

BUSINESS ASSOCIATE AMENDMENT

Pursuant to an agreement dated _____ between _____ and _____ (“Business Associate”) (“Agreement”), the parties hereby amend the Agreement effective _____ to include the following provision:

1. Definitions. For the purpose of these Provisions, all capitalized terms shall have the following meaning:

“Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160, subpart A and part 164, subpart E as amended from time to time.

“Protected Health Information” (“PHI”) means any information, whether oral or recorded in any form or medium, that (i) is transmitted by electronic media, maintained in electronic media or transmitted or maintained in other forms or media; (ii) is created or received by Business Associate from or on behalf of _____; (iii) relates to the past, present, or future physical or mental health of a patient, the provision of health care to a patient, or the past, present, or future payment of health care to a patient; and (iv) either identifies the patient or a reasonable basis exists to believe that the information can be used to identify the patient.

2. Obligations of _____. Prior to the effective date of these Provisions and during the term of this Agreement, _____ shall:

- i. Provide Business Associate in writing with any restrictions to the use or disclosure of any PHI that has been agreed upon by _____ and any changes in, or revocation of, permission by any patient to _____’s use or disclosure of PHI, if such changes affect Business Associate’s permitted or required uses and disclosures of PHI; and
- ii. Not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by _____.

3. Permitted Uses and Disclosures by Business Associate. Except as otherwise limited by the agreement, Business Associate may:

- i. Use and disclose PHI to perform all functions, activities, or services for, to, or on behalf of _____ pursuant or related to the Agreement, provided that such uses and disclosures would not violate the Privacy Rule; and
- ii. Use or disclose PHI as otherwise required by State or federal law.

4. Obligations of Business Associate. Except as otherwise provided by the Agreement, the Business Associate agrees to:

- i. Not use or further disclose PHI other than as permitted or required by the Agreement or as required by law;
- ii. Use appropriate safeguards to prevent the unauthorized use or disclosure of PHI;

iii. Report to _____ any use or disclosure of the PHI not otherwise permitted by the Agreement of which the Business Associate becomes aware;

iv. Ensure that any agent, including a subcontractor, to whom Business Associate provides PHI agrees to the same restrictions and conditions regarding PHI applicable to Business Associate hereunder;

v. Provide _____ within 30 days receipt of a written request, with documentation of any disclosures of PHI made by Business Associate for which _____ is obligated to provide an accounting to a patient under the Privacy Rule;

vi. Make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of the United States Department of Health and Human Services ("HHS Secretary") upon proper request of the HHS Secretary and solely for the HHS Secretary's purpose of determining _____'s compliance with the Privacy Rule. Business Associate shall immediately notify _____ of any request received; and

vii. Upon termination of Business Associate's obligations or rights under this Agreement for any reason, Business Associate shall return all PHI to _____ and retain no copies, unless precluded from doing so by law. This provision shall survive the termination of the Agreement until such time as the PHI is returned to _____.

5. **Amendment.** The parties agree to take such action as is necessary to amend these provisions from time to time as is necessary for _____ to comply with the requirements of the Privacy Rule.

6. **Breach.** In the event _____ has knowledge of a material breach of these provisions by Business Associate, _____ shall either; (i) terminate the Agreement if Business Associate fails to cure the breach or end the violation within 30 days of _____'s written notice of the breach; (ii) immediately terminate the Agreement if cure of the breach or ending the violation is not possible; or (iii) if termination or cure is not feasible, _____ shall report the violation to the HHS Secretary.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

By: _____

Signature: _____

Date: _____

By: _____

Signature: _____

Date: _____