



Not-for-Profit Hospital Corporation

NOT-FOR-PROFIT HOSPITAL CORPORATION
BUSINESS ASSOCIATE AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2015 by and among **NOT-FOR-PROFIT HOSPITAL CORPORATION, commonly known as United Medical Center**, (herein known as "Covered Entity"), whose business address is 1310 Southern Avenue, SE Washington DC , and _____ (herein known as "Business Associate"), whose business address is _____. Covered entity and Business Associate shall collectively be known herein as "the parties".

WHEREAS, Covered Entity is a health care provider as defined in in 45 CFR § 160.103

WHEREAS, Business Associate is in the business of providing services to the healthcare industry and its' activities are general described as _____.

WHEREAS, Covered Entity wishes to commence a business relationship with this Business Associate that shall be memorialized in a separate services agreement

WHEREAS, the nature of the prospective contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information ("PHI") as that term is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as amended by Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") including pertinent regulations issued by the Department of Health and Human Services ("HHS")

The premises have been considered and with acknowledgement of the mutual promises and of other good and valuable consideration herein contained, "The Parties", intending to be legally bound, hereby agree as follows

1. **Definitions.** Terms used, but not otherwise defined in this Agreement, shall have the same meaning as those terms in the HIPAA Rules..
 - a. **Business Associate.** "Business Associate" shall generally have the same meaning as defined in 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean _____.
 - b. **Covered Entity.** "Covered Entity" shall generally have the same meaning as defined in 45 CFR § 160.103, and in reference to the party to this Agreement, shall mean NOT-FOR-PROFIT HOSPITAL CORPORATION.
 - c. **Individual.** "Individual" shall generally have the same meaning as defined in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
 - d. **Breach.** "Breach" shall have the same meaning as defined in 45 CFR § 164.402
 - e. **Designated Record Set.** "Designated Record Set" has the same meaning as defined in 45 CFR § 164.501
 - f. **HIPAA Rules.** "HIPAA Rules" shall mean the Privacy, Security, Breath Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
Protected Health Information. "Protected Health Information" shall have the same meaning as defined in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
 - g. **Required By Law.** "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR §164.103,
 - h. **Secretary.** "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
 - i. **Unsecured Protected Health Information.** "Unsecured Protected Health Information" shall have the same meaning as defined in 45 CFR § 164.402, or as otherwise defined in §13402(h)of the HITECH Act

2. **Obligations and Activities of Business Associate.**

- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted by the HIPAA Rules, required by this Agreement, or as Required By Law.
- b. Business Associate agrees to employ administrative, physical, and technical safeguards in order to comply with Subpart C of 45 CFR Part 164 with respect to meeting required Security Standards for electronic Protected health information for business associates as Required By Law to prevent disclosure or use of PHI other than as allowable by this Agreement.
- c. Business Associate agrees to mitigate, to the extent 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 this Agreement.



NOT-FOR-PROFIT HOSPITAL CORPORATION

BUSINESS ASSOCIATE AGREEMENT

- d. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware. Business Associate also agrees to report to Covered Entity any security incident, including all data breaches whether internal or external, related to Protected Health Information as required at 45 CFR 164.410 of which Business Associate becomes aware.
- 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 the Covered Entity, agrees to the same restrictions, conditions, and requirements that apply through this Agreement to Business Associate with respect to PHI.
- f. Business Associate agrees, at the request of Covered Entity, to provide Covered Entity access to Protected Health Information in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524, in a prompt commercially reasonable manner.
- g. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526, or take other measures necessary to satisfy the covered entity's obligations under 45 CFR 164.526, at the request of Covered Entity or an Individual, in a prompt and commercially reasonable manner.
- h. Unless otherwise protected or prohibited from discovery or disclosure by law, Business Associate agrees to make internal practices, books, and records, including policies and procedures, relating to the use or 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 (including official representatives of the Secretary), in a prompt and commercially reasonable manner for purposes of determining Covered Entity's compliance with the Privacy Rule or Security Rule.
- i. Business Associate agrees to maintain necessary and sufficient documentation of disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of such disclosures, in accordance with 45 CFR §164.528.
- j. On request of Covered Entity, Business Associate agrees to provide to Covered Entity documentation made in accordance with this Agreement to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. §164.528. Business Associate shall have a reasonable time within which to comply with such a request from Covered Entity and in no case shall Business Associate be required to provide such documentation in less than five (5) business days after Business Associate's receipt of such request.
- k. Except as provided for in this Agreement, in the event Business Associate receives an access, amendment, accounting of disclosure, or other similar request directly from an Individual, Business Associate will redirect the Individual to the Covered Entity.

3. **Permitted Uses and Disclosures by Business Associate.**

- a. Except as otherwise limited by this Agreement, Business Associate may make any uses and disclosures of Protected Health Information necessary to perform its services to Covered Entity and otherwise meet its obligations under this Agreement, if such use or disclosure would not violate the HIPAA Rules if done by Covered Entity. All other uses or disclosures by Business Associate not authorized by this Agreement or by specific instruction of Covered Entity are prohibited.
- b. Business Associate may use or disclose protected health information as Required By Law
- c. Business Associate agrees to comply with the minimum necessary standard for Business Associates as set forth in the HIPAA Rules.
- d. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by the Covered Entity, except for the specific uses and disclosures set forth below:
 - 1. 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. Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person

NOT-FOR-PROFIT HOSPITAL CORPORATION

BUSINESS ASSOCIATE AGREEMENT

notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

- e. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services relating to the health care operations of the covered entity as permitted by 45 CFR §164.504

4. **Obligations of Covered Entity.**

- a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's permitted uses or disclosures of Protected Health Information.
- c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.
- d. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity. Nothing in this paragraph shall restrict the ability of the Business Associate to use or disclose PHI as set forth in section 3 herein

5. **Term and Termination.**

- a. Term. The Term of this Agreement shall be effective as of the date given at the top of page herein, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Agreement.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall give Business Associate written notice of such breach and provide reasonable opportunity for Business Associate to cure the breach or end the violation. Covered Entity may terminate this Agreement, and Business Associate agrees to such termination, if Business Associate has breached a material term of this Agreement and does not cure the breach or cure is not possible. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- c. Effect of Termination.
 - 1. Except as provided in paragraph (2) of this section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from, 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 or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - 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, within ten (10) business days, written notification of the conditions that make return or destruction infeasible. Upon such determination, Business Associate shall extend the protections of this Agreement 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.

- 6. **State Law.** If the State or District law applicable to the relationship between Business Associate and Covered Entity contains additional or more stringent requirements than federal law for Business Associates regarding any aspect of PHI privacy, then Business Associate agrees to comply with the higher standard contained in applicable state law.



Not-for-Profit Hospital Corporation

NOT-FOR-PROFIT HOSPITAL CORPORATION
BUSINESS ASSOCIATE AGREEMENT

7. **Modifications.** This agreement may only be modified through a writing signed by the parties and, thus, no verbal modification hereof shall be permitted. The parties agree to take such action as is necessary for Covered Entity to comply with the requirements of the HIPAA Rules, as amended.

8. **Miscellaneous.**

- a. Regulatory References. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA Rules.
- c. Survival. The respective rights and obligations of Business Associate under Section 5(c) of this Agreement shall survive the termination of this Agreement.
- d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule or the Security Rule.

9. **Notice to Covered Entity.** Any notice required under this agreement to be given to the Covered Entity shall be made in writing to:

Risk Manager
NOT-FOR-PROFIT HOSPITAL CORPORATION
1310 Southern Avenue, SE, Suite # 2050
Washington, D.C. 20032-4623

10. **Notice to Business Associate.** Any notice required under this agreement to be given to the Business Associate shall be made in writing to:

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

COVERED ENTITY

Not-for-Profit Hospital Corporation

Title: CEO _____

Date: _____

BUSINESS ASSOCIATE

Title: _____

Date: _____