

CITY OF HOLLYWOOD

HEALTH CARE CENTER MEDICAL SERVICES AGREEMENT

SUPPLEMENTAL TERMS:

CONFIDENTIALITY, PRIVACY, DATA SECURITY, AND LIABILITY

THIS ADDENDUM (“**Addendum**”) is in addition to and made a part of the Health Care Center Medical Services Agreement, effective April 1, 2024 (the “**Agreement**”) by and between the City of Hollywood, a municipal corporation organized and existing under the laws of the State of Florida (“**Hollywood**”) and the South Broward Hospital District d/b/a Memorial Healthcare System including its Affiliates (“**Memorial**”). Hollywood and Memorial also are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS

- A. Pursuant to the terms of the Agreement, its terms and provisions includes a Business Associate Agreement (“**BAA**”) between the Parties.
- B. That BAA does not address the privacy and security of electronic data that is not Protected Health Information (“**PHI**”), as defined in 45 C.F.R. §160.103.
- C. This Addendum addresses Hollywood’s obligations to maintain the privacy and security of Memorial’s electronic data (including PHI) to which Hollywood has access.
- D. This Addendum is effective on the date last set forth below.

NOW, THEREFORE, for good and valuable consideration, as independently determined by each Party, Hollywood and Memorial agree as follows:

1. Confidentiality.

- a. Memorial’s obligations of confidentiality and non-disclosure pursuant to the Agreement are subject in all respects to Florida’s open government laws, including article I, section 24, Florida Constitution, and both Chapter 119 and section 286.011, Florida Statutes, including Florida’s Public Records Law (collectively, the “**Sunshine Laws**”), the provisions of the Addendum related to the Sunshine Laws, and the specific terms of this Section 1.

b. Definitions.

i. Confidential Information.

- (a) “Confidential Information” shall mean all oral, written and electronic information that relates to the business and operations of Disclosing Party (together with all projections, appraisals, memoranda, notes, analyses, compilations, studies and other documents, including, without limitation, any copies or extracts thereof, whether prepared by Disclosing Party or its

Representatives (as defined below), that Disclosing Party furnishes to Receiving Party or that Receiving Party gathers by inspection, in each case whether on or after the Effective Date, and regardless of whether such information is specifically identified as “proprietary,” “confidential,” or “sensitive.”

- (b) The term “Confidential Information” shall include, but not be limited to, Trade Secrets and other intellectual property, Memorial Data, operational information, strategic information, information technology, financial data, technical data, know-how, research, software, developments, inventions, designs, drawings, business plans, personal information (other than Protected Health Information that is the subject of the Business Associate Agreement), physician information, customer information, employee and employment information, market information, marketing information, pricing, and consulting information.
 - (c) Solely with respect to Memorial, the term “Confidential Information” shall also include, without limitation, all documents defined in (i) section 395.3035, (ii) Florida Statutes, “Personal Information” as defined in section 501.171, Florida Statutes, and (iii) section 688.002, Florida Statutes.
 - (d) The term “Confidential Information” shall include any information each Party has made its Confidential Information available to the other Party.
 - (e) Disclosing Party’s Confidential Information provided to Receiving Party may include Confidential Information that Disclosing Party has obtained from a third Person (as defined below) under an obligation of confidentiality or non-disclosure. In such event, the provisions of the Agreement shall equally apply to the protection of such Confidential Information for the express benefit of that third Person.
 - (f) Notwithstanding the foregoing, the term “Confidential Information” does not include, and this Section 1 does not apply to, information that (i) is now or subsequently becomes generally available to the public, unless due to any unauthorized act or omission on the part of Receiving Party or any other Person; (ii) can be shown by proper documentation to have been rightfully in Receiving Party’s possession or knowledge before it was received from Disclosing Party (provided that such information was not obtained, directly or indirectly, from a third Person that was bound by any obligation of confidentiality or non-disclosure with respect to such information); (iii) can be shown by proper documentation to have been independently developed by Receiving Party without the use of any Confidential Information of Disclosing Party; or (iv) Receiving Party rightfully obtains on a non-confidential basis from a third Person not subject to any obligation of confidentiality or non-disclosure with respect to such information.
- ii. “Disclosing Party” shall mean the Party disclosing its Confidential Information to the other Party.

- iii. "Memorial Data" includes, but is not limited to, all data and information submitted by or on behalf of Memorial using the Products and Services, and any other data or information from or related to Memorial to which Hollywood has access.
- iv. "Person" shall mean any individual, sole proprietorship, general partnership, limited partnership, limited liability Hollywood, joint venture, trust, unincorporated association, corporation, or entity.
- v. "Products and Services" means all software, products and services provided by Hollywood pursuant to the Agreement.
- vi. "Receiving Party" shall mean the Party receiving Confidential Information from the other Party.
- vii. "Trade Secret" shall have the meaning assigned to such term in Sections 688.001-688.009, Florida Statutes (the "Florida Uniform Trade Secrets Act").
- c. The Parties agree not to exchange Protected Health Information without entering into a mutually acceptable Business Associate Agreement.
- d. Receiving Party also agrees that it shall treat all Confidential Information of Disclosing Party as strictly confidential and with the same degree of care as it handles its own Confidential Information, but in no case less than reasonable care. Receiving Party specifically and expressly agrees that it will not disseminate or in any way disclose any Confidential Information of Disclosing Party in any manner whatsoever, in whole or in part, to any third party unless specifically authorized by the Agreement. Receiving Party agrees that it will not use any portion of the Disclosing Party's Confidential Information in any way, directly or indirectly, for its own or any other purpose, other than as specifically authorized by the Agreement. Receiving Party will not use Disclosing Party's Confidential Information in any manner that is adverse or detrimental to Disclosing Party.
- e. Receiving Party agrees that at the end of the Term (or any extension thereof) Receiving Party shall return, or if expressly permitted by Disclosing Party destroy, all copies of any media or materials containing Confidential Information of Disclosing Party, including all documentation, notes, plans, drawings, computer records and copies. Notwithstanding anything in the Agreement to the contrary, Receiving Party may retain one copy of all of Disclosing Party's Confidential Information received, and all summaries, extracts, copies and other reproductions thereof, as may be required by applicable law or by Receiving Party's internal record keeping standards, in each case subject to the obligations stated in this Section 1.
- f. Notwithstanding the foregoing, the Receiving Party may disclose the Confidential Information of the Disclosing Party to such of its commissioners, directors, officers, employees, advisors, agents and other representatives (collectively, "Representatives"), and to its affiliates and the Representatives of its affiliates (including, without limitation, in each case Memorial's Affiliates, as defined in the Addendum), in each case who the Receiving Party reasonably determines have a need to know the Confidential Information and who, prior to being provided with such Confidential Information, are

advised of the confidential and proprietary nature of the Confidential Information and the terms of this Section 1, and who are subject to obligations of confidentiality or non-disclosure no less restrictive than those set forth in this Section 1. The Receiving Party shall be responsible for any breach of this Section 1 by its Representatives, its affiliates, and the Representatives of its affiliates. Subject to the requirements of this Section 1 and the Addendum regarding the Sunshine Laws, it is further agreed that nothing contained in this Section 1 shall limit or impair the right or obligation of the Receiving Party to disclose any Confidential Information of the Disclosing Party (i) solely to the extent required by any other law or legal or administrative process, provided that the Receiving Party first, to the extent permitted by applicable law, gives the Disclosing Party reasonable notice of such law or process and an opportunity to object to, or otherwise attempt to limit, such disclosure, or (ii) to use such Confidential Information in connection with the enforcement of the terms and conditions of the Agreement.

- g. This Section 1 shall apply solely to Confidential Information of Disclosing Party disclosed to Receiving Party on or after the Effective Date and terminate three (3) years after the last day of the term of the Agreement. Notwithstanding anything in the Agreement to the contrary, the obligation of the Parties under this Section 1 shall continue to apply to Confidential Information after the term of the Agreement for so long as such Confidential Information continues to constitute a Trade Secret.
- h. The Parties agree that money damages may be an inadequate remedy for any breach of any part of this Section 1 and that each party shall be entitled to seek enforcement of this Section 1 by any action for specific performance or for injunctive relief, or both, to prevent the breach or continued breach of this Section 1 (without the posting of any bond or other security). Such remedy shall not be deemed to be the exclusive remedy for any such breach of this Section 1 but shall be in addition to all other remedies available at law or at equity.

2. Data Security.

- a. To the extent that Hollywood or any contractor, supplier or affiliate has control of Memorial Data, Hollywood warrants that Hollywood (including, but not limited to, any such contractor, supplier or affiliate) has implemented reasonable security measures, systems, and procedures designed to protect against reasonably foreseeable threats or hazards to the security of Memorial Data, pursuant to current industry practices and standards. At all times during the term of the Agreement, Hollywood further warrants that it and all contractors, suppliers and affiliates shall use current industry-standard best efforts to protect the security of all of Memorial Data accessible by or through Hollywood, including, without limitation, protecting against the inappropriate use or access of systems or networks by anyone by or through the Products and Services, or any other Hollywood software, products, or services. Such efforts by Hollywood, its contractors, affiliates, and suppliers shall include use of security measures at least as protective as the then-current security measures used by Hollywood for its own systems and data. Hollywood and all of its contractors, affiliates and third-party suppliers will, at a minimum, comply with all security standards and requirements (including, without limitation, notification requirements) required by applicable law, including, without limitation, HIPAA. With respect to its obligations under HIPAA, Hollywood agrees to use appropriate administrative, physical, and technical safeguards to protect the

confidentiality, integrity, and availability of protected health information, and prevent the use or disclosure of Protected Health Information other than as provided for by the Agreement. Hollywood shall comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information created, received, maintained, or transmitted on behalf of Memorial, as the Covered Entity, including the performance of an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of electronic Protected Health Information held by Hollywood, as required by 45 CFR 164.308(a)(1)(ii)(A). Hollywood agrees to report to Memorial any security incident of which it becomes aware (and, in any event, no later than three (3) business days after Hollywood detects any such security incident or any of Hollywood's personnel or any contractor's or supplier's personnel has a reasonable belief that any such security incident has occurred).

- b. Hollywood has sufficient controls in place with respect to Memorial Data at every applicable location and will maintain such controls while it has control of Memorial Data, to comply with HIPAA, HITECH, and Other Privacy Law. "Other Privacy Law" means all applicable privacy and data protection legislation and regulations other than HIPAA and HITECH that may affect Memorial Data or the Agreement. Hollywood understands its obligations under HIPAA and agrees to periodically (but not less frequently than annually) perform an appropriate HIPAA risk assessment.
3. Security Breach. In the event of any breach of security by or through Hollywood, or any supplier or contractor, of any of Memorial Data, network or systems (including, but not limited to, any ransomware infection), (i) Hollywood shall notify Memorial of the details of such security breach, including the severity of the security breach and an identification of which of Memorial Data, systems or software may be compromised, (a) no later than three (3) calendar days after the security breach is detected or any of Hollywood's personnel or any contractor's or supplier's personnel has a reasonable belief that a security breach has occurred, or (b) otherwise as soon as practicable if, under the circumstances, it is not possible to provide notice within three (3) calendar days from when the breach is detected or such a reasonable belief has been formed by any such individual or entity, (ii) Hollywood (including, without limitation, all contractors and suppliers) shall reasonably cooperate with any investigation by Memorial, any regulators or law enforcement; (iii) Hollywood shall promptly take, and require to be taken by all contractors and suppliers, necessary and appropriate corrective actions to terminate any unauthorized access to any of Hollywood's (including, but not limited to, those of any contractor or supplier) or Memorial's systems, software or services or any of Memorial Data; and (iv) Hollywood and all contractors and suppliers shall, at Hollywood's expense, promptly (to the extent that Hollywood or any contractor or supplier is responsible for the security incident): (a) take reasonable steps to remedy any security breach, including, without limitation, applying all applicable security patches and any appropriate decryption service, without unreasonable delay, (b) mitigate, to the extent practicable, any harmful effect of the breach, and (c) take other action that is reasonably necessary to comply with the security requirement or standard with which Hollywood or any contractor or third-party supplier failed to comply and to terminate any unauthorized access. Any failure to comply with such security standards or requirements will constitute a material breach of the Agreement and permit termination for cause by Memorial. To the extent that Hollywood (including, but not limited to, any contractor or supplier) is responsible for the security incident, Hollywood shall be responsible for all third-party costs and expenses, including, without limitation, notification costs and costs relating to third-party claims and regulatory fines, incurred by Memorial or any

of its affiliates as a result of the security breach; provided, however, that Memorial and its affiliates have a duty to take reasonable action to mitigate such costs and expenses. Neither Hollywood nor any of its contractors, suppliers or affiliates shall disclose any information related to a breach to any third party without Memorial's prior written approval.

4. Use of Memorial Data.

- a. Hollywood agrees not to use any Protected Health Information or other Memorial Data except as specifically provided in the Agreement or the Business Associate Agreement. Hollywood may not de-identify Protected Health Information or other identifiable Memorial Data.
- b. Storage and Processing. Hollywood will only store and process Memorial Data in the United States.

5. Supplemental Indemnification Terms.

- a. Indemnity. To the extent permitted by law, Hollywood shall defend Memorial, its commissioners, officers, directors, employees, advisors, agents, and other representatives (each, a "Memorial Indemnitee") against any claim, demand, suit or proceeding (each, a "Claim") alleging any of the following:
 - i. a breach of the Business Associate Agreement by Hollywood, including but not limited to any Breach (as defined in HIPAA) of Memorial's Protected Health Information maintained by or on behalf of Hollywood pursuant to the Agreement;
 - ii. any other access to, transmission of, or release or use of any Memorial Data not in accordance with the Agreement or the Business Associate Agreement;
 - iii. any breach of any of the confidentiality or data security provisions in the Agreement by Hollywood (including, without limitation, its contractors, and suppliers) including, without limitation, any breach of the section of this Addendum titled "HIPAA Compliance," and Section 1 (Confidentiality), Section 2 (Data Security), Section 3 (Security Breach), and Section 4 (Use of Memorial Data) of Exhibit B; or
 - iv. a breach or an alleged breach by Hollywood of any privacy laws applicable to Hollywood or to this Agreement;

and will indemnify and hold the Memorial Indemnitees harmless from and against any and all losses, damages, liabilities, actions, judgments, fines, penalties awards, interest, costs, or expenses of whatever kind (including reasonable attorneys' fees) (collectively "Damages") actually incurred by the Memorial Indemnitees as a result of any such Claim.

- b. Procedure. The obligations of an indemnifying party as set forth in this Agreement, including without limitation, this Section 5, are subject to the indemnified party: (i) giving the indemnifying party prompt written notice of any such claim or the possibility thereof (provided that if the indemnified party fails to give prompt notice, the indemnifying party will be relieved from its indemnification obligation only if such failure causes the indemnifying party to be materially prejudiced with respect to such claim); (ii) giving the indemnifying party sole control over the defense and settlement

of any such claim (except that the indemnifying party may not settle any such claim or matter without the other party's consent, which shall not be unreasonably withheld, conditioned or delayed, unless the settlement unconditionally releases the indemnified party from all liability and except that the indemnified party may engage their own counsel at their own expense and participate in the defense or settlement of such claim or matter); and (iii) providing full cooperation to the indemnifying party in good faith in the defense of any such claim, at the indemnifying party's expense.

6. Limitation of Liability.

- a. To the maximum extent permitted under applicable laws, and subject to Section 6.b and Section 6.c, in no event shall either party be liable for any incidental, indirect, special, punitive or exemplary damages or for lost profits or consequential damages; provided, however, to the extent Hollywood is required to pay any incidental, indirect, or consequential damages in connection with any third party Claim(s) under Section 5 above, such damages will constitute direct damages and not be subject to the limitations set forth in this Section 6.a.
 - b. The limitation of liability applicable to Memorial that is set out in this Section 6 is subject to in all respects to Section 768.28, Florida Statutes, as amended ("**Florida Liability Statute**").
 - c. Exclusions. The limitations of liability applicable to Hollywood that are set out in the Agreement do not apply to or limit:
 - i. Hollywood's liability with respect to the gross negligence or willful misconduct of Hollywood (including, without limitation, its contractors, and suppliers); and
 - ii. Hollywood's liability with respect to any breach of any of the confidentiality, privacy, or data security provisions in the Agreement, including, without limitation, the section of the Addendum titled "HIPAA Compliance," and Section 1 (Confidentiality), Section 2 (Data Security), Section 3 (Security Breach), and Section 4 (Use of Memorial Data) of this Exhibit B.
7. Incorporation by Reference. Except as otherwise provided in this Addendum, all of the terms, conditions, and capitalized terms set forth in the Agreement are incorporated in and made a part of this Addendum.
8. Order of Precedence. In the event of any conflict between the terms of this Addendum and the Agreement, the terms of this Addendum will prevail. In the event of any conflict between the terms of the Business Associate Agreement between the Parties and this Addendum, the terms of the Business Associate Agreement will prevail.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals on the date set forth below effective as of the Effective Date.

South Broward Hospital District

City of Hollywood, Florida

By: _____

By: _____

Print Name and Title

Print Name and Title

Date: _____

Date: _____

BUSINESS ASSOCIATE AGREEMENT

BACKGROUND

South Broward Hospital District d/b/a Memorial Healthcare System, a Florida special tax district (“**Covered Entity**”) and City of Hollywood, a municipal corporation organized and existing under the laws of the State of Florida (“**Business Associate**”) are entering into this Business Associate Agreement (this “**BAA**”) is effective as of the date on which the last party signed below (the “**Effective Date**”).

Covered Entity and Business Associate entered into a Health Care Center Medical Services Agreement (the “**Agreement**”), and its terms are incorporated herein. This BAA is an addendum to the Agreement.

HIPAA established standards for protecting the confidentiality, integrity and availability of Protected Health Information by covered entities and business associates. HITECH strengthened the privacy and security protections established under HIPAA, including by requiring covered entities and business associates to provide notification following a breach of unsecured Protected Health Information. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), as amended and the Regulations promulgated thereunder. “HITECH” means the Health Information Technology for Economic and Clinical Health Act of 2009 (42 U.S.C. §17931 et seq.), as amended and the Regulations promulgated thereunder.

Covered Entity possesses Protected Health Information that is protected under HIPAA and HITECH and is permitted to use or disclose such Protected Health Information only in accordance therewith. Business Associate may have access to, receive from, and maintain Protected Health Information on behalf of Covered Entity, all in connection with its performance of services to Covered Entity pursuant to the Agreements.

TERMS

1. **Definitions.** All capitalized terms used but not otherwise defined in this BAA shall have the same meaning as those terms in HIPAA, or HITECH or regulations thereunder.
2. **Obligations and Activities of Business Associate** Business Associate agrees to comply with (1) the requirements of 45 CFR §164.306, §164.308, §164.310, §164.312, and §164.316 to the same extent such requirements apply to Covered Entity and (2) the additional requirements of Title 45, Code of Federal Regulations, that relate to security and that are applicable to Covered Entity.
 - a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this BAA, or as Required by Law.
 - b. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to maintain electronic data security and prevent use or disclosure of

the Protected Health Information other than as provided for by the Agreement(s) and this BAA.

- c. Business Associate agrees to mitigate, to the extent reasonably practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of the Agreement(s) or this BAA.
- d. Business Associate agrees to report within three (3) business days to Covered Entity any use or disclosure of the Protected Health Information not provided for by the Agreement(s) of which it becomes aware and any security incident of which it becomes aware, in each case no later than three (3) business days after Business Associate detects any such use, disclosure or security incident or any of Business Associate's personnel or any contractor's or supplier's personnel has a reasonable belief that any such use, disclosure or security incident has occurred. The parties acknowledge and agree that this Section 2d constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined herein) for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of electronic Protected Health Information. The provisions of this Section 2d regarding Unsuccessful Security Incidents shall have no effect on Business Associate's obligations under Section 2k of this BAA (Breach of Unsecured Protected Health Information).
- e. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.
- f. At the request of Covered Entity, Business Associate agrees to make available, in the time and manner reasonably designated by Covered Entity, any Protected Health Information in a Designated Record Set, either to Covered Entity or, as directed by Covered Entity, to an Individual or an Individual's designee, in each case as necessary to satisfy Covered Entity's obligations under 45 CFR §164.524.
- g. Within a reasonable amount of time of receipt of a request by an Individual to Business Associate to amend Protected Health Information (but not to exceed ten (10) days), Business Associate shall forward to Covered Entity any such requests in writing. Covered Entity shall be responsible for making all determinations regarding amendments to Protected Health Information, and Business Associate shall make no such determinations.

- h. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner reasonably designated by Covered Entity or designated by the Secretary, for the purpose of the Secretary or the Covered Entity determining compliance with the Regulations.
- i. Business Associate agrees to document such disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for six (6) years prior to the request.
- j. Business Associate agrees that within a reasonable amount of time of receipt of a notice from Covered Entity requesting an accounting of Protected Health Information disclosures (but not to exceed ten (10) days), Business Associate shall provide Covered Entity with records of such disclosures containing the information as outlined in 45 CFR §164.528(b).
- k. If Business Associate has knowledge or a reasonable belief that a Breach of Unsecured Protected Health Information has occurred or may have occurred, Business Associate shall promptly (but in no event later than ten (10) days after it has knowledge that a Breach or reasonable belief that a Breach has or may have occurred) notify the Covered Entity in accordance with the requirements of Section 501.171(6)(a), Florida Statute and 45 CFR §164.410. For avoidance of doubt, Business Associate shall notify Covered Entity if it has knowledge of a potential Breach so that Covered Entity may determine and confirm whether a Breach has occurred. Such notification shall include, to the extent possible, the identification of each Individual whose Protected Health Information has been or is reasonably believed to have been accessed, acquired, used or disclosed during the Breach, along with a description of the Breach, the date of the Breach and its discovery, the types of Unsecured Protected Health Information involved and a description of the Business Associate's investigation, mitigation, and prevention efforts. Covered Entity will have the sole right to determine whether notice is to be given to any Individuals, law enforcement agencies, consumer reporting agencies, media outlets, the U.S. Department of Health & Human Services, or others as required by law or in Covered Entity's discretion. In addition, Covered Entity will have the sole right to determine the contents of such notice, whether any type of remediation may be offered to affected Individuals, as well as the nature and extent of any such remediation. Business Associate will be responsible for providing such notice to any Individuals and for the costs thereof.
- l. For purposes of any notice required to be given under (i) this BAA and/or (ii) HIPAA privacy rules, notice shall be given by a primary and supplemental

method: the primary method shall be in writing by e-mail and the supplemental method shall be deemed to have been duly given and made if in writing and if served, all delivery charges prepaid, (A) by personal delivery to the party for whom intended, or (B) by overnight delivery by a reputable national carrier, or (C) by being deposited certified or registered mail, return receipt requested, in the United States mail, in each case bearing the address shown below:

If to Covered Entity: Memorial Healthcare System Corporate Director of Privacy 3111 Stirling Road Hollywood, FL 33312 mhsprivacy@mhs.net 954-265-1165	If to Business Associate City of Hollywood 2600 Hollywood Blvd. Hollywood, FL Attention: Raheem Seecharan, Director of IT rseecharan@hollywoodfl.org 954.802.9941
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3. Permitted Uses and Disclosures by Business Associate

Except as otherwise expressly limited in the Agreement(s) or MHS Standard Addendum, if applicable:

- a. Business Associate may only use or disclose Protected Health Information as necessary to perform the services set forth in Agreement.
- b. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity.
- c. Business Associate agrees that when requesting, using, or disclosing Protected Health Information in accordance with 45 CFR. §164.502(b)(1) that such request, use, or disclosure shall be to the minimum extent necessary, to accomplish the intended purpose of such request, use, or disclosure, as interpreted under related guidance issued by the Secretary or Covered Entity from time to time.
- d. Business Associate may disclose Protected Health Information for disclosures that are required by law or to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR. §164.502(j)(1) of the Regulations.

4. Termination.

a. Termination for Cause

- (1) **By Covered Entity.** Upon Covered Entity's knowledge of a material breach by Business Associate of this BAA, Covered Entity may:

- (a) Provide thirty (30) days for Business Associate to cure the material breach or end the material violation, unless Covered Entity determines in its sole and absolute discretion, that a shorter time period is warranted due to the nature of the breach or violation at issue, and if Business Associate does not cure the material breach or end the material violation during said time period, Covered Entity may terminate this BAA and the provisions of the Agreement(s) that require or permit Business Associate to access Protected Health Information; or
 - (b) If Business Associate has breached a material term of this BAA and/or the provisions of the Agreement(s) that require or permit Business Associate to access Protected Health Information; and cure is not possible, immediately terminate this BAA and/or the Agreement(s).
- (2) **By Business Associate.** Upon Business Associate's knowledge of a material breach by Covered Entity of this BAA, Business Associate may:
- (a) Provide no less than thirty (30) days for Covered Entity to cure the material breach or end the material violation and if Covered Entity does not cure the material breach or end the material violation within such time period, Business Associate may terminate this BAA; or
 - (b) If Covered Entity has breached a material term of this BAA and cure is not possible immediately terminate the Agreement(s).

b. Effect of Termination.

- (1) Except as provided in Section 4b(2) below of this Section 4, upon termination of this BAA, for any reason, Business Associate shall, within a reasonable period of time after such termination, return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors of Business Associate. Business Associate shall retain no copies of the Protected Health Information. Business Associate agrees to use current HIPAA recommended guidelines for data sanitization methods to destroy all protected health information and to provide a proof record of destruction to demonstrate compliance.
- (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible and if Covered Entity determines that return or destruction is infeasible, Business Associate shall extend the protections of this BAA 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 so long as Business Associate maintains such Protected Health Information.

5. Miscellaneous.

- a. Changes to Regulations. The parties acknowledge that HITECH requires the Secretary to issue interpretative guidance and that the Secretary may promulgate additional regulations, which are not available at the time of executing this BAA. In the event Covered Entity determines in good faith that any such regulation or guidance adopted or amended after the execution of this BAA shall be incorporated herein, then this BAA shall be renegotiated in good faith so as to amend the applicable provision(s) in a manner that would eliminate any such substantial risk.
- b. Survival. The respective rights and obligations of the parties shall survive the termination of this BAA.
- c. Interpretation. Any ambiguity in this BAA shall be resolved to permit compliance with the Regulations. This BAA is an addendum to the Agreement(s); provided, however, that under no circumstances shall the terms of the Agreement(s) modify the terms of this BAA. In the event of any conflict or other inconsistency between the terms of this BAA and the terms of the Agreement(s), the terms of this BAA shall govern.
- d. To the extent Business Associate has been delegated in the Agreement(s) to carry out one or more of Covered Entity's obligation(s) under Subpart E of the Privacy Rule, 45 CFR §§164.500-164.534, as amended or re-numbered from time-to-time, Business Associate shall comply with all applicable requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s). To the extent obligations have been delegated to Business Associate, Covered Entity shall maintain the right to obtain compliance with said obligations.
- e. Compliance with Red Flags Rule. To the extent applicable, if Business Associate performs services for Covered Entity with respect to "Covered Accounts" as such term is defined in the Red Flags Rules published by the Federal Trade Commission and codified under 16 CFR §681.1 (the "Rule"), Business Associate shall also be deemed a "Service Provider" (as defined in the Rule) of Covered Entity, and as to such Covered Accounts, Business Associate shall: (a) perform its activities under the Agreement(s) in accordance with reasonable policies and procedures of Business Associate designed to identify, detect, prevent, and mitigate the risk of identity theft, as required of a Service Provider under the Rule; (b) report to Covered Entity any detected "Red Flag" (as defined in the Rule) incidents related to Covered Entity promptly, but in no event later than five (5) days after learning of the incident; (c) respond to, or reasonably assist Covered Entity in responding to, such reported Red Flag Incidents, as directed by Covered Entity; and (d) update its policies and procedures periodically to reflect changes in risks related to identity theft.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS THIS PAGE.]

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals on the date set forth below effective as of the Effective Date.

South Broward Hospital District

City of Hollywood, Florida

By: _____

By: _____

Print Name and Title

Print Name and Title

Date: _____

Date: _____

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

By: _____
City Attorney