

INDEPENDENT CONTRACTOR AGREEMENT
FOR HEALTH CARE PROVIDERS

This Independent Contractor Agreement (“Agreement”) is made this _____ day of _____, 20____, between Purdue University, its employees, officers, trustees, affiliates, regional campuses, agents and representatives (hereinafter referred to as “Purdue”) and _____ (hereinafter referred to as “Provider”).

In consideration of the mutual promises herein contained, the parties agree as follows:

1. **Independent Contractor.** Provider agrees to provide the professional services described herein as an independent contractor. It is mutually understood and agreed that Provider is at all times acting and performing these duties and functions in the capacity of an independent contractor; that Purdue shall neither have nor exercise any control or direction over the methods by which Provider performs Provider’s services, nor shall Purdue and Provider be deemed partners. Purdue shall have the right to determine what services shall be provided, but not the manner in which services shall be provided. It is expressly agreed by the parties hereto that no work, act, commission or omission by Provider pursuant to the terms and conditions of this Agreement shall be construed to make or render Provider the agent, employee or servant of Purdue. Provider shall be responsible for the payment of all federal, state and local taxes incurred as a result of this Agreement, and further agrees to indemnify and hold Purdue harmless from the same.

2. **Services.** Provider agrees to provide professional health care services to Purdue at _____ (*name of clinic and location*), as requested by Purdue. Provider agrees to perform such services, at all times, in strict accordance with currently approved and accepted methods and practices in his or her profession. Provider further agrees to provide services in a professional, timely and competent manner, and to comply with all applicable procedures and policies of Purdue and the clinic. Provider agrees to provide such services as may be requested by Purdue and as needed to discharge the duties and obligations of this Agreement. Purdue and Provider will agree in advance upon a mutually acceptable schedule for Provider’s services to Purdue.

3. **Licensure and Professional Liability Insurance.** As a condition of this Agreement, the Provider shall maintain all applicable licenses and certification requirements and shall at all times during the term of this Agreement, meet all requirements of the State of Indiana or other regulatory entity for such licensing, certification or credentialing. Provider shall maintain in force throughout the term of this Agreement such policies of professional liability insurance as shall be required to qualify Provider for coverage under the Indiana Medical Malpractice Act (the “Act”), and to insure Provider against any claim or claims for damage arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance or any service provided hereunder in such amount as shall be required from time to time under the Act. Provider shall demonstrate

proof of such insurance coverage by providing Purdue with the applicable certificate or policy.

4. **Representations of Provider.** Provider represents and warrants that, except as previously disclosed in writing to Purdue, the following are true with respect to each Provider (if applicable):
- A. Provider’s license or certification in any state has never been suspended, revoked, restricted, or deemed to be probationary;
 - B. Provider has never been reprimanded, sanctioned, or disciplined by any licensing or accrediting board;
 - C. There has never been entered against Provider a final judgment in a professional liability action and no action, based on an allegation of professional liability or malpractice by the Provider has ever been settled by payment to the plaintiff;
 - D. Provider has never been denied membership or reappointment of membership on the medical staff of any hospital, and no clinical privileges of the Provider have ever been suspended, curtailed, or revoked; and
 - E. As of the date hereof, Provider has not been the subject of any report or disclosure submitted to the National Practitioner Data Bank.

5. **Contract Rate.** Provider shall be compensated for services performed under this Agreement as follows: _____.
Provider shall be paid only for work actually performed by Provider under the terms of this Agreement, and Provider shall not be entitled to any additional compensation or other benefits of any kind.

6. **Billing.** Provider shall invoice Purdue each month, which invoice shall be due and payable 30 days from receipt.

Invoices should be sent to the following Purdue individual:

Purdue Contact Name: _____
Address: _____
Departmental Area: _____

7. **Compliance with Laws.** Provider agrees to comply with all federal and state laws or regulations applicable to the services to be provided under this Agreement. The parties further agree that they will protect and secure the privacy and confidentiality of patient information and will comply with the requirements contained in the attached **Business Associate Addendum.**

8. **Debarment.** Provider represents and warrants that Provider has never been sanctioned by the Office of Inspector General (“OIG”) of the Department of Health and Human Services, barred from federal or state procurement programs, or convicted of a criminal offense with respect to health care reimbursement. Provider shall notify Purdue

immediately if the foregoing representation becomes untrue, or if Provider is notified by the OIG or other enforcement agencies that an investigation has begun which could lead to such sanction, debarment, or conviction.

9. **Confidentiality.** The parties hereby acknowledge and agree that the terms of this Agreement shall be kept confidential and that neither party shall disclose matters related to this Agreement without the expressed written consent of the other party, unless required to disclose such information by statute, regulation or court order. In addition, during the term of this Agreement, each of the parties hereto may receive intentionally or unintentionally certain proprietary and confidential information (which may include confidential medical information and records) not otherwise a part of public domain through no fault of a party hereto (“Proprietary Information”), the disclosure of which would be extremely detrimental to the business affairs of the other. Therefore, each of the parties hereto (for itself and its employees, agents and representatives) agrees to keep the Proprietary Information of the other in the strictest confidence and each agrees not to duplicate any Proprietary Information of the other and not to directly or indirectly divulge, disclose, reveal, report or transfer such Proprietary Information without the prior written consent of the other. This provision shall survive the termination of this Agreement.
10. **Indemnity.** Provider agrees to indemnify and hold harmless Purdue, its employees, officers, trustees, affiliates, regional campuses, agents and representatives from and against any losses, costs, damages, and expenses resulting from claims for bodily injury or property damage arising out of the Provider’s services under this Agreement.
11. **Term.** This Agreement shall be effective for a term of _____ beginning on _____, unless terminated earlier in accordance with this Agreement.
12. **Termination.** Either party may terminate this Agreement by providing thirty (30) days prior, written notice to the other party. Either party may terminate this Agreement immediately as a result of a breach of any of the provisions or terms of this Agreement by the other party if the breaching party fails, after ten (10) days written notice, to cure such breach to the reasonable satisfaction of the non-breaching party. Purdue may terminate this Agreement immediately if any of the representations of Provider in paragraphs 3, 4 or 8 of this Agreement become untrue.
13. **Notice.** Any notice required to be provided to any party to this Agreement shall be considered effective as of the date of deposit with the United States Postal Service by certified or registered mail, postage prepaid, return receipt and addressed to the party at the following address:

If to Purdue:

If to Provider:

- 14. **Governing Law and Venue.** The validity, construction and effect of this Agreement, and all extensions and modifications thereof, shall be construed in accordance with the laws of the State of Indiana without regard to its choice of law rules, and Tippecanoe County, Indiana shall be the exclusive venue for any suit, litigation or alternate dispute resolution brought pursuant to this Agreement.
- 15. **Medical Records.** Provider agrees to complete all required charting in the medical record in a prompt and timely manner and in accordance with any applicable policies and procedure of Purdue. The ownership and right of control of all reports, records and supporting documents prepared in connection with the services contemplated herein shall vest exclusively with Purdue and shall remain, at all times, at the clinic where services are provided; provided, however, that Provider shall have such right of access to such reports, records and supporting documentation as necessary for the provision of professional services hereunder.
- 16. **No Assignment.** Neither this Agreement nor any rights or obligations hereunder shall be assigned by either party without the prior written consent of the non-assigning party.
- 17. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the matters contained herein, and supersedes any and all other discussions, statements and understandings regarding such matters. This Agreement shall be amended only upon the execution of a written agreement by both parties hereto. Any attempt to amend or modify this Agreement in any manner other than by written instrument executed by the parties shall be void.
- 18. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or permitted assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- 19. **Miscellaneous.**
 - A. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
 - B. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that

no other arrangement, statement or promise not contained in this Agreement shall be valid or binding.

- C. In addition to those remedies provided for herein, both parties shall have available all remedies provided by law.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement.

PURDUE UNIVERSITY

PROVIDER

Signed

Signed

Printed

Printed

Title

Title

**PURDUE UNIVERSITY
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement is entered into by and between Purdue University (“Purdue”) and _____ (“Business Associate”) (each “Party”, collectively “Parties”).

The Parties have, or desire to enter into, a business relationship by which the Business Associate receives, uses and/or discloses PHI (“PHI”) in its performance of the services to Purdue. This Agreement sets forth the obligations and agreements of the Parties relating to compliance with HIPAA Laws (defined below). This Agreement applies to all PHI created or received by Business Associate from Purdue or from another person or entity on behalf of Purdue, and governs how such PHI may be used or disclosed.

The Parties hereby agree as follows:

1. PERMITTED USES AND DISCLOSURES OF PHI

1.1 Business Associate shall be permitted to use and/or disclose PHI created or received on behalf of Purdue for all purposes necessary to provide the services and to perform its obligations for Purdue, provided that said use and/or disclosure complies with the requirements of this agreement and HIPAA Laws. Business Associate acknowledges that the requirements of the HIPAA Laws apply to Business Associate and to Business Associate’s subcontractors and agents to the same extent that they apply to Purdue as a covered entity under HIPAA. Any uses or disclosures of PHI by Business Associate or its subcontractors or agents must be limited, to the extent practicable, to the Limited Data Set or, if needed to accomplish the purposes of this Agreement, to the minimum necessary to accomplish the intended purpose of such use or disclosure. Business Associate further agrees that it and its subcontractors or agents, to the extent technologically feasible, shall only transmit PHI in an encrypted format in accordance with the specifications of the safe harbor requirements of the HIPAA Laws.

1.2 Subject to paragraph 1.1, Business Associate may use PHI created or received by Business Associate from or on behalf of Purdue, if necessary, for the proper management and administration of Business Associate and to fulfill any current or future legal responsibilities of Business Associate

1.3 Subject to paragraph 1.1, Business Associate may disclose PHI created or received by Business Associate on behalf of Purdue, if necessary, for the proper management and administration of Business Associate and to fulfill any current or future legal responsibilities of Business Associate, provided:

1.3.1 The disclosure is Required by Law, or

1.3.2 Business Associate obtains satisfactory assurances from the person or entity to whom the PHI is disclosed that (i) the PHI will be held

V.1 (Omnibus 2013)

confidentially and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (ii) the Business Associate will be notified of any instances of which the person is aware in which the confidentiality of the information is breached.

1.3.3 Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an individual unless Business Associate has obtained from the individual a valid authorization that includes specification of whether the PHI can be further exchanged for remuneration by the Business Associate.

2. RESPONSIBILITIES OF BUSINESS ASSOCIATE WITH RESPECT TO PHI

2.1 Business Associate agrees not to use or disclose PHI except as expressly permitted by this Agreement, HIPAA Laws, or as Required by Law.

2.2 Business Associate hereby agrees to maintain the security and privacy of all PHI in a manner consistent with HIPAA Laws, and Business Associate further agrees to use appropriate safeguards and security procedures to prevent use or disclosure of PHI not permitted by this Agreement.

2.3 Business Associate shall not disclose PHI to any member of its workforce unless such member of its workforce has a need to use such PHI, and Business Associate has advised such person of Business Associate's privacy and security obligations under this Agreement, including the consequences for violation of such obligations. Business Associate shall take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in violation of this Agreement or applicable law.

2.4 Business Associate shall require all of its subcontractors and agents that receive or use, or have access to, PHI under this Agreement to comply with HIPAA Laws and to agree, in writing, to adhere to the same restrictions and conditions on the use or disclosure of PHI that apply to the Business Associate pursuant to this Agreement.

2.5 Business Associate agrees to maintain a record of all disclosures of PHI required to be maintained under HIPAA Laws, including disclosures not made for the purposes of this Agreement, and further agrees within ten (10) days of a written request from Purdue, to provide to Purdue such information as is necessary to permit Purdue to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528. Business Associate further agrees to comply with the requirements of HITECH to provide Purdue with an accounting of all disclosures made for treatment, payment and health care operations when the HITECH statute requiring such an accounting becomes applicable to Purdue. Purdue agrees to notify Business Associate in advance of the applicability of this requirement.

2.6. Business Associate agrees to report to Purdue any unauthorized use or disclosure of PHI by Business Associate or its workforce, agents or subcontractors and the remedial action taken or proposed to be taken with respect to such use or disclosure in accordance with the specific provisions of Section 2.10. Business Associate further agrees to take all reasonable steps necessary to mitigate and cure any harmful effects of a breach of PHI.

2.7 Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from Purdue, or created or received by Business Associate on behalf of Purdue, available to the Secretary of the United States Department of Health and Human Services, for purposes of determining Purdue's compliance with HIPAA.

2.8. Within thirty (30) days of a written request, Business Associate shall allow a person who is the subject of PHI, such person's legal representative, or Purdue to have access to and to copy such person's PHI maintained by Business Associate. Business Associate shall provide PHI in the format requested by such person, legal representative, or practitioner unless it is not readily producible in such format, in which case Business Associate will produce the material in a mutually agreeable format. If no format is feasible or agreeable, it shall be produced in standard hard copy format. Business Associate acknowledges that HITECH requires Purdue and Business Associate to provide electronic health records to the individual in electronic format, and Business Associate agrees that to the extent applicable, Business Associate will produce any PHI in electronic format in a manner requested by Purdue or by the individual who has made the request.

2.9 Within ten (10) days of a written request by Purdue, Business Associate shall make available to Purdue PHI received from or on behalf of Purdue for amendment in accordance with 45 C.F.R. § 164.526. Business Associate further agrees to make such amendment to PHI as directed by Purdue within thirty (30) days of a written request by Purdue.

2.10 Business Associate shall implement and document appropriate administrative, physical and technical safeguards in order to preserve the confidentiality, integrity and availability of all PHI and to prevent any unauthorized use or disclosure of PHI, or any breach or security incident, or other material breach or violation of an underlying contract, this Agreement, HIPAA and HITECH involving said PHI. Business Associate shall further:

2.10.1 Establish administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic PHI that it creates, receives, maintains, or transmits on behalf of the covered entity as required by 45 C.F.R. § 164.314 of the Security Regulations. Business Associate represents and warrants that its security program is periodically reviewed and appropriate updates are implemented to address any gaps identified in its security program. Business Associate agrees to make its security policies and procedures available to Purdue upon reasonable request.

- 2.10.2 Require all of its subcontractors and agents that receive, use or have access to PHI to implement reasonable and appropriate security safeguards to protect it from unauthorized use or disclosure, and to report any improper use or disclosure of PHI in the time and manner required of Business Associate herein.
- 2.10.3 Immediately report to Purdue any unauthorized or improper use or disclosure of PHI, including without limitation, any security or privacy incident or breach involving the PHI ("Incident") without unreasonable delay, and not more than twenty-four (24) hours after Business Associate becomes aware of the Incident by Business Associate or its workforce, agents or subcontractors, and to provide Purdue with notice and a report containing all information necessary to permit Purdue to timely comply with HIPAA notification provisions and its implementing rules or any other applicable reporting law, if necessary. Said report shall identify: (i) the known facts and circumstances related to the Incident; (ii) the individuals affected; (iii) the PHI that is known to be the subject of the Incident; (iv) the persons who are known to have information about the Incident; and (v) the corrective action that Business Associate took or will take to mitigate any deleterious effects of the Incident and to prevent future incidents. . In addition, Business Associate agrees to provide Purdue with all information reasonably requested by Purdue to conduct its own risk assessment and determination of whether a breach occurred. Business Associate further acknowledges that it is familiar with the requirements of I.C. 4-1-11 *et. seq.* concerning breaches of security and notification of disclosures of social security numbers. To the extent Business Associate must make its own notification involving any disclosure of PHI, Business Associate agrees to cooperate with Purdue regarding the notification process prior to making such notification.
- 2.10.4 Implement reasonable policies and procedures designed to detect and provide appropriate response to relevant "Red Flags" that identity theft may be occurring (as defined in 16 C.F.R. § 681.1) or that may arise in the performance of Business Associate's activities, if Business Associate has access to information protected under the Red Flag Rules. Business Associate agrees that policies and procedures to detect relevant "Red Flags" are updated periodically. Business Associate further agrees to notify Purdue of the detection of a Red Flag and to implement reasonable steps to prevent or mitigate identity theft.

2.11 Upon reasonable request by Purdue, Business Associate agrees to provide to Purdue necessary policies, procedures or other information that may be reasonably required to confirm Business Associates and/or any agents or subcontractor's compliance with this Agreement or HIPAA Laws.

3. TERM AND TERMINATION

3.1 This Agreement shall commence as of the date first signed below, and the obligations set forth in this Agreement shall continue in effect as long as Business Associate uses, discloses, creates, receives or otherwise possesses any PHI created or received from or on behalf of Purdue and until all such PHI is destroyed or returned to Purdue pursuant to the terms of this Agreement.

3.2 Purdue may immediately terminate this Agreement if Purdue determines that the Business Associate has breached a material term of this Agreement. Alternatively, Purdue may choose to: (i) provide Business Associate an opportunity to cure said alleged material breach to the satisfaction of Purdue within ten (10) days. Business Associate's failure to cure shall be grounds for immediate termination of this Agreement. Purdue's remedies under this Agreement are cumulative, and the exercise of any remedy shall not preclude the exercise of any other.

3.3 Upon termination of this Agreement, Business Associate shall return or destroy, by rendering the PHI unusable, unreadable or undecipherable or beyond the ability to recover, all PHI received from Purdue, or created or received by Business Associate on behalf of Purdue and that Business Associate maintains in any form, and Business Associate shall retain no copies of such information. If the parties mutually agree that return or destruction of PHI is not feasible, Business Associate shall continue to maintain the security and privacy of such PHI in a manner consistent with the obligations of this Agreement and as required by applicable law, and shall limit further use of the information to those purposes that make the return or destruction of the information infeasible. The duties hereunder to maintain the security and privacy of PHI shall survive the termination of this Agreement.

4. AMENDMENT TO AGREEMENT

Purdue may amend this Agreement by providing ten (10) days prior written notice to Business Associate in order to maintain compliance with Indiana or Federal laws or regulations. Such amendment shall be binding upon Business Associate at the end of the ten (10) day period and shall not require the consent of Business Associate. Business Associate may elect to terminate the Agreement within the ten (10) day period, but Business Associate's obligations to maintain the security and privacy of PHI as required herein shall survive such termination. Purdue and Business Associate may otherwise amend this Agreement by mutual written agreement. Business Associate may not amend this Agreement without the express written consent of Purdue.

5. INDEMNITY

Business Associate shall, to the fullest extent permitted by law, protect, defend, indemnify and hold harmless Purdue and his/her respective employees, directors, and agents ("Indemnitees") from and against any and all losses, costs, claims, penalties, fines, demands, liabilities, legal actions, judgments, and expenses of every kind (including reasonable attorney's fees, including at trial and on appeal) asserted or imposed against any Indemnitees arising out of

the acts or omissions of Business Associate or any subcontractor of or consultant of Business Associate or any of Business Associate's employees, directors, or agents related to the performance or nonperformance of this Agreement.

6. NO THIRD PARTY BENEFICIARIES

Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or permitted assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

7. GOVERNING LAW; EXCLUSIVE JURISDICTION; EXCLUSIVE VENUE.

This Agreement is entered into in Indiana and shall be governed by and construed in accordance with the substantive law (and not the law of conflicts) of the State of Indiana. Courts of competent authority located in Tippecanoe County, Indiana shall have sole and exclusive jurisdiction of any action arising out of or in connection with the Agreement, and such courts shall be the sole and exclusive venue for any such action.

8. DEFINITIONS

8.1 HIPAA Laws. "HIPAA Laws" for purposes of this Agreement shall mean the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164, and the Security Regulations (45 C.F.R. Parts 160, 162, and 164), promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health Information Technology for Economic and Clinical Health ("HITECH"), the Omnibus Rule of 2013 ("Omnibus Rule"), and the Indiana statutes governing social security numbers, I.C. 4-1-10-1 *et. seq.* and I.C. 4-1-11-1 *et. seq.*

8.2 Limited Data Set. "Limited Data Set" shall have the meaning set out in 45 C.F.R. § 164.514 (e)(2), as amended from time to time.

8.3 PHI. "PHI" shall have the meaning set out in 45 C.F.R. §160.103, as amended or revised from time to time. The term shall also include any social security numbers provided or made available to Business Associate.

8.4 Required by Law. "Required by Law" shall have the meaning set forth in 45 C.F.R. §164.103, as amended or revised from time to time.

[SIGNATURE PAGE FOLLOWS]

PURDUE UNIVERSITY

BUSINESS ASSOCIATE

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Date: _____

Date: _____