JARALL MEDICAL MANAGEMENT, LLC
MASTER TERMS OF SERVCE

These **MASTER TERMS OF SERVICE**, together with any applicable Service Order and the Business Associate Addendum attached hereto as Exhibit A (collectively, this "**Agreement**"), is a legally binding agreement between JARALL Medical Management, LLC ("**JMM**") and the individual or entity identified as "CLIENT" in a Service Order ("**CLIENT**"). This Agreement governs CLIENT's engagement of JMM as an independent third-party billing services contractor.

This Agreement is effective as of the date both of the following occur or have occurred: (a) JMM accepts CLIENT's initial order and sends CLIENT a corresponding Service Order; and (b) CLIENT manifests consent to the terms of this Agreement by executing the Service Order or otherwise indicating acceptance of this Agreement. ("**Effective Date**").

All Schedules and Exhibits referenced herein, are located as attachments to the Service Order Form and are incorporated into and made a part of this Agreement.

1. DEFINITIONS

"**Effective date**" means the date on which health insurance coverage begins.

"**Claim**" means the bill for medical products and services that is submitted by a health care provider or member to a patient's health insurance company.

"**Explanation of Benefits (EOB)**" means a statement provided by the health insurance company that shows services billed by the health care provider, how they were processed by the carrier and the balance to be charged to the policyholder. This is not a bill. EOBs are sent out to the provider and to the insured clearly showing how services are covered under the policy. If there is a remaining balance the provider will send a bill to the insured.

"**Billed Amount**" means the amount billed by the provider.

"**HIPAA**" means collectively the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act of 2009, and the regulations and guidance promulgated or issued thereunder now or in the future.

"**In-Network**" means medical care received from providers and at clinics and hospitals with whom the insurer has a contract or an agreement specifying payment levels and other contract requirements. Patient responsibility is lower than using an out-of-network provider.

"**Out-of-Network**" means medical care received from providers and at clinics and hospitals that do not participate in the network associated with the policy. There is no contract with the insurance company for reimbursement at a negotiated rate. Therefore, the patient responsibility is usually higher than if being treated by an in-network provider.

"**Deductible**" means the fixed dollar amount an insured individual and/or family must pay each year before the health plan's benefits take effect. Plans may have both individual and family deductibles. Deductibles may differ if services are received from an in-network provider or if received from and out-of-network provider
.
"**Copayment (Co-Pay)**" means a fixed dollar amount the insured person pays when a medical service is received. This amount varies by plan design and benefit; for example, there may be separate copays for ER visits, generic drugs, brand name drugs, physician office visits, surgical services, hospital confinement, etc. Some plans require that a deductible first be met for some specific services before a copayment applies.

"**Coinsurance**" means a form of medical cost sharing in a health insurance plan that requires an insured

person to pay a stated percentage of medical expenses based on the allowed amount after the deductible amount, if any, has been met. Coinsurance rates may differ if services are received from an in-network provider or if received by out-of-network providers.

"**Allowed Amount**" means the maximum dollar amount that an insurance company will reimburse a provider or member for a specific service. Allowed amount is determined pursuant to the Member's policy. Examples include, UCR, Percentage of Medicare Rates or Fixed Rate.

"**Usual, Customary and Reasonable charges (UCR)**" mean the standard fee charged for covered medical services and supplies in a specific geographic area. An insurance company will pay up to this amount for a particular procedure.

"**Out-of-Pocket Maximum**" means the maximum dollar amount that an insured is liable to pay towards covered services during the benefit period; this may exclude the deductible. Once it has been reached, the carrier pays 100 percent of any additional covered charges, subject to policy provisions and limitations such as the Allowed Amount.

2. CHANGES TO THIS AGREEMENT

JMM may in its sole and exclusive discretion modify the terms and conditions of this Agreement from time-to-time by posting such changes to the Website. By continuing to use JMM services, CLIENT agrees to this Agreement, as modified. If CLIENT does not agree to the Agreement as modified, CLIENT's only option is to terminate use of JMM services.

3. ENGAGEMENT OF JMM SERVICES

CLIENT hereby engages JMM, as an independent contractor, to bill (using CLIENT's billing numbers) for reimbursement of services rendered by CLIENT to patients. CLIENT agrees that JMM will provide billing services required by CLIENT throughout the term of this Agreement. JMM hereby agrees to provide these billing services on the terms and conditions set forth in this Agreement.

4. JMM DUTIES AND RESPONSIBILITIES

4.1 **Standards.** JMM shall perform all its obligations under this Agreement in such a manner as to provide billing services in accordance with the applicable community standards.

4.2 **Compliance.** In performing its obligations hereunder, JMM shall comply with applicable laws, regulations, rules, directives and other requirements of local, state, and federal governmental authorities, and authorized agents thereof including, without limitation, Medicare or Medicaid carriers, intermediaries, and contractors ("applicable law"). JMM shall maintain in effect any permits and authorizations of local, state, and federal governmental authorities that are required to perform its obligations hereunder.

4.3 **Maintenance of Records.** JMM, in the name of, on behalf of and as agent for, and as directed by, CLIENT, shall maintain patient billing, documentation and documentation systems as necessary to comply with applicable laws (e.g., length of retention) rules, and regulations. Without limiting the generality of the foregoing, JMM shall retain records for all New Jersey residents for a period of no less than five (5) years in accordance with N.J.S.A 17B:27B-16. All JMM records pertaining to CLIENT's accounts assigned to JMM for billing shall be the property of JMM. JMM shall provide copies of such records within a reasonable time, not to exceed thirty (30) days, upon CLIENT'S written request and at CLIENT's expense based on JMM's then-current rates for record reproduction and handling. JMM may withhold records if CLIENT has any outstanding unpaid balances. Further, JMM shall purchase and maintain insurance coverage against risk of loss due to loss of records. N.J.A.C. 11:23-5.6(B)(3).

4.4 **JMM Personnel.** JMM shall employ or engage such personnel as it, in its sole discretion, deems necessary or desirable in order to perform its obligations hereunder (the **"**JMM Personnel"), either as employees, independent contractors or otherwise. JMM Personnel shall be compensated by JMM and shall not be, or be deemed or considered to be, employees or independent contractors of CLIENT or joint employees of CLIENT and JMM, for any purpose.

4.5 **Billing Services Provided by JMM**.

4.5.1 General Provisions. JMM, in the name of and as agent for CLIENT, shall provide billing services for reimbursement for services rendered by CLIENT and as set forth specifically in Schedule 1 and Exhibit A.
4.5.2 Assignment. In all instances where CLIENT accepts assignment, JMM or its agents shall process claims for the reimbursement of services rendered by CLIENT.

4.5.3 Billing to Third-Party Coverage Plans. JMM shall bill each patient's source of reimbursement, insurance carrier, managed care plan, government health care program, or guarantor (a "third-party coverage plan") in accordance with the usual and customary method of billing required or accepted by the applicable third-party coverage plan and in a manner consistent with community standards and JMM's customary billing practices. JMM shall submit all claims in accordance with the timelines established by N.J.S.A. 17B:30-23 and under N.J.A.C. 11:22-3.4,

4.5.4 Copayments, Deductibles and Non-covered Services. After secondary third-party coverage plan claims, if applicable, have been submitted, JMM shall assist the CLIENT to promptly bill each patient directly for any co-payments, co-insurance, deductibles, or non-covered services ("Copays"). JMM does not engage in the collection of payments. All payments are made directly to the CLIENT and/or Insurance Plan Subscriber.

4.5.5 Write-Off Policies. JMM shall bill for all Copays and third-party coverage plan amounts but will honor any lawful indigent policy of CLIENT communicated to JMM, or developed in conjunction with JMM, as set out in Schedule 1.

4.5.6 Remittances to CLIENT. All amounts billed by JMM on behalf of CLIENT shall be remitted directly to CLIENT. CLIENT shall have a continuing duty to account to JMM, without demand, for all payments remitted, directly or indirectly, to CLIENT within five (5) business days of receipt. Failure to properly account for payments may result in suspension of services until such accounting is provided.

4.6 **Bad Debt Recovery; Patient Collections.**

4.6.1 JMM will not engage in any collection
Agency services on delinquent accounts for CLIENT, but will refer to CLIENT, delinquent accounts for CLIENT's disposition. JMM will provide delinquent account information to CLIENT in a format readily available to JMM. JMM shall not be required to reformat or otherwise prepare custom reports. JMM shall have no responsibility with respect to delinquent accounts. Delinquent accounts, for purposes of this Section 4.6, shall mean those accounts unpaid or partially paid one hundred twenty (120) days after the performance of the collection activities referenced in Sections 4.5.3, 4.5.4, and 4.5.5 and after application of contractual adjustments and write-offs.

4.6.2 Except as otherwise indicated on Schedule 1 and Exhibit A, JMM will not engage in any Patient Collections for CLIENT and shall have no responsibility with respect to Patient Collections. "Patient Collections" shall mean collection agency services seeking recovery from CLIENT's patients or other responsible individuals. "Patient Collection Accounts" shall mean accounts transferred by CLIENT to JMM for Patient Collections pursuant to this Agreement.

4.7 **Rejected Claims/Reconsideration and Appeal.**

Upon CLIENT's written request and payment of applicable fees, JMM may investigate, correct, seek reconsideration of, and appeal claims rejected or disputed by third-party coverage plans or patients. Any such services shall be subject to additional fees as set forth in Schedule 1. JMM shall make reasonable efforts to assist CLIENT in the collection of CLIENT's accounts, provided, however, in the event that claims are rejected by third-party coverage plans or disputed by patients, JMM will undertake the specific reconsideration methods as follows:

- JMM will return the rejected claim to CLIENT for insurance re-verification and confirmation of provider numbers, correct coding, and documentation of medical necessity.
- Unless indicated otherwise, JMM will not audit or review CLIENT's documentation of medical necessity. Ensuring the accuracy and medical necessity of any documentation or service is CLIENT'S sole responsibility.
- Upon receipt of verified insurance and statements of medical necessity from CLIENT, JMM shall submit additional requests for reconsideration to third-party coverage plans in an attempt to collect rejected claims.
- If reasonable claims submission and JMM's second attempt to submit rejected claims to third-party coverage plans fails, or if the third attempt to collect from patient the past due amount fails, then except as otherwise indicated on Schedule 1, JMM will refer claims to CLIENT in accordance with Section 2.6 for the CLIENT to collect the delinquent account.

4.8 **Overpayment and Refund Requests.** Upon notification by an insurance carrier or other third party, CLIENT shall promptly inform JMM of any request for refunds or alleged overpayment. CLIENT will be responsible for any refund or overpayment of claims. CLIENT may also dispute such a request, subject to provisions in subsection 4.7, above.

4.8.1 Refund Requests Generally Part of JMM's Services. Processing refund requests shall be construed as part of the services referenced in this agreement, subject to reasonable additional fees if the volume or complexity of refund requests exceeds normal business operations. Except as indicated in Section 4.8.2 below, any amount previously invoiced and remitted by CLIENT to JMM based on claims later refunded will be credited to CLIENT's account provided that CLIENT provides written payment record of the refunded amount.

4.8.2 Refund Requests - CLIENT's Misconduct. Pursuant to N.J.A.C. 11:23-5.6(b)(3), in the case of any refund or overpayment for a claim processed in good faith by JMM that is refunded as the result of CLIENT's fraud, willful misconduct, gross negligence, or failure to document services provided, CLIENT shall not be relieved of its obligations under Section 5.2, regardless of any refund actually provided, and no credit shall be applied to CLIENT's account.

5. CLIENT OBLIGATIONS & REPRESENTATIONS

5.1 **Authentication.** CLIENT will not bill, or request that JMM bill, a third-party coverage plan for any health care product or service submitted to JMM for billing and that does not meet each of the following requirements:

5.1.1 Orders for Services. CLIENT's service
Must be ordered by a physician or by another duly authorized practitioner licensed to provide the service CLIENT has instructed JMM to bill. Orders must be documented, and documentation of all orders must be retained by CLIENT, in accordance with applicable facility/organizational policies, third-party coverage plan requirements, and the prevailing standard of care for retention of patient records.

5.1.2 Medical Necessity. CLIENT will not
Request that JMM submit claims for services that do not meet the applicable standards of medical necessity, third-party coverage plan requirements, and regulatory standards. Determination of whether a service is medically necessary and in compliance with all applicable requirements and

standards must be made by CLIENT based on applicable authority and in compliance with third-party coverage plan requirements. CLIENT shall be solely responsible for determining and establishing the medical necessity of all goods and services provided by CLIENT and presented to JMM to be billed.

5.1.3 Documentation of Services. Services billed by CLIENT must be supported by documentation maintained in the patient's medical record. If a CLIENT has developed specific documentation rules or policies for a service or set of services, such rules or policies must be consistent with applicable national and local billing, coding, and documentation standards, and the documentation in the patient's medical record must meet the requirements of the specific rule or policy. CLIENT will provide JMM with copies of such rules or policies upon request. CLIENT's documentation will reflect the specific product or service provided in a manner that clearly meets or exceeds the applicable standards required by the charge codes assigned by CLIENT. CLIENT shall ensure that all documentation required to substantiate the services to be billed and the codes designated by CLIENT is in the patient's medical record prior to submitting the claim to JMM for billing. CLIENT shall provide documentation, upon JMM'S request, that is legible, complete, and accurate. In the event JMM determines that claims may have been submitted by CLIENT to JMM for which the documentation appears to be incomplete or inaccurate, JMM may either return the claims or hold claims until such time as it receives from CLIENT confirmation that the documentation to support billing is complete, the coding is correct, and the documentation meets the applicable standards of the third-party coverage plan.

5.1.4 Coding. CLIENT will code claims for billing based solely on documentation entered into the medical record. CLIENT will supply JMM with all information required to submit accurate claims, including appropriate and accurate diagnosis and procedure codes. CLIENT must clearly indicate the level of services performed by CLIENT in the billing information provided to JMM. If JMM questions whether a particular procedure or diagnosis code is appropriate or accurate, JMM will contact CLIENT for further information or verification before JMM submits the claim. JMM will not provide coding services for CLIENT's claims and billing. JMM will not be required to audit CLIENT's documentation and billing codes. CLIENT shall be solely responsible for ensuring that its documentation substantiates the billing information it provides to JMM.

5.1.5 Explanation of Benefits. CLIENT will provide JMM, within five (5) business days of receipt of the Explanation of Benefits ("EOB") received by CLIENT from payors, copies of the EOB and all payments received with respect to those statements.

5.1.6 Prohibited Patient Financing Agreements. Pursuant to N.J.A.C. 11:23-5.6(b)(3), CLIENT will not request JMM to submit claims for services where CLIENT has received, offered, or paid any remuneration, directly or indirectly, in cash or in kind, or engaged in any split-fee arrangement, in any form whatsoever, to induce the referral of patients or patronage to or from CLIENT or another health care provider or health care facility. If JMM learns that CLIENT has engaged in such practices, such conduct shall be grounds for termination by JMM and shall be considered within the purview of Section 7.2.5 as injurious to JMM, its business operations, referral relationships, and/or reputation. Furthermore, such conduct may be referred to the appropriate governmental agency.

5.1.7 Patient Self-Referrals. Pursuant to N.J.A.C. 11:23-5.6(b)(3), CLIENT will not submit claims for services for patients who were referred for clinical laboratory services, or any other health care service, by a health care provider who, or who's immediate family, has a significant beneficial interest in CLIENT, except as otherwise indicated in this sub-section. If CLIENT is engaging in such activity, CLIENT shall promptly provide to JMM in writing (1) an explanation for its exemption under New Jersey, and if applicable, federal law regarding patient referrals, and (2) CLIENT's patient disclosure policies, procedures, and documentation. Such documentation shall be a prerequisite to JMM submitting any such claims on behalf of CLIENT. For the purposes of this section, "health care service," "immediate family," "practitioner," and "significant beneficial interest" shall have the same meaning as in New Jersey Statutes Section 45:9-22.3.

5.2 **Compensation.** See Schedules 1 & 2 and Section 7 below.

5.3 **Information.** CLIENT shall maintain and convey to JMM, upon request, all information received by CLIENT pertaining to third-party coverage plan billing, including all applicable contracts and amendments, fee schedules, policies, procedures, and plan documents, as well as specific correspondence, profile information, audit requests, overpayment notifications, subpoenas, and summonses directed to CLIENT which pertain to services rendered to CLIENT's patients for which JMM has submitted claims for reimbursement on behalf of the CLIENT (the "Documents"). CLIENT shall notify JMM within five (5) business days of receipt of updated Documents or renewals of such Documents. CLIENT shall maintain such Documents on the premises and allow JMM access to such Documents at all times during normal business hours.

5.4 **Third-Party Coverage Plan Contracts and Forms.** CLIENT shall provide to JMM, upon request, and make available at all times during normal business hours all Documents to facilitate the payment of claims, including but not limited to: (i) patient assignment of benefits and release of information in forms satisfactory to JMM; (ii) forms and patient financial agreements signed by patient providing that the patient will endorse and provide to JMM all payments it receives in connection with claims for services rendered by CLIENT; and (iii) third-party coverage plan contracts, standards, instructions and policies.

5.5 **Provider Numbers.** CLIENT shall affix appropriate identification, demographic information, and provider/supplier numbers to documentation submitted to JMM to facilitate the billing and collection services contemplated by this Agreement

5.6 **Utilization Management.** If selected in Schedule 1 (included in the Service Order package), JMM will provide utilization management services such as precertification and clinical case appeals. If any "utilization review" services are different from the utilization management services being provided, CLIENT shall perform such "utilization review" services to the extent required on all services rendered. CLIENT shall maintain records of its "utilization reviews" and such records may include prescription files, and records of ordering and receipt of prescriptions, maintained in compliance with the standard of practice generally accepted in the community. JMM acknowledges that CLIENT is not licensed or certified pursuant to any state's laws to provide utilization review services.

5.7 **Pre-Certification and Insurance Verification.**

Except as otherwise indicated In Schedule 1, CLIENT shall be solely responsible for obtaining pre-certification and insurance verification, if required, from the applicable third-party coverage plans, if any, for its patients. CLIENT also shall transmit proof of same to JMM upon submission of documentation for patient service. In the event CLIENT and JMM agree to have JMM provide pre-certification and insurance verification, the parties shall establish the protocols for such processes and describe them in Schedule 1.

5.8 **Marketing**. It is the express understanding of the
CLIENT that JMM is not responsible for and will not undertake any marketing of CLIENT's services.

5.9 **Licenses.** CLIENT shall ensure that it obtains and maintains at all times in full force and effect all licenses, permits, certificates, and accreditations required to operate CLIENT's business. CLIENT shall provide to JMM, upon request, current copies of licenses, permits, certificates, and accreditations to enable JMM to respond to inquiries from third-party coverage plans.

5.10 **Freedom to Contract.** CLIENT attests that is not a party to any agreement or commitment or subject to any restriction or agreement containing confidentiality or non-compete covenants, which impede or prohibit CLIENT from performing its duties under this Agreement or if CLIENT is under such restriction, CLIENT has written consent to perform services described in this Agreement and

shall provide a copy of such consent prior to the Effective Date; CLIENT further attests that to the best of CLIENT's knowledge, there is no judgment, action, claim, suit, proceeding, administrative disciplinary action, inquiry or investigation pending or threatened against CLIENT, and CLIENT is not aware of any facts or circumstances which could serve as a basis for an action, claim, suit, proceedings, administrative disciplinary action, inquiry, or investigation against CLIENT, which would impede or prohibit CLIENT's ability to perform under this Agreement.

5.11 Restrictive Covenants.

(a) Non-Solicitation. During the period that JMM is engaged by CLIENT and for a period of three (3) years following the termination of JMM's contractual relationship or engagement with CLIENT, regardless of the reason for such termination, and irrespective of whether JMM continues such engagement after this Agreement terminates, CLIENT shall not employ or contract with any individual who has been employed by or engaged as an independent contractor of JMM during the six (6) month period immediately prior to the termination of this Agreement or JMM's engagement.

(b) Non-Disclosure of JMM's Confidential Information. CLIENT acknowledges and agrees that the compilation of information, including medical and business office records and all information and data connected with or related to JMM, including, without limitation, all techniques, methods and methodologies, systems, facts, or other information, of whatever kind and whatever form concerning JMM's business, including, without limitation, CLIENT lists, telephone contacts, computer data, knowledge of fees and alternate fee arrangement, and managed care contracts (collectively, "JMM's Confidential Information"), are JMM's valuable, special and unique assets, and CLIENT shall not disclose JMM's Confidential Information, or any parts thereof, to any person, association, partnership, corporation or other entity, except as is required in rendering Services to patients, and except as is required relating to the invoicing or collection of the fees for Services thereto. This Section 5.11.2 shall apply during the Term and shall survive the expiration or termination of the Agreement, for any reason, for a period of ten (10) years.

(c) Reasonableness of Restrictive Covenants & Irreparable Injury. CLIENT acknowledges and agrees that: (i) the restrictive covenants contained in this Section are reasonable with respect to duration, scope, and their effects on JMM and public health, safety, and welfare and (ii) the restrictive covenants contained in this Section herein are necessary to protect the legitimate business interests of JMM, including but not limited to trade secrets and/or valuable confidential business/professional information that otherwise does not qualify as trade secrets, substantial relationships with specific prospective or existing payors or CLIENTs, goodwill associated with an ongoing professional practice by way of trade name and/or trademark and/or service mark and/or "trade dress" and/or specific geographic location, marketing or trade area, along with extraordinary or specialized training to JMM's employees, and a violation by CLIENT of these restrictive covenants would cause irreparable injury and loss to JMM.

(d) Remedies. If there is a breach or threatened breach by CLIENT of CLIENT's obligations pursuant to this Section 5, CLIENT hereby acknowledges and stipulates that JMM shall not have an adequate remedy at law and shall suffer irreparable harm. It is, therefore, mutually agreed and stipulated that, in addition to any other remedies at law or in equity which JMM may have, JMM shall be entitled: (i) to obtain in a court of competent jurisdiction a temporary and/or permanent injunction restraining CLIENT from any further breach or threatened breach of such provisions; (ii) to reimbursement from CLIENT for all attorneys' fees and costs incurred, including interest, at all levels of trial and appeal as a result of such breach; and (iii) to withhold and apply all payments otherwise due CLIENT from JMM, if any, toward reimbursement of such attorneys' fees and costs.

(e) Production of Documents. If, at any time CLIENT becomes legally compelled (by

deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar process) to disclose any of JMM's Confidential Information, CLIENT shall immediately provide JMM with prior written notice of such requirement so that JMM may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, or that JMM waives compliance with the provisions hereof, CLIENT agrees to furnish only that portion of JMM's legal counsel determines is legally required to be furnished, and to exercise best efforts to obtain assurance that confidential treatment will be afforded JMM's Confidential Information. CLIENT shall not oppose any action by JMM to obtain an appropriate protective order or other reliable assurance that confidential treatment will be afforded JMM's Confidential Information.

5.12 **No Exclusion**. CLIENT certifies that neither CLIENT, nor any of the CLIENT's employees or agents who have performed services for which JMM will submit claims to third-party coverage plans, (1) is currently debarred, excluded, suspended or otherwise ineligible to participate in the federal or state health care programs or in federal procurement and nonprocurement programs; or, (2) has been convicted of a criminal offense within the ambit of 42 U.S.C. §1320a-7(a), the False Claims Act, or any similar federal or state health care fraud, abuse and false claims statute but has not yet been excluded, debarred, suspended, or otherwise declared ineligible for participation in federal or state health care programs.

5.13 **Authority.** CLIENT represents and warrants that this Agreement and any and all agreements entered into in connection herewith, including Schedules and Exhibits attached to Service Order, to which CLIENT is a party has been duly executed and delivered by CLIENT, and CLIENT has all requisite power to execute and deliver this Agreement and any and all agreements executed and delivered or to be executed and delivered in connection with the transactions provided for hereby, to consummate the transactions contemplated hereby, and to perform its obligations hereunder. The execution, delivery and performance of this Agreement and any Ancillary Agreements, and the consummation by CLIENT of the transactions contemplated hereby and thereby have been duly and validly authorized and approved by all necessary corporate action on the part of CLIENT and no other proceedings on the part of CLIENT is necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement and each Ancillary Agreement, if any, to which CLIENT is a party constitutes, or upon execution and delivery will constitute, the legal, valid and binding obligation of CLIENT, enforceable in accordance with its terms.

5.14 **Representations and Warranties**. CLIENT hereby represents and warrants that the information furnished to JMM regarding the accounts, including the identity of the debtor, the balance of the account and the payments and credit due, shall be complete and accurate. In addition, CLIENT hereby represents and warrants that, to the best of its knowledge at the time of placement, all of CLIENT's accounts placed with JMM are valid and legally enforceable debts and are not disputed or subject to any defense (including the statute of limitations), offset, set-off, counterclaim or bankruptcy proceeding, unless otherwise disclosed in writing to JMM by CLIENT. CLIENT shall promptly notify JMM of any disputes or payments made directly to CLIENT or any bankruptcy notification received by CLIENT subsequent to placement of any account with JMM. CLIENT shall provide such additional information regarding an account as may be reasonably requested by JMM.

6. PRIVACY, SECURITY & HIPPA

6.1 During the Term of this Agreement the parties hereto agree to: (a) comply with all applicable federal and state laws and regulations governing the privacy and security of protected health information, including the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") and its implementing regulations as modified and amended from time to time, and (b) execute and maintain a Business Associate Agreement ("**BAA**") in the form attached as Exhibit A. The provisions of this Section 6 and the BAA shall survive the expiration or termination of this Agreement.

6.2 **Business Associate Agreement**. The Business Associate Agreement (Exhibit A) sets forth JMM's obligations with respect to Protected Health Information. To the extent of any conflict between this Agreement and the BAA with respect to Protected Health Information, the terms and conditions of the BAA will control.

6.3 **CLIENT's Privacy Obligations.** CLIENT represents and warrants that it is a "covered entity" under HIPAA and will: (a) not request JMM to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by CLIENT unless specifically permitted for a business associate under HIPAA; (b) comply with the minimum necessary requirements under HIPAA with respect to communications with JMM; and (c) ensure all electronic Protected Health Information transmitted to JMM is encrypted in accordance with HIPAA standards.ing to the appropriate standard of care.

7. TERMS AND TERMINATION

7.1 **Term.** Unless otherwise stated in the Service Order, this Agreement will be effective for an initial term of one (1) year from the Effective date and automatically renew for successive one (1) year renewal terms unless: (a) either party gives the other party notice of its election not to renew this Agreement at least one hundred twenty (120) days prior to the end of the then-current term; or (b) Terminated by either party for cause as set forth in Section 7.1.2.

7.1.2. Termination for Cause: Breach. Either party may terminate this Agreement upon notice for material breach if the other party fails to cure a material breach within thirty (30) days following written notice from the non-breaching party. JMM will have the right to terminate this Agreement upon notice for non-payment if Client fails to cure the non-payment within fifteen (15) days following written notices from JMM. Notwithstanding anything to the contrary in this Section, JMM may terminate this Agreement upon written notice to Client if Client or any authorized user: (a) breaches any obligation stated in this Terms of Service or Service Order (b) breaches Client's confidential obligations under this Agreement; and/or (c) threatens the integrity of security of JMM.

7.2 **Terms of Payment.**

7.2.1 In consideration for the services to be performed by JMM, CLIENT agrees to pay JMM as set forth on Schedules 1, 2 and 3.

7.2.2 If the fee for services rendered is a contingency fee, then CLIENT shall pay such amounts to JMM within fifteen (15) days of date of claim processed by insurance carrier. In the event CLIENT decides to cancel or withdraw a requested service or terminate this Contract for any reason after JMM's commencement of services, then JMM shall still be entitled to its percentage fee.

CLIENT shall have fifteen (15) days from receipt of an invoice to dispute any fee, charge, or cost on said invoice. If CLIENT does not object to an invoice within fifteen (15) days of receipt, then said invoice shall be deemed approved.

CLIENT will be sent an invoice on the first (1^{st}) of the month for all work performed in the preceding month. The CLIENT will pay via ACH, check, or credit card within 15 days of receipt of the invoice. Late payments will incur interest at the rate of 1.5% per month or the maximum rate permitted by law, whichever is less. All charges to a credit card will incur a 3.5% service fee based on the fee owed.

If CLIENT does not remit payment within fifteen (15) days of date of receipt of the invoice, JMM reserves the right to charge such fee to the credit card on record, as per Schedules 2& 3. All charges to a credit card incur a 3.5% service fee based on the fee owed.

CLIENT's obligation to pay JMM as set forth herein shall survive any termination of this Contract.

7.2.3 Remedies for Non-Payment. In the event of nonpayment by CLIENT of any fees or expenses due hereunder within the fifteen (15) days as set forth in Section 7.2.2 above, then, in addition to all other remedies, JMM:
(a) shall be entitled to reasonable attorneys' fees and costs incurred in collecting any unpaid fees or expenses, regardless of whether or not a lawsuit is filed; and
(b) JMM may withhold services hereunder or terminate this Contract for nonpayment by CLIENT upon two (2) business days' notice in writing, to CLIENT. Any termination shall not negate JMM's entitlement to collect any unpaid fees and expenses as herein provided.

7.3 **Immediate Termination.** This Agreement may be terminated immediately by JMM providing written notice to CLIENT upon the occurrence, of any, of the following events:

7.3.1 CLIENT, or any of CLIENT's officers, directors, or managers, is excluded, debarred or suspended from participating in the Medicare or Medicaid programs or any other federal, state, or third-party coverage plan program.; or

7.3.2 CLIENT assigns, or attempts to assign this Agreement in violation of its terms; or

7.3.3 CLIENT, or any of CLIENT's officers, directors, or managers, is convicted of a crime other than a misdemeanor traffic violation; or

7.3.4 CLIENT voluntarily or involuntarily dissolves or ceases to operate; or

7.3.5 CLIENT or any of CLIENT's officers, directors, managers, employees or contractors engage in conduct that, in the sole discretion of JMM, is injurious to JMM, its business operations, referral relationships, and/or reputation; or

7.3.6 CLIENT engages in a pattern, in the sole judgment of JMM, of providing information to JMM which is incomplete, misleading, false, or fraudulent.

7.3.7 Obligations Upon Termination. Upon termination of this Agreement by CLIENT or JMM, for any reason, in addition to those responsibilities listed elsewhere in this Agreement:
(a) The parties shall cooperate regarding transfer of records and accounts as directed by JMM; and
(b) The parties shall cooperate regarding notices to patients and third-party coverage plans of termination as required by law, by contract, or as reasonably requested by JMM.

7.4 **Termination for Insolvency.** Each party will have the right to terminate this Agreement immediately upon written notice in the event that the other party becomes insolvent, files for any form of bankruptcy or becomes the subject of any involuntary proceeding relating to insolvency, liquidation, receivership or composition for the benefit of creditors if such proceeding is not dismissed within sixty (60) days of filing, makes any assignment for the benefit of creditors, has a receiver, administrative receiver or officer appointed over the whole or a substantial part of the assets, or ceases to conduct business or an equivalent act to any of the above occurs under the laws of the jurisdiction of each party.

7.5 **Termination Due to Legislature/Regulatory Modification**. This Agreement will terminate upon prior written notice by either party to the other, if, after good faith negotiations, the parties fail to amend the Agreement as required pursuant to Section 8.

7.6 **Consequences of Termination.** JMM will continue to bill through the effective date of termination. CLIENT shall compensate JMM for such services in accordance with Section 7.2 above and Schedules 2 & 3. The expiration or termination of this Agreement will not affect either party's right to seek damages incurred as the result of the other party's actions or inactions during the term

hereof. This section shall survive the expiration or termination, for any reason, of this Agreement.

7.7 **Limitation of Liability**. The parties acknowledge that occasional billing errors will occur despite the best efforts of the parties. In such event, and in accordance with N.J.A.C 11:23-5.6(b)(3), JMM's sole obligation to CLIENT is to correct the error and either re-bill or refund the claim. JMM shall in no event be liable to CLIENT for special, consequential, incidental, punitive damages, or lost profits. In no event will JMM's liability for any act or omission exceed the total aggregate compensation paid by CLIENT to JMM in the six (6) months immediately preceding the incident giving rise to the claim. The parties acknowledge that third-party coverage plans require that claims be submitted within a certain period of time after the covered service has been rendered. The parties further acknowledge that state laws may prescribe time limits for reasserting denied claims and for challenging overpayment demands by third-party coverage plans. JMM shall have no responsibility to bill, rebill, or contest denials of claims submitted to it untimely by CLIENT.

8. LEGISLATIVE/REGULATIORY MODIFICATION

If any Medicare and/or Medicaid law, rule, regulation or payment policy, or any rule or policy of any third-party coverage plan, or any applicable law, or any interpretation thereof at any time during the term of this Agreement is modified, implemented, proposed to be implemented, or determined to prohibit, restrict, or in any way materially change, the terms of this Agreement, or, by virtue of the existence of this Agreement, has or will have a material adverse effect on the ability of either party to this Agreement to fulfill its duties and obligations and conduct its business as set forth in this Agreement (each of the foregoing being referred to herein as a "Change"), then the parties to this Agreement shall negotiate in good faith to amend this Agreement to comply with such Change to preserve as closely as possible the economic arrangement between the parties. In the event of such a Change, either party shall notify the other within thirty (30) calendar days of receipt of notice of the Change and commence negotiations to amend the Agreement. In the event the parties fail to amend this Agreement to address the Change to enable the parties to continue to perform under this Agreement in compliance with applicable law, either party may terminate the Agreement upon thirty (30) days advance written notice to the other party; provided, however, such time periods shall be reduced as necessary to avoid a violation of law.

9. SOCIAL SECURITY ACT REQUIREMENTS

In the event this Agreement is subject to the Medicare and Medicaid requirements under Section 952 of the Omnibus Budget Reconciliation Act of 1980 (P.L. 96-499) and such final regulations relating thereto as may be promulgated by the Secretary of the U.S. Department of Health and Human Services (the "Secretary"), JMM shall, while this Agreement is effective and until expiration of four (4) years after furnishing of any services hereunder, make available, upon written request to the Secretary, or the Comptroller General of the United States (the "Comptroller General"), or to any of their duly authorized representatives, a copy of this Agreement and such books, documents and records of JMM as are necessary to certify the nature and extent of the costs incurred by JMM (on behalf of the CLIENT) with respect to any services furnished hereunder. To the extent required by such Medicare and Medicaid requirements, if JMM carries out any of the duties hereunder through a subcontract, with a value or cost of Ten Thousand Dollars ($10,000.00) or more over a twelve (12) month period, such subcontract shall contain a clause identical to the foregoing concerning the maintenance of records and their availability to the Secretary, the Comptroller General, and their designated representatives.

10. INDEMNIFICATION

CLIENT agrees to indemnify, defend and hold harmless JMM and its managers, members, directors, officers, employees, agents and contractors from and against any and all taxes, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees and other legal expenses, arising directly or indirectly from or in connection with (i) any negligent, reckless or intentionally wrongful act of CLIENT or CLIENT's managers, members, directors, officers,

assistants, employees or agents or similar persons made in connection with this Agreement (ii) any breach by CLIENT of any of the representations or covenants contained in this Agreement, (iii) any failure of CLIENT or CLIENT's managers, members, directors, officers, assistants, employees or agents or similar persons to perform the services contemplated by this Agreement in accordance with all applicable laws, rules and regulations, or (iv) any errors in the information furnished to the JMM regarding the identity of the debtor, the balance of the account and the payments and credit due. This section shall survive the expiration or termination, for any reason, of this Agreement.

11. MISCELLANEOUS

11.1 Professional Responsibility. JMM DOES NOT GIVE MEDICAL ADVICE, PROVIDE MEDICAL OR DIAGNOSTIC SERVICES, OR PRESCRIBE MEDICATION. USE OF JMM SERVICES IS NOT A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF HEALTH CARE PROVIDERS IN DIAGNOSING AND TREATING PATIENTS. CLIENT ACKNOWLEDGES THAT CLIENT IS SOLELY RESPONSIBILITY FOR VERIFYING THE ACCURACY OF PATIENT INFORMATION (INCLUDING, WITHOUT LIMITATION, BY OBTAINING ALL APPLICABLE PATIENTS' MEDICAL AND MEDICATION HISTORY AND ALLERGIES) AND ANY INFORMATION PROVIDED TO A PATIENT, AND FOR ALL MEDICAL DECISIONS OR ACTIONS WITH RESPECT TO THE MEDICAL CARE, TREATMENT AND WELLBEING OF CLIENT'S PATIENTS, INCLUDING, WITHOUT LIMITATION, ALL OF CLIENT'S ACTS OR OMISSIONS IN TREATING THE APPLICABLE PATIENT. ANY USE OR RELIANCE BY CLIENT UPON JMM SERVICES WILL NOT DIMINISH THAT RESPONSIBILITY. CLIENT ASSUMES ALL RISKS ASSOCIATED WITH CLIENT'S CLINICAL TREATMENT OF PATIENTS.

11.2 Limitations of Damages and Liability. IN NO EVENT WILL JMM, OR ANY JMM AFFILIATE, AGENT, CONTRACTOR, OR LICENSOR, BE LIABLE TO CLIENT OR TO ANY THIRD-PARTY FOR ANY COMPENSATORY, CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES UNDER THIS AGREEMENT OR IN CONNECTION WITH JMM SERVICES, INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR BUSINESS INFORMATION, OR OTHER PECUNIARY LOSS, EVEN IF JMM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF AVAILABLE REMEDIES ARE FOUND TO HAVE FAILED. FURTHER, IN NO EVENT WILL JMM'S ENTIRE LIABILITY TO CLIENT OR ANY THIRD-PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE SERVICE FEES PAID BY CLIENT TO JMM UNDER THIS AGREEMENT DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE APPLICABLE CAUSE OF ACTION AROSE, AND JMM'S LICENSORS, AFFILIATES AND AGENTS SHALL NOT BE LIABLE TO CLIENT OR ANY THIRD-PARTY FOR ANY CLAIM ARISING UNDER THIS AGREEMENT. THE LAWS OF SOME JURISDICTIONS DO NOT PERMIT THE DISCLAIMER OF LIABILITY FOR CERTAIN TYPES OF DAMAGES, SO PORTIONS OF THE ABOVE MAY NOT APPLY.

11.3 Anti-Fraud and Abuse. The parties certify that they do not refer patients to each other for services that are payable by Medicare, Medicaid, or any other third-party coverage plan. Nothing in this Agreement shall be construed as an offer or payment by any party to any other party or any affiliate of any party of any cash or other remuneration, whether directly or indirectly, overtly, or covertly, specifically for patient referrals or for recommending or arranging the purchase, lease or order of any item or service. No amount paid or to be paid hereunder is intended to be, nor shall it be construed to be, an inducement or payment of the referral of patients by JMM, to the CLIENT or by the CLIENT to JMM or any affiliates to JMM. In addition, no amount paid or advanced hereunder includes any discount, rebate, kickback, or other reduction in charge in exchange for patient referrals or for business generated by one party or the other that they are independent contractors for the purposes described in this Agreement.

11.4 Non-discrimination. The parties agree that there shall be no discrimination in the performance of this Agreement against any employee, independent contractor, patient, or other person as the result of that individual's race, color, disability, religion, sex, sexual preference, age or national

origin or in violation of applicable federal, state or local law and regulation.

11.5 **Independent Contractor.** It is expressly understood and agreed by the parties that nothing contained in this agreement shall be construed to create a joint venture, partnership, association, or other affiliation or like relationship between the parties, or a relationship of landlord and tenant, it being specifically agreed that the relationship of JMM and CLIENT is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement.

11.6 **Notice.** All notices or other communications hereunder shall be in writing, delivered personally, by facsimile, or e-mail, overnight mail, postage prepaid at the addresses set forth in the Service Order package and shall be deemed given when so delivered personally, by confirmation of facsimile, e-mail, or overnight mail or, if mailed, two (2) days after the date of mailing. Any party may change its address by giving notice in writing stating its new address to the other parties.

11.5 **Waiver.** No waiver by any party of any breach or default in performance by any other party, and no failure, refusal or neglect to exercise any right, power or remedy given to any party hereunder or to insist upon strict compliance with or performance of all obligations under this Agreement, shall constitute a waiver of the provisions of this Agreement with respect to any subsequent breach or a waiver by such party of its right at any time thereafter to require exact and strict compliance with the provisions of this Agreement.

11.6 **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were not a part hereof.

11.7 **Advice of Legal Counsel.** Each party acknowledges that, in executing this Agreement, it has had the opportunity to seek advice from legal counsel and that the person consenting on its behalf has read and understood all of the terms and provisions of this Agreement. This Agreement will not be construed against any party by reason of the drafting or preparation thereof.

11.8 **Governing Law.** This Agreement, the Service Orders, and amendments hereto, will be governed by and construed under the laws of the State of New Jersey exclusively; without regard to conflicts of laws and as such laws apply to contracts between New Jersey residents performed entirely within New Jersey.

11.9 **Arbitration; Choice of Forum and Venue.** As the exclusive means of resolving through adversarial dispute resolution any disputes arising out of this Agreement, the Service Orders, and amendments thereto, or CLIENT's use of JMM's services and, a party may demand that any such dispute be resolved by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and each party hereby consents to any such disputes being so resolved. The arbitrator will be empowered to award only those damages that are permitted in this Agreement, subject to any disclaimers of damages and liability limits set forth in this Agreement. The arbitration will be conducted in Monmouth County, New Jersey. The award of the arbitrator will be final and binding upon the parties without appeal or review except as permitted by New Jersey state law. The award rendered by the arbitrator will include all reasonable costs of the arbitration and reasonable costs for attorneys, experts, and other witnesses. Judgment on the award rendered in any such arbitration may be entered in the state courts of New Jersey, Monmouth County. Should JMM initiate legal proceedings to enforce the agreed-upon Venue set forth in this Section 11.9 for litigation arising out of or related to this Agreement, the Service Orders, and amendments thereto, CLIENT will be liable for all the costs JMM incurs to enforce same, including reasonable attorneys' fees and court costs. THE PARTIES EXPRESSLY WAIVE AND FOREGO ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SERVICE ORDERS, AND AMENDMENTS THERETO, OR CLIENT'S LICENSE, ACCESS, AND USE OF TRAKNET AND/OR ANY SUBSCRIPTION ENHANCEMENTS.

11.10 Attorney's Fees. In the event of litigation related or arising out of the performance or interpretation of this Agreement, the prevailing party shall be entitled to recover from the other party its attorneys' fees, costs, and expenses incurred at all levels of pre-litigation, trial, and appeal.

11.11 Construction; Counterparts; Consents. The headings used herein are for convenience and reference only and shall not be construed to be part of this Agreement or used in determining the meaning or interpretation of this Agreement. Unless the context otherwise requires, whenever used in this Agreement the singular shall include the plural, the plural shall include the singular, and the masculine gender shall include the neuter or feminine gender and vice versa. This Agreement may be executed in any number of counterparts, each of which shall be considered an original and all of which taken together shall constitute one and the same instrument. Whenever in this Agreement an approval or consent is required of one of the parties, the same shall not be unreasonably withheld.

11.12 Entire Agreement; Modifications. This Agreement constitutes the entire understanding of the parties and supersedes any and all other agreements, whether written or oral, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement that is not contained herein shall be valid or binding. This Agreement cannot be modified except in a writing executed by both of the parties.

11.13 Assignment. JMM may assign this Agreementand any rights or obligations hereunder, in whole or in part, without restriction and without CLIENT's consent,
and its rights and obligations created hereunder, to any entity that is majority-owned, directly or indirectly, by JMM. Except as otherwise provided in this Section 11 or Exhibit A, this Agreement and the rights and obligations created hereunder may not be assigned except with the written consent of both of the parties. Any assignment in violation of the provisions in this Section shall be null and void.

11.14 Survival. The provisions of this Agreement which by their nature must survive past termination shall survive the termination or expiration of this Agreement for any reason.

11.15 Binding Agreement. This Agreement shall inure to the benefit of and be binding on CLIENT and JMM and their respective successors and permitted assigns.

11.16 Force Majeure. Notwithstanding any other provision of this Agreement, any failure of JMM to perform or delay in the performance of its obligations under this Agreement due to any cause or event not reasonably within JMM's control, including but not limited to casualty, labor disputes, failure of equipment or carriers or utilities, compliance with governmental authority, pandemic, epidemic, cyber attack, telecommunications or internet failures, or Act of God, will not constitute a breach of this Agreement, and JMM's performance will be excused during such period of delay.

11.17 Cumulative Remedies. The rights and remedies set forth in this Agreement shall be cumulative and in addition to all other rights and remedies available to the parties at law or in equity. The exercise of one or more of such rights or remedies shall not impair the rights of either party to exercise any other right or remedy at law or in equity.

EXHIBIT A

BUSINESS ASSOCIATE ADDENDUM

This **BUSINESS ASSOCIATE ADDENDUM** (this "**Addendum**"), by and between JARALL Medical Management, LLC ("Business Associate"), and the individual or entity identified as "CLIENT" in the Agreement ("Covered Entity") is effective as of the effective date of the Agreement ("**Effective Date**"). Business Associate and Covered Entity are referred to in this Addendum individually as a "**Party**" and collectively as the "**Parties**."

WHEREAS, Covered Entity is a covered entity under the administrative simplification provision of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, including the Standards for Privacy of Individually Identifiable Health Information ("**Privacy Rule**"), the Security Standards for the Protection of Electronic Protected Health Information ("**Security Rule**") (collectively, "**HIPAA**") and the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("**HITECH Act**");

WHEREAS, the Parties have entered into or contemporaneously are entering into the Agreement;

WHEREAS, under the Terms of Service, Business Associate performs certain functions or services on behalf of Covered Entity that may require, at least in part, that Business Associate access, create, and/or receive Protected Health Information (as defined below) from or on behalf of Covered Entity.

WHEREAS, Business Associate may be a "business associate," as defined in HIPAA and the HITECH Act; and

NOW, THEREFORE, in consideration of the mutual promises in this Addendum and the Agreement, compliance with HIPAA and the HITECH Act, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree that this Addendum shall be incorporated into and shall modify the Agreement.

1. Definitions. Except as otherwise defined in this Addendum, any and all capitalized terms in this Addendum shall have the definitions set forth in HIPAA and the HITECH Act. "**Individual**" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g). "**Protected Health Information**" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103 that is created, received, maintained, or accessed by Business Associate from or on behalf of Covered Entity.

2. Permitted Uses and Disclosures of Protected Health Information.

2.1 Uses and Disclosures to Perform Service Agreement. Business Associate may only use or disclose Protected Health Information as necessary to perform functions, activities or services for or on behalf of Covered Entity as specified in the Terms of Service or this Addendum, including providing training and support to Covered Entity which may involve accessing Covered Entity's computer systems.

2.2 Use and Disclosure for Management and Administration. 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.

2.3 Other Permissible Uses and Disclosures. Except as otherwise limited in this Addendum or the Terms of Service, Business Associate may use Protected Health Information to: (i) provide Data Aggregation services for Covered Entity's health care operations; (ii) create Limited Data Sets; and (iii) create De-Identified Information. De-Identified information does not constitute Protected Health Information and is not subject to the terms of this Addendum.

2.4 Minimum Disclosure Necessary. Business associate agrees to make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures.

2.5 Limitations on Uses and Disclosures. Notwithstanding anything to the contrary in this Addendum or the Terms of Service, Business Associate: (i) may use or disclose Protected Health Information only if such use or disclosure is in compliance with this Addendum; and (ii) shall not use or disclose Protected Health Information in a manner that would violate HIPAA or the HITECH Act if done by Covered Entity, unless such use or disclosure is permitted by HIPAA and the HITECH Act for Business Associate.

3. Obligations of Business Associate.

3.1 Limitations on Uses and Disclosures. Business Associate shall not use or further disclose any Protected Health Information other than as Required by Law or as required or permitted by this Addendum.

3.2 Safeguards. Business Associate shall use appropriate administrative, physical, and technical safeguards and comply with the Security Rule to prevent use or disclosure of Protected Health Information other than as provided for by this Addendum and to reasonably and appropriately protect the confidentiality, integrity, and the availability of Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.3 Reporting. Business Associate shall report to Covered Entity:

3.3.1 A use or disclosure of Protected Health Information not provided for by this Addendum of which it becomes aware, including Breaches of Unsecured Protected Health Information; and/or

3.3.2 A Security Incident of which it becomes aware, including Breaches of Unsecured Protected Health Information; provided that any Security Incidents that are "unsuccessful" and do not represent risks to Protected Health Information, such as "pings" on a firewall, may be reported through routine reports.

3.4 Subcontractors. Business Associate shall ensure that any of its subcontractors or agents that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate: (i) agree to the same restrictions and conditions that apply to Business Associate with respect to such Protected Health Information; and (ii) agree to implement reasonable and appropriate safeguards to protect Protected Health Information.

3.5 Access. Business Associate shall make available and provide access to Protected Health Information in a designated record set to the Covered Entity to allow Covered Entity to meet its obligations under 45 CFR Section 164.524 and the HITECH Act.

3.6 Amendment. Business Associate shall make amendments to Protected Health Information in a designated record set as directed or agreed to by Covered Entity to allow Covered Entity to meet its obligations under 45 CFR Section 164.526, or take other measures necessary to satisfy Covered Entity's obligations under 45 CFR Section 164.526.

3.7 Accountings of Disclosures. Business Associate shall document such disclosures of Protected Health Information and, upon request, shall provide to Covered Entity such information necessary to permit Covered Entity to comply with its accounting of disclosures obligations in accordance with 45 CFR Section 164.528 and the HITECH Act. Unless the Parties otherwise agree, Covered Entity shall not provide Business Associate's contact information to an Individual in response to a request for an accounting of disclosures.

3.8 Disclosure to the Secretary. Business Associate shall make internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created by Business Associate on behalf of Covered Entity available to the secretary of the Department of Health and Human Services or his or her designee (the "Secretary"), in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with HIPAA. Notwithstanding the foregoing, no legal privilege or protection shall be deemed waived by virtue of this provision.

3.9 HITECH Compliance. Business Associate shall comply with 45 CFR Sections 164.308, 164.310, 164.312, and 164.316 of the Security Rule as if Business Associate were a covered entity under HIPAA. Each privacy and security provision of the HITECH Act that is applicable to Covered Entity is hereby incorporated into this Addendum and shall apply to Business Associate.

4. Responsibilities of Covered Entity.

4.1 Notice of Privacy Practices. Provide Business Associate with Covered Entity's notice of privacy practices, as well as any changes to such notice, to the extent such notice affects Business Associate's permitted or required uses and disclosures of Protected Health Information.

4.2 Obtain Permissions. Obtain and maintain any and all necessary authorizations, consents, and other permissions from individuals that are required for Business Associate to fulfill its obligations under the Terms of Service and to use or disclose Protected Health Information as permitted under this Addendum, and promptly notify Business Associate of any revocation of such permissions.

4.3 Restrictions. Notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with HIPAA or the HITECH Act.

4.4 No Impermissible Requests. Not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA or the HITECH Act if done by Covered Entity.

4.5 Secure Transmissions. Transmit or provide Protected Health Information to Business Associate in a secure manner that complies with HIPAA Security Rule requirements and industry standard encryption protocols. Covered Entity shall be responsible for any breach or unauthorized disclosure resulting from its failure to properly secure PHI during transmission to Business Associate.

5. Term and Termination.

5.1 Term. The term of this Addendum shall commence as of the Effective Date and shall terminate when the underlying Services Agreement is terminated or a party terminates for cause as authorized in Section 5.2 below, whichever is sooner.

5.2 Termination for Cause. Upon either Party's knowledge of a material breach or violation by the other Party of this Addendum, HIPAA or the HITECH Act, the non-breaching Party may: (i) terminate the Services Agreement upon notice to the breaching Party if the breaching Party does not cure the breach or end the violation within sixty (60) days from receipt of written notice specifying the breach, or (ii) report the violation to the Secretary if neither termination of the Terms of Service nor cure of the material breach is feasible. The cure period may be extended by mutual written agreement of the parties.

5.3 Effect of Termination. Except as provided below, upon termination of the Services Agreement for any reason, Business Associate shall return or destroy all Protected Health Information, except for any Protected Health Information that must be retained to comply with applicable law or legitimate business purposes related to its administrative, legal, and quality assessment activities. In the event that Business Associate determines that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Addendum to such Protected Health Information and limit

further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for as long as Business Associate maintains such Protected Health Information. This provision shall survive the termination or expiration of this Addendum or the Terms of Service for any reason.

6. Miscellaneous.

6.1 Interpretation. The Parties intend that this Addendum be interpreted consistently with their intent to comply with HIPAA, the HITECH Act, and other federal and state law. Except where this Addendum conflicts with the Services Agreement, all other terms and conditions of the Terms of Service remain unchanged. The Parties agree that, in the event an inconsistency exists between the Terms of Service and this Addendum, the provisions of this Addendum will control.

6.2 No Third-Party Beneficiaries. Except as expressly stated in the Services Agreement, the Parties do not intend to create any rights in any third parties.

6.3 Amendment. This Addendum may only be amended by mutual written agreement of the Parties; provided, however, that any such amendment shall comply with state and federal law, including HIPAA and the HITECH Act.

6.4 Assignment. No Party may assign its respective rights and obligations under this Addendum without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Business Associate may assign this Addendum without consent to an affiliate or in connection with a merger, acquisition, or sale of all or substantially all of its assets.

6.5 Governing Law. This Addendum will be governed by the laws of the State of New Jersey, without reference to New Jersey's choice of law rules.

6.6 Waiver. No change, waiver, or discharge of any liability or obligation under this Addendum on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation or shall prohibit enforcement of any obligation, on any other occasion.