

Voiance Language Services, LLC
5780 North Swan Road
Tucson, Arizona 85718

Client Name and Address:

Humana
9815 S Monroe St., Ste 300
Sandy, UT 84070 United States

Services:

Exhibit (Exhibit attached hereto if box is checked):

- A:** Telephonic interpretation/Over-the-Phone interpretation/OPI
 - A-1:** Blue Phones
- E:** Video Remote Interpretation
- H:** Business Associate Agreement

Client Signature (*electronically signed*):

Name: **Jennifer Pjeter**
Title: **Sales Manager**
Date: **3/24/2021**

Service Agreement

Introduction. In consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

- 1. Formation.** This Service Agreement (“Agreement”) is formed between Vendor and Client.
- 2. Services.** Pursuant to the terms of this Agreement, Vendor shall provide the Services to Client and to the Facilities.
- 3. Payment.** Client will be invoiced by Vendor and shall remit payment to Vendor within thirty (30) days of invoice date. Vendor’s preferred method of payment is by any electronic means, including automated clearing house (ACH) payment or wire, however checks and credit cards are accepted. Any third-party fees incurred by Vendor in the course of receiving or preparing to receive payment from Client, such as a third-party payment processing service, shall be applied to Client’s next invoice, due and payable by Client in accordance with the provisions of this Agreement. Any payment Client fails to remit to Vendor as provided herein shall incur simple interest on all overdue amounts at the rate of one and one-half percent (1.5%) every thirty (30) calendar days.
- 4. Term and Termination.** This Agreement shall commence on the date by which: (i) all Parties have executed this document (“Commencement Date”), and (ii) a copy of the executed document has been delivered to Vendor; and shall terminate 1 year(s) from the Commencement Date, unless otherwise provided in this Agreement or sooner terminated as provided elsewhere in this Agreement. On the initial termination date, and on each successive anniversary of that date, this Agreement shall renew for one year unless terminated by either party upon written notice of termination to the other party not less than thirty (30) days’ prior to the next date of renewal. The “Termination Date” of this Agreement shall be the sooner of: (i) the date identified by the terminating party in that party’s notice of termination to the other party, or (ii) the date on which Vendor terminates Client’s access to Services. Either party may terminate this Agreement for convenience upon written notice.
 - 4.1 Trial Period.** Notwithstanding any other provision of this Agreement, Client may terminate this Agreement upon notice to Vendor at any time within thirty (30) days’ of the Commencement Date.
 - 4.2 Survival.** Without limiting other provisions of this Agreement, obligations of the following sections shall survive the termination of this Agreement: 9 (Confidentiality/Prohibited Uses) and 18 (Arbitration).
- 5. Independent Contractor Relationship.** The relationship between the parties is that of independent contractors. Neither party is an agent, partner or employee of the other party, and neither party has any right or any other authority to enter into any contract or undertaking in the name of or for the account of the other party, or to assume or create any obligation of any kind, express or implied, on behalf of the other party, nor will the acts or omissions of either party create any liability for the other party. This Agreement shall in no way constitute or give rise to a partnership or joint venture between the Parties.
- 6. Insurance.** Vendor shall maintain insurance against claims for injury to persons or damage to property that may arise from or relate to Vendor’s performance of Services pursuant to this Agreement. All insurance coverage required by this Agreement shall be procured from and maintained with duly licensed or approved non-admitted insurers in the State of Arizona with an “A.M. Best” rating of not less than A- VII. Upon Client’s written request, Vendor shall furnish Client with copies of certificates of insurance or other forms of verification of coverage, duly signed by an authorized representative of the respective insurer.
 - 6.1** Vendor shall maintain per-occurrence commercial general liability insurance including bodily injury, prop-

erty damage, personal injury, and broad-form contractual liability coverage of not less than the following amounts:

General Aggregate	\$2,000,000.00
Products – Completed Operations Aggregate	\$2,000,000.00
Each Occurrence	\$1,000,000.00
Damage (Rented Property)	\$1,000,000.00
Medical Expenses	\$10,000.00

6.2 Vendor shall maintain coverage for Errors and Omissions and Workers Compensation of not less than the following amounts:

Errors and Omissions	\$5,000,000.00
Worker’s Compensation	\$500,000.00

7. Limited Liability. Vendor shall provide Services in a professional and workmanlike manner utilizing translators, interpreters and/or other language professionals with skills and qualifications that meet or exceed the standards of the industry. Client understands and agrees that Services are inherently inexact disciplines and some discrepancies may arise despite Vendor’s professional provision of Services. Client releases Vendor from any and all liability, other than liability that cannot be waived by law, for: (i) non-negligent errors made by Vendor in the provision of Services, and (ii) any failure of or interruption to Services due to the failure of any telecommunications facilities, gear, infrastructure, and/or similar equipment beyond Vendor’s control. Beyond the limits of its insurance coverage, Vendor shall not be liable to Client for any direct, indirect, punitive, special, incidental or consequential damage of any kind (including loss of business, revenue, profits, use, data or other economic advantage) in connection with or arising out of Client’s use of Services or any failure to connect to Services, if applicable, whether in contract or in tort, even if Vendor has been previously advised of the possibility of such damages. The foregoing limitation on Vendor’s liability for damages shall apply even if any exclusive remedy provided for in this Agreement fails of its essential purpose.

8. Background Checks. Vendor, subject to any federal, state or local laws, rules or regulations which may limit any Vendor action otherwise required by this section, shall make reasonable and legally permitted efforts, including checking background and verifying personal information, to determine that no Vendor employee or independent contractor who shall perform any Services that permit physical, virtual or other access to Client’s or its customer’s premises, systems, networks or information at any time during the term of the Agreement, has been convicted of any felony or misdemeanor less than ten (10) years prior to becoming Vendor’s employee (unless a lesser time period is required by law) involving violence, sexual misconduct, theft or computer crimes, fraud or financial crimes, drug distribution or crimes involving unlawful possession or use of a dangerous weapon. Vendor shall not permit any employee having such a conviction to perform any Services that permit such access during the term of the Agreement, subject to any federal, state or local restrictions on the consideration of criminal convictions in making employment decisions, unless in the sole judgment of Client, said conviction has no reasonable relationship to the employee’s fitness or trustworthiness to perform the Services. Vendor shall comply with obligations under this section through the use of a third party service which shall perform a review of applicable records for those counties, states and federal court districts in which a proposed Vendor employee has identified as having resided, worked or attended school in the searched time period. Notwithstanding any of the foregoing, exceptions for individual Vendor personnel may be granted by Vendor on a case-by-case basis.

9. Confidentiality/Prohibited Uses.

9.1 Terms. Neither party shall disclose the terms of this Agreement to any third party without the written consent of the other party, except: (i) as required by law, court order or governing legal authority, or (ii) for disclosure of the terms of this Agreement to a party's accountants, attorneys or similar representatives who are bound by an equal or greater obligation of confidentiality, or to the representatives of any prospective purchaser of a party who is bound by an equal or greater obligation of confidentiality. This paragraph shall survive indefinitely any termination or expiration of this Agreement.

9.2 Confidential Information. All information provided to Vendor by Client or its affiliates, subsidiaries or agents that is: (i) labeled as confidential and/or proprietary, or (ii) reasonably identifiable as confidential and/or proprietary is the confidential and/or proprietary information of Client (collectively, "Confidential Information"). Client retains all rights, title and interest in and to all of the Confidential Information provided to Vendor. Vendor agrees that it will only use Confidential Information in connection with its performance of its obligations under this Agreement. Vendor shall take reasonable precautions necessary to safeguard the confidentiality of Confidential Information. Vendor agrees to immediately notify Client in the event of any accidental loss or unauthorized access, use, disclosure or breach by it or any of its employees, agents or other permitted users of any Confidential Information. Vendor shall only disclose Confidential Information in response to the order, requirement or request of a court, administrative agency or other governmental body of competent jurisdiction, and Vendor shall provide prompt notice of such disclosure to Client.

9.3 PHI. Vendor shall apply safeguards to Personal Health Information ("PHI") in conformity with HIPAA and HITECH requirements.

9.4 Prohibited Uses. The following uses of Services are prohibited: (i) transmission of any message which constitutes an infringement of any copyright or trademark; (ii) any unauthorized disclosure of a trade secret; (iii) transfer of any information or technology in violation of any applicable law or regulation; (iv) violation of any telecommunications law or regulation regarding the use of telephones in interstate or foreign commerce to transmit obscene, threatening, harassing or other prohibited messages; (v) making libelous or slanderous statement; and (vi) violation of any applicable statute or government rule, ordinance, law, regulation or similar edict. Client shall indemnify and hold harmless Vendor for any liability Vendor incurs arising out of or relating to Client's prohibited use of Services. This indemnity protection shall survive the termination of this Agreement. Without waiving any other remedy available to Vendor at law or in equity, Vendor may terminate this Agreement at any time following Client's prohibited use of Services.

10. Safe Harbor. Vendor agrees that it will fully and accurately satisfy its responsibilities, as provider of the Services, under the Safe Harbor Regulations relating to program "fraud and abuse" promulgated under the Social Security Act and Medicare and Medicaid Patient and Program Protection Acts.

11. Disbarment. Vendor warrants that it is not disbarred or suspended, proposed for disbarment or declared ineligible for award of contracts by any federal agency.

12. Cost of Living Increase. The contracted pricing may be increased at each anniversary of the contract in accordance with the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI).

13. Solicitation of Personnel. Neither party shall, directly or indirectly, knowingly solicit, induce, recruit or encourage, or cause another to solicit, induce, recruit or encourage, any person employed or engaged by the other party, whether as an employee or independent contractor, to terminate his or her engagement with the other party during the term of this Agreement and for the one (1) year period following the Termination Date.

- 14. Marketing and Publicity.** Without obtaining prior written consent, no party may use the other party's name, trademarks, logos and/or service marks without complying with the other party's requirements for such use.
- 15. Remedies.** The remedies in this provision do not replace or otherwise limit the remedies included elsewhere in this Agreement. Vendor may, at its sole and absolute discretion, terminate this Agreement upon Client's breach or within ten (10) days of learning of Client's breach. Any decision by Vendor to forego cancellation upon a breach by Client shall not constitute a waiver of Vendor's right to terminate due to a subsequent breach by Client.
- 16. Notices.** All notices and communications must be in writing and will be effective upon receipt. Such notices shall be sent by registered or certified U.S. mail return receipt requested or by a nationally recognized overnight courier service, to the address set forth for such party herein, marked "Attn: Controller".
- 17. Entire Agreement.** This Agreement represents the complete agreement of the parties and will supersede any and all other agreements, understandings and representations by and between the parties hereto. The parties agree that this Agreement represents the joint drafting of the parties. By signing below, the parties represent and warrant that neither is relying on any promise, guarantee or other statement not contained in this Agreement.
- 18. Governing Law.** The performance of Vendor and Client under this Agreement shall be controlled and governed by the laws of the State of Arizona, excluding conflicts of law provisions. Jurisdiction and venue for any dispute between Vendor and Client concerning this Agreement shall rest exclusively within the state and federal courts of Pima County, Arizona. Each of Vendor and Client hereby waives all defenses of lack of personal jurisdiction and forum non conveniens related thereto.
- 19. Arbitration.** The Parties agree that all controversies, disputes and/or claims arising out of or in any way related to the interpretation, validity, construction, performance, breach or termination of this Agreement shall be submitted to final and binding arbitration. The arbitration shall apply Arizona law and shall comply with and be governed by the American Arbitration Association under its Commercial Arbitration Rules. The prevailing party in any such arbitration shall be entitled to an award of attorneys' fees, expert witness fees and reimbursement of all reasonable costs and other fees associated with the arbitration, unless the Parties stipulate otherwise. Judgment on the arbitrator's award may be entered by any court of competent jurisdiction.
- 20. Severability.** Should any provision of this Agreement be held invalid or illegal, such invalidity or illegality shall not invalidate the remainder of this Agreement. Instead, this Agreement will be construed as if it did not contain the illegal or invalid part, and the rights and obligations of the parties shall be construed and enforced accordingly.
- 21. Force Majeure:** Notwithstanding any other provision of this Agreement, Vendor shall not be liable in any way for any loss, damage, delay or failure of performance resulting from any cause which is beyond Vendor's reasonable control, including, but not limited to fire, explosion, lightning, power surges or failures, acts of God and acts or omissions of communications carriers (including without limitation local exchange companies).
- 22. Counterparts.** This Agreement and any amendments hereto may be executed by the Parties hereto individually or in any combination, in one or more counterparts, each of which shall be an original and all of which shall together constitute one and the same agreement. Signatures to this Agreement and any amendments hereto transmitted by any electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same force and effect as physical execution and delivery of the paper document bearing the original signature.

[EXHIBITS BEGIN ON NEXT PAGE]

EXHIBIT A: OVER-THE PHONE (OPI) SERVICES

Vendor shall provide Client (and to the Facilities) with over-the-phone interpretation (“OPI”) Services, available twenty-four (24) hours per day each calendar day for the term of this Agreement, for the languages listed below. Vendor shall provide the following features and services at no additional charge to Client: (i) Vendor’s standard training services and materials; (ii) toll-free over-the-phone customer support available twenty-four (24) hours per day each calendar day for the term of this Agreement; (iii) on-line service-usage reporting; (iv) monthly invoices with Vendor’s standard granular usage details; and (v) such additional PIN numbers as Client may reasonably request from time to time.

Client may access Vendor OPI Services using Vendor’s telephone interface or Vendor’s ClearLink telephones by entering a valid PIN. If Client is issued 1 800 number(s) for its convenience by Vendor, Vendor shall retain ownership and a right in the 1 800 number(s) and Client agrees that use is limited to Client, its subsidiaries, affiliates or Employees and that Client is responsible for payment for calls made using these 1800 number(s). Client is solely responsible for the security of Client’s PIN cards and preprogrammed ClearLink telephones, as well as for any use of Services arising out of or relating to unauthorized access thereto. If Client discovers or suspects unauthorized use of Client’s PINs, Vendor shall promptly disable any such PIN upon Client’s request and issue a replacement PIN.

Languages: For the listing of available OPI languages, please visit our website:

<http://www.cyracom.com/phone-interpretation/language-list/>

Pricing and Fees*:

Interpretation Service Charges – Billed Monthly

OPI Interpretation	\$0.95	Per Minute
Minimum Service Charge	\$0.00	Per Month
Activation Fee	\$0.00	One Time Only
Splitters	\$8.00	Each

EXHIBIT E: VIDEO REMOTE INTERPRETING (VRI) SERVICES

Vendor shall provide Client with video remote interpretation (“VRI”) Services with any accompanying tablet mobile unit (“TMU”) or cart-mounted real-time video conferencing unit (“VCU”), detailed below. Client may access Vendor VRI Services using Vendor’s interface with Client’s own video equipment, Client’s VCU’s or Vendor’s TMU’s by entering a valid PIN. Client is solely responsible for the security of Client’s PIN cards as well as for any use of Services arising out of or relating to unauthorized access thereto. If Client discovers or suspects unauthorized use of Client’s PINs, Vendor shall promptly disable any such PIN upon Client’s request and issue a replacement PIN.

TMU(s). Vendor shall provide a successful test of each TMU’s connectivity and Vendor’s standard instruction in the use of the TMU in conjunction with VRI Services. Vendor shall provide reasonable over-the-phone technical support for each TMU at no charge to Client from 9am to 4pm MST (no DST) Monday through Friday, excluding holidays. TMU’s are covered under the manufacturer’s warranty, and Vendor does not provide service or repair. Client agrees to pay all shipping costs of TMU’s.

VCU(s). Vendor shall provide a successful test of each VCU’s connectivity and Vendor’s standard instruction in the use of the VCU in conjunction with VRI Services. Vendor shall provide reasonable over-the-phone technical support for each VCU at no charge to Client from 9am to 4pm MST (no DST) Monday through Friday excluding holidays. VCU’s are covered under the manufacturer’s warranty, and Vendor does not provide service or repair. Client agrees to pay all shipping costs of VCU’s.

1. Charges* for VRI: \$0.95 per minute

Languages Available 24/7:

- American Sign Language
- Spanish
- Arabic
- Russian

Other Languages Available upon Request (subject to availability)

- | | | |
|----------------|----------|------------------------|
| Burmese | Hindi | Polish |
| Cantonese | Japanese | Portuguese & Brazilian |
| Farsi | Korean | Portuguese |
| French | Mandarin | Somali |
| Haitian Creole | Nepali | Vietnamese |

Activation Fee per hospital/facility location – First Month Only: \$0.00

Vendor reserves the right to update this list from time to time.

****Pricing is effective as of the later of the Commencement Date or the date by which all parties have executed the Agreement and delivered an executed copy to Vendor.***

EXHIBIT F: BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is entered into by and among Covered Entity (as defined below) and CyraCom, LLC/Voiance Language Services, LLC limited liability company ("Business Associate").

RECITALS:

- A. Business Associate is currently providing services to Covered Entity under existing contracts or agreements with Covered Entity ("Underlying Agreement");
- B. Business Associate may have access to, create, receive, maintain or transmit Protected Health Information (as defined by federal law) from Covered Entity as necessary for Business Associate to provide the services under the Underlying Agreement; and
- C. The parties wish to enter into this Agreement to govern Business Associate's use and disclosure of the Protected Health Information in providing the services under the Underlying Agreement.

AGREEMENTS:

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements of the parties as set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Business Associate Agreement Terms. The parties hereby agree to the provisions of Exhibit A attached hereto.
2. Termination Date. The "termination date" under this Agreement shall be the date of termination or expiration of the Underlying Agreement (as used in Section 6(a) of Appendix A).

EXHIBIT A

TO

BUSINESS ASSOCIATE AGREEMENT

Text below from U.S. Department of Health & Human Services website (HHS.gov), Sample Business Associate Agreement Provisions (Published January 25, 2013). Explanatory/instructional language deleted; optional language (first option except for Section 3a) included where options given; "covered entity" chosen where option given. Link: [hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/contractprov.html](https://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/contractprov.html).

1. Definitions.

- 1.1 Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

1.1 Specific definitions:

- (a) 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, shall mean Business Associate.
- (b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Covered Entity.

(c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. Obligations and Activities of Business Associate. Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- (d) 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 protected health information 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;
- (e) Make available protected health information in a designated record set to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- (f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the 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;
- (g) Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- (h) To the extent the 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 the covered entity in the performance of such obligation(s); and
- (i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

3. Permitted Uses and Disclosures by Business Associate.

- (a) Business associate may only use or disclose protected health information as necessary to perform the services set forth in Service Agreement."
- (b) Business associate may use or disclose protected health information as required by law.
- (c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
- (d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity except for the specific uses and disclosures set forth below."
- (e) Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.

- (f) Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (g) Business associate may provide data aggregation services relating to the health care operations of the covered entity.
4. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.
- (a) Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.
 - (b) 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 protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.
 - (c) Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information 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 protected health information.
5. Permissible Requests by Covered Entity. Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.
6. Term and Termination.
- (a) Term. The Term of this Agreement shall be effective as of effective date, and shall terminate on termination date or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
 - (b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement and business associate has not cured the breach or ended the violation within the time specified by covered entity.
 - (c) Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:
 - 1. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 2. Return to covered entity or, if agreed to by covered entity, destroy the remaining protected health information that the business associate still maintains in any form;
 - 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;

4. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraphs (e) and (f) above under "Permitted Uses and Disclosures By Business Associate" which applied prior to termination; and
5. Return to covered entity or, if agreed to by covered entity, destroy the protected health information 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.

(d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

7. Miscellaneous.

- (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- (c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

EXHIBIT H: BUSINESS ASSOCIATE AGREEMENT

- A. Business Associate is currently providing services to Covered Entity under existing contracts or agreements with Covered Entity (“Underlying Agreement”);
- B. Business Associate may have access to, create, receive, maintain or transmit Protected Health Information (as defined by federal law) from Covered Entity as necessary for Business Associate to provide the services under the Underlying Agreement; and
- C. The parties wish to enter into this Agreement to govern Business Associate’s use and disclosure of the Protected Health Information in providing the services under the Underlying Agreement.

1. Definitions.

1.1 Catch-all definition: The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

1.2 Specific definitions:

- (a) 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, shall mean Business Associate.
- (b) Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Covered Entity.
- (c) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. Obligations and Activities of Business Associate. Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- (d) 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 protected health information 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;
- (e) Make available protected health information in a designated record set to the covered entity as necessary to satisfy covered entity’s obligations under 45 CFR 164.524;
- (f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the 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;

- (g) Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- (h) To the extent the 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 the covered entity in the performance of such obligation(s); and
- (i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

10. Permitted Uses and Disclosures by Business Associate.

- (a) Business associate may only use or disclose protected health information as necessary to perform the services set forth in Service Agreement."
- (a) Business associate may use or disclose protected health information as required by law.
- (b) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
- (c) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity except for the specific uses and disclosures set forth below."
- (d) Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.
- (e) Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (f) Business associate may provide data aggregation services relating to the health care operations of the covered entity.

4. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.

- (a) Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information.
- (b) 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 protected health information, to the extent that such changes may affect business associate's use or disclosure of protected health information.
- (c) Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information 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 protected health information.

5. Permissible Requests by Covered Entity. Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.
6. Term and Termination.
 - (a) Term. The Term of this Agreement shall be effective as of effective date, and shall terminate on termination date or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
 - (b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement and business associate has not cured the breach or ended the violation within the time specified by covered entity.
 - (c) Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:
 4. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
 5. Return to covered entity or, if agreed to by covered entity, destroy the remaining protected health information that the business associate still maintains in any form;
 6. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
 7. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraphs (e) and (f) above under "Permitted Uses and Disclosures By Business Associate" which applied prior to termination; and
 8. Return to covered entity or, if agreed to by covered entity, destroy the protected health information 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.
 - (d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.
7. Miscellaneous.
 - (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
 - (b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
 - (c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.