

## STUDENT SUPPORT AGREEMENT

between

**SANTA BARBARA COUNTY**

and

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT**

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**THIS AGREEMENT** is made and entered into by and between the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and Allan Hancock Joint Community College District, hereinafter referred to as the "INSTITUTION".

### **RECITALS**

**WHEREAS**, INSTITUTION conducts training and instruction programs for students leading to certification and licensure as Emergency Medical Technicians (EMT) - Paramedics (hereinafter collectively referred to as "STUDENTS") and desires access to opportunities in which STUDENTS can obtain broader clinical learning experiences in cooperation with the COUNTY (hereinafter the INSTITUTION's PROGRAM); and

**WHEREAS**, COUNTY has facilities and professional staff within the COUNTY's Fire Department suitable for the INSTITUTION's PROGRAM; and

**WHEREAS**, it is to the mutual benefit of the parties hereto that STUDENTS have opportunities to use COUNTY Fire Department facilities for the INSTITUTION's PROGRAM; and

**WHEREAS**, COUNTY is willing to allow INSTITUTION to place STUDENTS in the Fire Department for various learning experiences that will include observational and/or hands-on experience.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

### **AGREEMENT**

1) **COUNTY Shall:**

- a) Provide and maintain facilities, as presently available and as necessary, for INSTITUTION's PROGRAM.
- b) Ensure that staff is adequate in number and quality to provide safe and continuous management of the INSTITUTION's PROGRAM in cooperation with INSTITUTION's instructor.
- c) Provide emergency first aid for any student who becomes sick or injured by conditions arising out of or in the course of student's participation in the INSTITUTION's PROGRAM at COUNTY.
- d) Provide appropriate Personal Protective Equipment to STUDENTS while on medical calls (i.e. gloves, face mask, eye protection, and medical gown).
- e) Have the right, after consultation with INSTITUTION, to discontinue the assignment of any STUDENTS at any time during the period of this Agreement, or refuse to accept for further programs any of INSTITUTION's STUDENTS who, in COUNTY's judgment, are not participating satisfactorily. STUDENTS not following COUNTY policies will be removed from COUNTY facilities immediately.
- f) Provide required Health Insurance Portability and Accountability (HIPAA) Privacy and Security training to all STUDENTS participating in the INSTITUTION's PROGRAM at COUNTY. COUNTY shall maintain records documenting this training.

2) **INSTITUTION shall:**

- a) In consultation and coordination with COUNTY's representatives, plan the INSTITUTION's PROGRAM to be provided to STUDENTS under this Agreement and, establish a rotational plan for STUDENTS in the INSTITUTION's PROGRAM by mutual agreement between representatives.
- b) In consultation and coordination with COUNTY's staff, arrange for periodic conferences between appropriate representatives of INSTITUTION and COUNTY to evaluate the INSTITUTION's PROGRAM.
- c) Designate the STUDENTS who are enrolled in INSTITUTION to be assigned for the INSTITUTION's PROGRAM at COUNTY, in such numbers as are mutually agreed to by both parties.
- d) Monitor the INSTITUTION's PROGRAM given at COUNTY to the assigned STUDENTS and provide the supervisory instructors available to the STUDENTS related to the INSTITUTION's PROGRAM provided for under this Agreement. Keep all attendance and academic records of STUDENTS participating in the INSTITUTION's PROGRAM.
- e) Require STUDENTS to follow all applicable COUNTY policies, procedures, and regulations, and all COUNTY requirements and restrictions.
- f) Require STUDENTS to actively participate in the INSTITUTION's PROGRAM as more fully described in Exhibit A attached hereto.
- g) Certify to COUNTY, at the time each student first reports at COUNTY, that STUDENT has complied with the following:
  1. Provided evidence of health insurance coverage;
  2. Completed training for blood borne pathogens, standard precautions, and respiratory protection. This education and training shall include, but not be limited to, the proper handling of blood and body fluids, preventative measures of exposure to blood and body fluids, and risks concerning the Hepatitis B Virus. INSTITUTION will maintain records documenting this training as well as a letter signed by each student indicating their choice of receiving or not receiving the vaccine to the Hepatitis B virus;
  3. Completed an examination for physical fitness. INSTITUTION shall maintain records that student has been immunized against these required communicable diseases: varicella, measles, mumps, rubella, rubeola, Tdap, Hepatitis B, and seasonal influenza;
  4. Completed a Tuberculosis test which resulted in a negative tuberculin skin test or negative chest x-ray;
  5. Student shall execute the following:
    - A. Confidentiality of Information, Business Equipment Agreement, and Use of Information Technology form;
    - B. Employee Statement Elder and Dependent Adult Abuse Reporting form; and
    - C. Employee Statement Child Abuse Report Chart.
  6. If required to drive for internship activities, student shall carry auto liability insurance as required by state law;
- h) Ensure each STUDENT shall wear identification and provide their own uniforms;
- i) Ensure each STUDENT assigned successfully completes the Didactic and Hospital portions of the Paramedic program; and
- j) Allow enrollment of Allan Hancock College Paramedic program students sponsored by COUNTY under the partner agency fee scale paid for by the STUDENT.

- 3) **WORKERS' COMPENSATION COVERAGE.** STUDENTS are volunteers of COUNTY and are not entitled to workers' compensation coverage. INSTITUTION agrees and understands that no Student shall be

permitted to use COUNTY facilities for the INSTITUTION's PROGRAM unless the Student first executes a waiver and release agreement with the County, as attached hereto in Exhibit 8.

- 4) **INDEPENDENT CONTRACTOR.** INSTITUTION and STUDENTS shall perform all of its obligations and responsibilities under this agreement as an independent contractor. Under no circumstances shall INSTITUTION, its officers, employees, agents, and/or STUDENTS be considered the employees, agents, principals, partners or joint ventures of COUNTY. INSTITUTION, its officers, employees, agents, and STUDENTS shall not be entitled to any benefits provided or available to COUNTY employees. INSTITUTION shall be solely responsible for providing all legally-required benefits to its officers, employees, agents and STUDENTS.
- 5) **INDEMNITY.**
  - a) INSTITUTION agrees to indemnify and hold harmless COUNTY and its authorized agents, officers, and employees against any and all claims and actions arising from the INSTITUTION'S solely negligent, reckless or intentional acts, errors or omissions and for any cost or expense incurred by the COUNTY on account of any claim therefor.
  - b) COUNTY agrees to indemnify and hold harmless INSTITUTION and its authorized agents, officers, and employees against any and all claims and actions arising from the COUNTY'S solely negligent, reckless or intentional acts, errors or omissions and for any cost or expense incurred by the INSTITUTION on account of any claim therefor.
- 6) **INSURANCE.** It is understood and agreed that INSTITUTION and COUNTY maintain insurance (self or group) programs to fund their respective liabilities, including professional, general, and auto liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. Evidence of insurance, certificates of insurance or other similar documentation shall be provided upon request of the other party. Each party will be considered an additional covered party on the other party's general liability policy or equivalent program of self-insurance. If required to drive for internship activities, student shall carry auto liability insurance as required by state law.
- 7) **NO MONETARY OBLIGATION.** There shall be no monetary obligation on INSTITUTION or COUNTY, one to the other.
- 8) **NONEXCLUSIVE AGREEMENT.** Parties agree that this is not an exclusive Agreement and that each has the right to negotiate with and enter into contracts with others providing the same or similar services as those described herein.
- 9) **TERM & TERMINATION.** This term of this Agreement shall begin on April 2, 2024 and be in effect for a period of five (5) years, terminating on April 2, 2029. Either party may terminate this agreement after giving the other party thirty (30) days advance written notice of its intention to so terminate.

Prior to expiration, the Fire Chief may extend the term of the Agreement in accordance with Section 13 provided that the term does not extend beyond December 31, 2029, upon review and concurrence by County Counsel and Risk Management.
- 10) **NONDISCRIMINATION.** COUNTY hereby notifies INSTITUTION that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and INSTITUTION agrees to comply with said ordinance.
- 11) **ASSIGNMENT.** INSTITUTION shall not assign any of INSTITUTION's rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination

- 12) **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.
- 13) **COMPLIANCE WITH LAW.** INSTITUTION shall, at INSTITUTION's sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of INSTITUTION in any action or proceeding against INSTITUTION, whether COUNTY be a party thereto or not, that INSTITUTION has violated any such ordinance or statute, shall be conclusive of that fact as between INSTITUTION and COUNTY.
- 14) **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.
- 15) **NOTICES.** Any written notice given under this Agreement shall be sent by certified or registered mail to each address below:
- To COUNTY: Fire Chief  
4410 Cathedral Oaks Road  
Santa Barbara, CA 93110  
805-681-5500
- To INSTITUTION: Dennis Curran  
Associate Superintendent/Vice President  
Finance and Administration  
Allan Hancock Joint Community  
College District  
800 S. College Dr.  
Santa Maria, CA 93454
- 16) **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.
- 17) **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 18) **NO WAIVER OF DEFAULT.** No delay or omission of either Party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein.
- 19) **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

- 20) **AUTHORITY.** All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, INSTITUTION hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which INSTITUTION is obligated, which breach would have a material effect hereon.
- 21) **SURVIVAL.** All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.
- 22) **IMMATERIAL AMENDMENTS.** The Fire Chief, or designee, is authorized to make immaterial amendments to the Agreement such as updating the Designated Representative, updating addresses for notices, or other clerical error corrections which will not result in a material change to the Agreement, or total contract amount, in accordance with Section 13 and upon review and concurrence by County Counsel.
- 23) **USE OF NAME.** Neither party shall use the name or logo of the other in any publicity, advertising, or promotional materials, including the names the Allan Hancock Joint Community College District, without the prior written consent of the authorized representative of the other party.
- 24) **MODIFICATIONS AND AMENDMENTS.** This Agreement may be amended or modified at any time by mutual written consent of the COUNTY and INSTITUTION.
- 25) **PATIENT RECORDS.** Any and all of COUNTY'S medical records and charts created at COUNTY'S facilities as a result of performance under this Agreement shall be and shall remain the property of COUNTY. Both during and after the term of this Agreement, INSTITUTION shall be permitted to inspect and/or duplicate, at INSTITUTION'S expense, any individual charts or records which are:  
(1) necessary to assist in the defense of any malpractice or similar claim; (2) relevant to any disciplinary action; and/or (3) for educational or research purposes. Such inspection and/or duplication shall be permitted and conducted pursuant to commonly accepted standards of patient confidentiality in accordance with applicable federal, state and local laws.
- 26) **INTERRUPTION OF SERVICE.** Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, labor disputes, riots, earthquakes, or other acts of nature. In the event the interruption of a party's services continues for a period in excess of thirty (30) days, the other party shall have the right to terminate this Agreement as specified in Section 10.

[This area intentionally left blank. Signatures on next page.]

Student Support Agreement between the **County of Santa Barbara** and ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by COUNTY.

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

Steve Lavagnino, Chair  
Board of Supervisors

By: Shahab Alabue  
Deputy Clerk

By: [Signature]  
Date: 4-2-24

**RECOMMENDED FOR APPROVAL:**

Mark A. Hartwig, Fire Chief/Fire Warden  
Fire Department

By: [Signature]  
Department Head

**APPROVED AS TO FORM:**

Rachel Van Mullem  
County Counsel

DocuSigned by:  
By: Tyler Sprague  
Deputy County Counsel

**APPROVED AS TO FORM:**

Greg Milligan  
Risk Management

DocuSigned by:  
By: Gregory Milligan

**INSTITUTION:**

Allan Hancock Joint Community College District

DocuSigned by:  
[Signature]  
Signature

Date: 3/19/2024 | 2:38 PM PDT

Dennis Curran  
Associate Superintendent/Vice President  
Finance and Administration

**EXHIBIT A**  
**STUDENT LEARNING EXPERIENCE**

Type of Programs offered by INSTITUTION covered under this Agreement:

Subject Area: Paramedic

The degree awarded to School paramedic students is a completion certificate that enables Students to take the national licensure exam to become a Paramedic. Field internships includes care of patients and evaluations of Students by designated Fire Department preceptors. A Pass/Fail grade will be given to students at the end of the internship phase. State law requires a "competent" rating for each category of evaluation by the completion of the field internship phase. Failure to achieve competency will result in academic probation for the student and the creation of an improvement plan. INSTITUTION representatives will be present at Fire Department facilities as needed to assist with remediation, student supervision, discipline, and will coordinate scheduling with Fire Department staff.

INSTITUTION Representative: Suz Roehl

Title: EMS Coordinator/Full-Time Faculty

*[This area is intentionally left blank.]*

**EXHIBIT B**

**STUDENT WAIVER AND RELEASE AGREEMENT**

In exchange for permission to participate in the \_\_\_\_\_ program which uses the County of Santa Barbara's facilities, (referred to below as "Activity") I hereby waive, release, and discharge any and all claims for damages for death, personal injury, or property damage which I may have, or which hereafter accrue to me, against the County of Santa Barbara its officers, officials, employees, and volunteers (collectively, "County") as a result of my participation in the Activity.

I agree that my participation in the Activity will at all times be as an uncompensated not as an employee of the County, and that I will not receive or claim entitlement to any compensation or benefit of employment.

This release is intended to discharge the County, from and against any and all liability arising out of or connected in any way with my participation in the Activity, even though that liability may arise out of the negligence or carelessness on the part of the County.

I further understand that accidents and injuries can arise out of the event; knowing the risks, nevertheless, I hereby agree to assume those risks and to release and to hold harmless the County who (through negligence or carelessness) might otherwise be liable to me (or my heirs or assigns) for damages. It is further understood and agreed that this waiver, release, and assumption of risk is to be binding on my heirs and assigns.

I HAVE READ THIS ENTIRE DOCUMENT, AND FULLY UNDERSTAND AND AGREE WITH ITS PROVISIONS.

\_\_\_\_\_  
Name of Volunteer  
(printed)

\_\_\_\_\_  
Signature of Volunteer  
(signed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Parent or  
Legal Guardian  
(printed)

\_\_\_\_\_  
Signature of Parent  
(signed)

\_\_\_\_\_  
Date

**EXHIBIT C**  
**AGREEMENT TO ACCEPT ELECTRONIC SIGNATURES**

Pursuant to California Civil Code Section 1633.S(b), the parties hereby voluntarily agree that where this Agreement requires a party signature, an electronic signature, as that term is defined at California Civil Code Section 1633.2(h), shall have the full force and effect of an original ("wet") signature.

A responsible officer of each party has read and understands the contents of this Agreement and is empowered and duly authorized on behalf of that party to execute it.

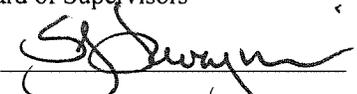
**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

By:   
Deputy Clerk

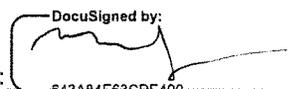
**COUNTY OF SANTA BARBARA:**

Steve Lavagnino, Chair  
Board of Supervisors

By:   
Date: 4-2-24

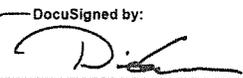
**RECOMMENDED FOR APPROVAL:**

Mark A. Hartwig, Fire Chief/ Fire Warden  
Fire Department

By:   
Department Head

**INSTITUTION:**

Allan Hancock Joint Community College District

By:   
Signature

Dennis Curran  
Associate Superintendent/Vice President  
Finance and Administration

Date: 3/19/2024 | 2:38 PM PDT

**EXHIBIT D**  
**HIPAA BUSINESS ASSOCIATE AGREEMENT (BAA)**

This Business Associate Agreement (“BAA”) supplements and is made a part of the Agreement between COUNTY (referred to herein as “Covered Entity”) and CONTRACTOR (referred to herein as “Business Associate”).

RECITALS

Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (“HITECH Act”), and 45 CFR Parts 160 and 164, Subpart C (the “Security Rule”), Subpart D (the “Data Breach Notification Rule”) and Subpart E (the “Privacy Rule”) (collectively, the “HIPAA Regulations”).

As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (C.F.R.) and contained in this BAA.

In consideration of the mutual promises below and the exchange of information pursuant to this BAA, the parties agree as follows:

A. Definitions

1. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
2. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
3. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
4. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
5. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
6. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
7. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
8. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
9. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
10. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium:  
(i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual;

and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].

11. **Protected Information** shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.
12. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
13. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

#### B. Obligations of Business Associate

1. **Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate, (ii) to carry out the legal responsibilities of Business Associate, or (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
2. **Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the Agreement and as permitted under the Agreement and this BAA. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable written assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a written agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the Protected Information, to the extent the third party has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].
3. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement, the BAA, or the HIPAA Regulations.
4. **Appropriate Safeguards.** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Agreement or this BAA,

including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].

5. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity in writing of any access, use or disclosure of Protected Information not permitted by the Agreement and this BAA, and any Breach of Unsecured PHI, as required by the Data Breach Notification Rule, of which it becomes aware without unreasonable delay and in no case later than 60 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
6. **Business Associate's Subcontractors and Agents.** Business Associate shall ensure that any agents and subcontractors to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by paragraph (c) above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
7. **Access to Protected Information.** To the extent that the Covered Entity keeps a designated record set then Business Associate shall make Protected Information maintained by Business Associate or its agents or subcontractors in Designated Record Sets available to Covered Entity for inspection and copying within five (5) days of a request by Covered Entity to enable Covered Entity to fulfill its obligations under state law [Health and Safety Code Section 123110] and the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
8. **Amendment of PHI for Business Associate who is Required to Maintain a Record Set.** If Business Associate is required to maintain a designated record set on behalf of the Covered Entity the Business Associate shall within ten (10) days of receipt of a request from Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Business Associate or its agents or subcontractors shall make such Protected Information available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
9. **Accounting Rights.** Within ten (10) days of notice by Covered Entity of a request for an accounting of disclosures of Protected Information, Business Associate and its agents or subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by Covered Entity. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Business Associate maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description

of Protected Information disclosed and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in Sections B.2 of this BAA [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph shall survive the termination of this Agreement.

10. **Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to Covered Entity and to the Secretary of the U.S. Department of Health and Human Services (Secretary) for purposes of determining Business Associate's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. Business Associate shall provide to Covered Entity a copy of any Protected Information that Business Associate provides to the Secretary concurrently with providing such Protected Information to the Secretary.
11. **Minimum Necessary.** Business Associate (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)]. Business Associate understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
12. **Data Ownership.** Business Associate acknowledges that Business Associate has no ownership rights with respect to the Protected Information.
13. **Business Associate's Insurance.** Business Associate represents and warrants that it purchases commercial insurance to cover its exposure for any claims, damages or losses arising as a result of a breach of the terms of this BAA.
14. **Notification of Possible Breach.** During the term of the Agreement, Business Associate shall notify Covered Entity within twenty-four (24) hours of any suspected or actual breach of security, or any access, use or disclosure of Protected Information not permitted by the Agreement or this BAA or unauthorized use or disclosure of PHI of which Business Associate becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. Business Associate shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)]
15. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of the Covered Entity that Business Associate believes constitutes a material breach or violation of the Covered Entity's obligations under the Agreement or this BAA or other arrangement within five (5) days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
16. **Audits, Inspection and Enforcement.** Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this BAA for the purpose of determining whether Business Associate has complied with this BAA; provided, however, that (i) Business Associate and Covered Entity shall mutually agree

in advance upon the scope, timing and location of such an inspection, (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under the Agreement or this BAA, Business Associate shall notify Covered Entity within ten (10) days of learning that Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

#### C. Termination

1. **Material Breach.** A breach by Business Associate of any provision of this BAA, as determined by Covered Entity, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement, any provision in the Agreement to the contrary notwithstanding [45 C.F.R. Section 164.504(e)(2)(iii)].
2. **Judicial or Administrative Proceedings.** Covered Entity may terminate the Agreement, effective immediately, if (i) Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
3. **Effect of Termination.** Upon termination of the Agreement for any reason, Business Associate shall, at the option of Covered Entity, return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Covered Entity, Business Associate shall continue to extend the protections of Section B of this BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

#### D. Indemnification

If Business Associate fails to adhere to any of the privacy, confidentiality, and/or data security provisions set forth in this BAA or if there is a Breach of PHI in Business Associate's possession and, as a result, PHI or any other confidential information is unlawfully accessed, used or disclosed, Business Associate agrees to reimburse Covered Entity for any and all costs, direct or indirect, incurred by Covered Entity associated with any Breach notification obligations. Business Associate also agrees to pay for any and all fines and/or administrative penalties imposed for such unauthorized access, use or disclosure of confidential information or for delayed reporting if it fails to notify the Covered Entity of the Breach as required by this BAA.

#### E. Disclaimer

Covered Entity makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

#### F. Certification

To the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA relating to certification of its security practices, Covered Entity or its authorized agents or contractors, may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this BAA.

#### G. Amendment to Comply with Law

The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Agreement or this BAA may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that Covered Entity must receive satisfactory written assurance from Business Associate that Business Associate will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. Covered Entity may terminate the Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Agreement or this BAA when requested by Covered Entity pursuant to this Section or (ii) Business Associate does not enter into an amendment to the Agreement or this BAA providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

#### H. Assistance in Litigation of Administrative Proceedings

Business Associate shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement or this BAA, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where Business Associate or its subcontractor, employee or agent is named adverse party.

#### I. No Third-Party Beneficiaries

Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

#### J. Effect on Agreement

Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

#### K. Entire Agreement of the Parties

This BAA supersedes any and all prior and contemporaneous business associate agreements between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Covered Entity and Business Associate acknowledge that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein. No other agreement, statement or promise, with respect to the subject

matter hereof, not contained in this BAA shall be valid or binding.

L. Interpretation

The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

I HAVE READ THIS ENTIRE DOCUMENT, AND FULLY UNDERSTAND AND AGREE WITH ITS PROVISIONS.

\_\_\_\_\_  
Name of Volunteer  
(printed)

\_\_\_\_\_  
Signature of Volunteer  
(signed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Parent or Legal Guardian (printed)