unauthorized Uses and Disclosures and Security Incidents and Notification of Breach or Potential Breach of Unsecured PHI.

### *Unauthorized Use and Disclosure; Security Incidents*. If Business Associate becomes aware of any use or disclosure of PHI by Covered Entity or Business Associate, or their respective employees or Subcontractors that is not permitted by this Agreement, or a Security Incident involving PHI, Business Associate shall report such violation, in writing, to Covered Entity as soon as possible and no later than within five (5) business days of making a determination that such unpermitted use, disclosure or incident has occurred. Such notice shall be made to the person(s) listed in the Exhibit attached to this Agreement.

### *Notification of Breach or Potential Breach of Unsecured PHI*. Business Associate shall notify Covered Entity of any Breach, or potential Breach, of Unsecured PHI. Such notice shall be in writing, without unreasonable delay, and in no case later than five (5) business days after discovery of the Breach or potential Breach to Covered Entity’s Privacy Officer and the other individuals designated by Covered Entity in the Exhibit attached to this Agreement.

#### Content of Notice: Business Associate will include within the notice to Covered Entity of the Breach or potential Breach the identity of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during the Breach or potential Breach. Such notice also will include, or will be supplemented by Business Associate, without unreasonable delay and in no case later than thirty (30) calendar days after the discovery of the Breach or potential Breach, to include: (A) a brief description of the Breach or potential Breach (including: what happened, the date of the Breach or potential Breach and the date of Business Associate’s discovery of the Breach or potential Breach); (B) a description of the types of Unsecured PHI involved (including, for example, whether full name, Social Security number, date of birth, home address, account number, diagnosis, or disability code, or other information were involved); (C) the identity of the person or persons who committed the Breach or potential Breach (if known) and who received the information; (D) the steps Business Associate is taking to investigate the Breach or potential Breach, the steps Business Associate is taking to mitigate harm to the Individuals whose PHI was Breached or potentially Breached, and the corrective action Business Associate has or will take to prevent further Breaches; (E) any steps Individuals should take to protect themselves from potential harm resulting from the Breach; (F) any steps Covered Entity should take to protect itself and affected Individuals from potential harm resulting from the Breach; and (G) contact procedures so Covered Entity’s Privacy Officer or other representative may contact Business Associate to ask questions or learn additional information regarding the Breach or potential Breach. Business Associate shall provide additional information necessary for any notification of Individuals pursuant to 45 C.F.R. § 164.404 promptly upon request of Covered Entity.

#### Date of Discovery of Breach: A Breach or potential Breach shall be treated as discovered by Business Associate as of the first day on which such Breach or potential Breach is known to Business Associate, or, by exercising reasonable diligence, would have been known to Business Associate. Knowledge of any employee, officer, or other agent of Business Associate other than the individual who committed the Breach or potential Breach will be deemed as knowledge of Business Associate.

#### Determination of Breach: The determination of whether any Breach or potential Breach compromises the security or privacy of PHI shall be madeby Covered Entity in consultation with Business Associate.

#### Notifications of Breach: Subject to paragraph (f) below, Covered Entity shall retain full responsibility for any and all notifications to Individuals and/or the media (unless delegated to Business Associate in writing, at the discretion of Covered Entity) and any and all notifications to the Secretary. Covered Entity shall maintain a log for any and all Breaches, as required under the Breach Notification Rule.

#### Full Cooperation: Business Associate shall fully cooperate in good faith with Covered Entity’s investigation of any Breach or potential Breach of PHI, and in any notifications to Individuals, the Secretary, and/or the media undertaken by Covered Entity.

## Mitigation of Disclosure of PHI. Business Associate agrees to mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI by Business Associate or by Business Associate’s Subcontractor in violation of the requirements of this Agreement, including but not limited to any harmful effect caused as a result of a Breach. In the event of a Breach, Business Associate agrees to promptly take any and all appropriate actions in cooperation with, and as requested by, Covered Entity to cause any required notifications to Individuals, to the media or to the Secretary, and Business Associate shall cover or reimburse Covered Entity any and all costs associated with the same. Notwithstanding the foregoing, Covered Entity shall determine whether and the extent to which such notifications may be required. Covered Entity shall bear full responsibility of making such notifications to Individuals and/or the media (unless delegated to Business Associate in writing, at the discretion of Covered Entity) and any and all such notifications to the Secretary.

## Access to PHI. Within ten (10) business days of Covered Entity’s written request, Business Associate shall provide Covered Entity or an Individual who is the subject of the PHI with access to PHI in Business Associate’s possession, if Business Associate’s information consists of a Designated Record Set, in order for Covered Entity to comply with 45 C.F.R. § 164.524. Effective as of the date specified by HHS, in the event that the PHI is in the form of an electronic designated record set or sets and the Individual requests an electronic copy of such information, Business Associate shall provide Covered Entity with access to the PHI in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual. If an Individual’s request for access appropriately directs Covered Entity to transmit the copy of PHI directly to another person designated by the Individual and Covered Entity has delegated the responsibility of responding to the Individual’s request for access to Business Associate, Business Associate shall provide the copy to the person designated by the Individual. Notwithstanding the foregoing, in no event shall Business Associate provide access to PHI in Business Associate’s possession to any Individual or such Individual’s personal representatives on Business Associate’s premises. Business Associate only shall be obligated, at the discretion of Covered Entity, to provide the requested PHI in a Designated Record Set to Covered Entity, which Covered Entity then may provide access to the Individual or the Individual’s personal representatives. Covered Entity and Business Associate agree that, to the maximum extent feasible, Covered Entity will only disclose duplicate copies of PHI.

## Availability of PHI for Amendment. The Parties acknowledge that the HIPAA Standards permit an Individual, who is the subject of PHI, to request certain amendments of his or her records. Within ten (10) business days of Covered Entity’s written request, Business Associate shall make PHI contained in a Designated Record Set in Business Associate’s possession available to Covered Entity for amendment and shall incorporate any amendments in accordance with 45 C.F.R. § 164.526.

## Accounting of Disclosures. Business Associate agrees to document disclosures of PHI and to make available within ten (10) business days of Covered Entity’s written request, information to Covered Entity concerning Business Associate’s disclosure of PHI for which Covered Entity needs to provide an Individual with an accounting of disclosures as required by 45 C.F.R. § 164.528. Business Associate will maintain information and records sufficient to provide an accounting of such disclosures for at least six (6) years following the date of the disclosure for which an accounting is required (or, beginning on the date specified by HHS, three (3) years for disclosures related to an Electronic Health Record). Business Associate will include the following information within the accountings:

### Except for repetitive disclosures of Covered Entity’s PHI (as specified in paragraph (2) below), (i) the date of disclosure, (ii) the name, and if known, the address of the entity or person who received the PHI, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of the disclosure which reasonably informs the Individual of the basis for the disclosure; or

### For repetitive disclosures of Covered Entity’s PHI that Business Associate makes for a single purpose to the same person or entity (including Covered Entity), either: (i) the information described under paragraph (1) above for each accountable disclosure, or (ii) all of the following: (A) the information described under paragraph (1) above for the first of the repetitive accountable disclosures, (B) the frequency, periodicity, or number of the repetitive accountable disclosures, and (C) the date of the last of the repetitive accountable disclosures.

If, after the effective date specified by HHS in regulations issued under HITECH, an Individual requests that Covered Entity provide an accounting of disclosures of the Individual’s PHI related to an Electronic Health Record, Covered Entity may direct such Individual to request Business Associate’s accounting of disclosures of the Individual’s PHI directly from Business Associate. In the event Covered Entity directs an Individual to obtain an accounting of disclosures of the Individual’s PHI directly from Business Associate, and the Individual requests such an accounting directly from Business Associate, Business Associate agrees to provide the Individual with an accounting of disclosures of the Individual’s PHI made by Business Associate.

## Business Associate’s Performance of Covered Entity’s Obligations. To the extent Business Associate is to carry out Covered Entity’s obligation under the HIPAA Standards, Business Associate shall comply with the requirements of the HIPAA Standards that apply to Covered Entity in the performance of such obligation.

## Availability of Books and Records. For purposes of determining compliance of Covered Entity with the HIPAA Standards, Business Associate agrees to notify Covered Entity of any request or demand by the Secretary for information relating to Covered Entity, and Business Associate agrees to make available to the Secretary its internal policies and procedures, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity. Upon request by Covered Entity, Business Associate also shall grant access to Covered Entity of such internal policies and procedures, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, so that Covered Entity may audit Business Associate’s compliance with the HIPAA Standards.

## Return of PHI at Termination. Upon termination of Business Associate’s provision of Services to Covered Entity, Business Associate, as well as any Subcontractors of Business Associate shall, where feasible, return to Covered Entity or, with the permission of Covered Entity, destroy all PHI received from, or created or received by Business Associate on behalf of, Covered Entity and shall retain no copies of PHI. When return or destruction is not feasible, the duties of Business Associate under this Agreement shall be extended to protect the privacy and safeguard the security of PHI retained by Business Associate. Business Associate agrees to limit further uses and disclosures of the information retained to those purposes that made the return or destruction infeasible. The Parties agree to conform and comply, as appropriate, with each others’ document retention policy. It shall not be considered feasible for Business Associate to return PHI when it is legally required for Business Associate to retain such PHI.

## Security of Electronic Transactions. In the event that Business Associate transmits or receives any Covered Electronic Transaction on behalf of Covered Entity, it shall comply with all applicable provisions of the Standards for Electronic Transactions Rule to the extent required by law, and shall ensure that any Subcontractors that assist Business Associate in conducting Covered Electronic Transactions on behalf of Covered Entity agree in writing to comply, and do comply, with the applicable requirements of the Standards for Electronic Transactions Rule. Business Associate shall also comply with the National Provider Identifier requirements, if and to the extent applicable.

## Policies, Procedures and Documentation. As of the effective dates specified under HITECH and the regulations thereunder, Business Associate shall implement and maintain written policies to comply with the security provisions of HIPAA and HITECH and the regulations thereunder, including, but not limited to the standards, implementation specifications and additional requirements under the Security Standards and extended pursuant to HITECH and the regulations thereunder to Business Associate in the same manner as to Covered Entity. Business Associate also shall maintain a written record of any action, activity or assessment required to be undertaken pursuant to the Security Standards and the Breach Notification Rule and retain such records in accordance with paragraph (o).

## Records Retention. Business Associate shall maintain any policy, procedure, record or documentation created or used by Business Associate pursuant to paragraph (n), immediately above, and of any risk analysis conducted in connection with a potential Breach or a Breach for a minimum of six (6) years following the later of the creation of the policy, procedure, record or documentation, or the last date such was in effect.

## Prohibition on Sale of Records. Except as otherwise allowed under the HIPAA Standards, Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual unless Covered Entity or Business Associate obtained from Individual, in accordance with 45 C.F.R. § 164.508, a valid authorization that includes a statement that PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual.

# Term and Termination

## Term. The Term of this Agreement shall commence on the Effective Date first mentioned above and shall terminate when all of the PHI provided to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is returned, or, at the direction of Covered Entity is destroyed, in accordance with Section III paragraph (l).

## Termination for Breach. Upon Covered Entity’s knowledge of a breach of this Agreement or violation of the HIPAA Standards by Business Associate, Covered Entity shall notify Business Associate in writing, without limiting the remedies available to Covered Entity and either:

### provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and any agreement between the Parties with respect to the Services if Business Associate does not cure the breach or end the violation within thirty (30) calendar days of receiving notice of the breach or violation from Covered Entity; provided however, all of the obligations imposed on Business Associate hereunder shall continue; or

### immediately terminate this Agreement and any agreement between the Parties with respect to the Services if Business Associate has breached a material term of this Agreement and cure is not possible.

If Business Associate knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of the Subcontractor's obligation under an arrangement to provide services to Business Associate in support of the Services governed by this Agreement, Business Associate must take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the arrangement if feasible.

# Indemnity

# Business Associate agrees to indemnify, hold harmless and defend Covered Entity from and against any and all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, reasonable attorney’s fees, defense costs, costs of breach notification and mitigation, regulatory investigations by the Office for Civil Rights or state regulatory agencies, and equitable relief), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate or subcontractors or agents in connection with the performance of Business Associate’s duties under this Agreement, including but not limited to Breach notification costs and expenses, and attorneys’ fees.  This indemnity shall not be construed to limit Covered Entity’s rights, if any, to common law indemnity.  Covered Entity retains the final right of approval of any and all communications to its patients, employees, media, regulators, or any other party Covered Entity may be obligated to notify. Covered Entity shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, or to provide advice regarding Breach notification, the reasonable costs and expenses of which shall be the responsibility of Business Associate.  Covered Entity shall provide Business Associate with timely notice of the existence of such proceedings and such information, documents, and other cooperation as reasonably necessary to assist Business Associate in establishing a defense to such action. These indemnities shall survive termination of this Agreement.

# Miscellaneous

## Regulatory References. A reference in this Agreement to a section in the HIPAA Standards means the section as in effect or as amended. In the event that a regulatory citation contained within this Agreement should change prior to this Agreement being amended, the regulatory citation in this Agreement shall be deemed to have been changed to the new citation.

## Amendment. Except as stated within this paragraph, this Agreement may be amended only by written agreement signed by all Parties to this Agreement. The Parties to this Agreement agree to take such action to amend this Agreement in writing from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA. In the event that this Agreement is not timely amended to comply with HIPAA or other required applicable law or regulation, this Agreement shall be deemed to incorporate such requirements and Business Associate agrees to comply with those provisions applicable to it.

## Survival. The respective rights and obligations of Business Associate under Section III paragraph (l) (return or destruction of PHI) of this Agreement shall survive the termination of this Agreement.

## Prior Business Associate Agreements. This Agreement shall supersede any prior business associate agreements or addenda between Business Associate and Covered Entity.

## Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA and HITECH.

## Notices. All notices pertaining to this Agreement shall be sent to the Privacy Officer by certified mail or overnight delivery (and confirmed in writing); **and** shall be transmitted by facsimile to the contact information listed in the Exhibit to this Agreement. Notwithstanding the foregoing, all notices of any Breach or potential Breach of Unsecured PHI must also be directed to all of the individuals listed in the Exhibit to this Agreement. All notices to Business Associate shall be sent to the address listed on page 1 of this Agreement via certified mail or overnight delivery (and confirmed in writing). Notices may also be sent to such other addresses as the Parties may agree.

## No Third Party Beneficiaries. This Agreement shall not create any additional rights for any third party beneficiary who may be receiving benefits pursuant to the terms and conditions of Covered Entity.

## Counterparts. This Agreement may be executed in multiple counterparts, containing identical provisions, all of which shall constitute one and the same Agreement, and each of which shall be an original of this Agreement for all purposes.

## Privileges Retained. Covered Entity and Business Associate agree that the primary services of Business Associate are legal services and that legal services are generally considered to be an activity that falls within the definition of “health care operations” as defined in the HIPAA Standards. Additionally, Covered Entity and Business Associate agree that under no circumstances are any provisions of this Agreement intended to constitute a waiver of confidentiality, the attorney-client privilege, the work product doctrine or protections, or any other privilege or discovery protections that would otherwise apply, and under no circumstances shall Business Associate be obligated to disclose any materials or information hereunder, in the context of litigation or otherwise, pursuant to any governmental obligation, rules of procedure or evidence, or otherwise, which Business Associate determines in its absolute discretion is subject to confidentiality, the attorney-client privilege, the work product doctrine or protection, or any other privilege or discovery protections that would otherwise apply.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be effective as of the date provided above.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
(“Business Associate”) (“Covered Entity”)**

By: By:

Title: Title:

Date: Date:

**Exhibit to**

**BUSINESS ASSOCIATE AGREEMENT**

The Covered Entity’s Privacy Officer and contact information is:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: (\_\_) \_\_\_-\_\_\_\_

Fax: (\_\_) \_\_\_-\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

A notice of any Breach or potential Breach of Unsecured PHI must also be directed to the following individual(s) on behalf of the Covered Entity:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: (\_\_) \_\_\_-\_\_\_\_

Fax: (\_\_) \_\_\_-\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: (\_\_) \_\_\_-\_\_\_\_

Fax: (\_\_) \_\_\_-\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_