

**AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF SCOTT CITY, MISSOURI, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF SCOTT CITY AND SOUTHEAST HOSPITAL RELATIVE TO DISPATCH CENTER MEDICAL DIRECTOR; FURTHER SAID ORDINANCE SHALL AUTHORIZE AND DIRECT THE CITY CLERK TO ATTEST THE SIGNATURE OF THE MAYOR.**

WHEREAS, the City's Dispatch Department has acquired the equipment and trained the personnel to be able to provide life support services in response to calls to the call center; and

WHEREAS, a Medical Director is required for all emergency medical response agencies that provide advanced life support services, basic life support services utilizing medications or providing assistance with patients' medications per §190.103, RSMo.; and

WHEREAS, it is a benefit to the citizens of the City for the Dispatch Department to provide advanced life support services in response to 911 calls received by Dispatch; and

WHEREAS, the Mayor and City Council of the City of Scott City, Missouri, have heretofore reviewed the agreement marked Exhibit "A", attached hereto, and incorporated herein as if fully set forth; and

WHEREAS, the Mayor and City Council of the City of Scott City, Missouri, deem it advisable to enter into said agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTT CITY, MISSOURI, AS FOLLOWS:

Section 1. That the Mayor and City Council for the City of Scott City, Missouri, approve the agreement marked Exhibit "A", which is attached hereto and incorporated herein as if fully set forth, between the City of Scott City and *Southeast Hospital d/b/a Mercy Hospital Southeast* for the purposes set forth hereinabove together with such changes therein as shall be approved by the officers of the City executing same which are consistent with the provisions and intent of this legislation and necessary, desirable, convenient or proper in order to carry out the matters herein authorized. It is the belief of the Mayor and City Council that it is in the best interest of the citizens of the City of Scott City, Missouri, that the City enter into said agreement.

Section 2. That the Mayor, and other appropriate City officials, are hereby authorized to execute the agreement in substantially the form as Exhibit A for and on behalf of the City of

Scott City, Missouri and such additional documents and take any and all actions necessary, desirable, convenient or prudent in order to carry out the intent of this legislation.

Section 3. That the City Clerk of the City of Scott City is hereby authorized and directed to attest to the signature of the Mayor on the said agreement.

Section 4. If any section, subsection, sentence, clause or phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This Ordinance shall take effect and be in force from and after its passage and approval by the City Council and after its approval and execution by the Mayor.

Read first time this 18th day of March, 2024.

Read second time this 18th day of March, 2024.

The bill was thereupon placed on its final passage and put to a roll call vote this 18th day of March, 2024 with the following results:

K. Page	<u>AYE</u>	Rhymer	<u>AYE</u>
Phillips	<u>AYE</u>	Ingvalson	<u>AYE</u>
Howard	<u>AYE</u>	Brashear	<u>AYE</u>
C. Page	<u>AYE</u>	Morse	<u>AYE</u>

**WHEREUPON**, the Mayor declared that Bill No. 1336 passed and that the same had become Ordinance No. 1342.

Norman Brant  
Norman Brant, Mayor

Attest:

Christina Oswald  
City Clerk

## MEDICAL DIRECTOR AGREEMENT

THIS MEDICAL DIRECTOR AGREEMENT ("Agreement") is made and entered into effective as of \_\_\_\_\_, 2024 ("Effective Date") by and between **City of Scott City Dispatch Center** ("Dispatch Center") and **Southeast Hospital**, owning and operating Mercy Hospital Southeast, a Missouri corporation ("Hospital").

WHEREAS, Dispatch Center is a dispatch agency that provides prearrival medical instructions; and

WHEREAS, Dispatch Center desires to engage Hospital as an independent contractor to provide, through a designated physician, *Dr. Chase Silvers*, ("Physician"), the services described herein and serve as the medical director ("Medical Director") of Dispatch Center; and

WHEREAS, Hospital desires to provide Dispatch Center medical director services free of charge as a service to help Dispatch Center establish and maintain quality life support services; and

WHEREAS, Dispatch Center and Hospital desire to enter into this Agreement for the provision of such services.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

### 1. RELATIONSHIP BETWEEN DISPATCH CENTER AND HOSPITAL

1.1 Independent Contractors. Dispatch Center and Hospital are independent contractors and this Agreement shall not constitute the formation of a partnership, joint venture or principal-agent, relationship, nor shall this Agreement be deemed to create any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms and conditions of this Agreement.

1.2 State Law. Dispatch Center and Hospital have entered into this Agreement pursuant to the requirement of Section 650.340.8, RSMo. that Dispatch Center maintain an agreement with a medical director to ensure appropriate clinical education and guidance of Dispatch Center provision of life support services. Hospital agrees to provide a medical director to Dispatch Center and enters this Agreement to enable Dispatch Center to comply with Missouri law.

### 2. HOSPITAL'S DUTIES

2.1 Duties. Hospital, through the Physician, shall perform such duties as set forth in Attachment A ("Medical Director Services"). Hospital may from time to time designate a new Physician who shall fulfill Hospital's obligations hereunder, provided that Hospital shall not change such designation more than once annually (except in cases of unforeseen

circumstance) and shall obtain Dispatch Center's prior approval of the newly designated Physician, which approval shall not be unreasonably withheld.

2.2 Standards. Hospital, through Physician, shall provide Medical Director Services in accordance with: (a) the professional standards then prevailing in the Dispatch Center; (b) the then currently accepted methods and practices (including codes of ethics) of the American Medical Association and the American Board of Emergency Medicine; and (c) applicable regulatory and accreditation standards.

2.3 Licensure. Hospital agrees that at all times Physician shall have and maintain the following:

2.3.1 a currently valid and unlimited license to practice medicine in the State of Missouri, in good standing;

2.3.2 valid and current unrestricted registrations to prescribe and dispense controlled substances as required by federal, state, or local laws and regulations; and

2.3.3 Satisfy one of the following:

2.3.3.1 board certification and active practice in emergency medicine;

or

2.3.3.2 board certification in a primary care specialty (family practice, internal medicine, or pediatrics) or surgery, or

2.3.3.3 active practice in emergency medicine; and

2.3.4 Is current in Advanced Cardiac Life Support, Advanced Trauma Life Support, and Pediatric Advanced Life Support.

### 3. GRIEVANCE PROCEDURES

The parties agree to abide by the grievance procedures set forth in Attachment B, which shall govern disputes between Dispatch Center and Medical Director, including disputes between Dispatch Center employees and Medical Director.

### 4. INSURANCE

4.1 During the term of this Agreement, Dispatch Center, at its sole cost and expense, agrees to procure and maintain general and professional liability coverage, on an occurrence basis, for losses arising out of the acts or omissions of Dispatch Center or its employees in the minimum amounts of One Million Dollars (\$1,000,000), per occurrence, Three Million Dollars (\$3,000,000) annual aggregate.

4.2 Professional liability insurance coverage for Physician(s) will be provided in connection with the performance of Medical Director by Hospital.

5. TERM AND TERMINATION

5.1 Term. This Agreement shall commence as of the Effective Date and shall continue for a period of time up to and including \_\_\_\_\_, 2025 unless earlier terminated as provided herein. Thereafter, this Agreement shall automatically renew for additional terms of one year each unless not less than ninety (90) days from the date of termination of this Agreement either party gives notice in writing to the other that such party will not renew this Agreement. Notwithstanding the foregoing, either party may terminate this Agreement without cause at any time during a term by giving ninety (90) days' prior written notice, effective on the date stated therein.

5.2 Termination. Notwithstanding the provisions of Subsection 5.1, this Agreement may be terminated as follows:

5.2.1 Termination for Cause. At any time during the Initial Term or any Renewal Term either party may terminate this Agreement upon ten (10) days prior written notice in the event that the other party is in material breach of any provision of this Agreement and fails to cure such breach on or before the expiration of a thirty (30) day written notice and cure period ("Cure Period"). Notwithstanding the foregoing, if the breach is cured within the Cure Period but the breaching party commits the same or a substantially similar breach within a six (6) month period following expiration of the Cure Period, then the non-breaching party may immediately terminate this Agreement without affording any further Cure Period.

5.2.2 Termination Due to Change in Law. In the event that any law or regulation enacted, promulgated or amended after the date of this Agreement, or any interpretation of law or regulation by a court or regulatory authority of competent jurisdiction after the date of this Agreement (collectively "Change in Law") materially affects or materially impacts upon the reasonable expectations of either party under this Agreement, renders any provision of this Agreement illegal or unenforceable, or materially affects the ability of either party to perform its obligations under this Agreement, then either party may request renegotiation of the applicable terms of this Agreement by written notice to the other party. Both parties agree to negotiate in good faith an amendment, which preserves the original reasonable expectation of the parties to the extent possible in a manner consistent with the Change in Law. If no such amendment can be agreed upon in the reasonable opinion of either party within one hundred twenty (120) days of receipt of such notice, then Dispatch Center or Hospital may terminate this Agreement upon an additional thirty (30) days written notice.

6. MISCELLANEOUS

6.1 Waiver of Breach. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as, nor be construed to be, a waiver of any subsequent breach of the same or any other provision thereof.

6.2 Entire Agreement. This Agreement, together with its Attachments, supersedes all previous agreements between the parties relating to the subject matter of this Agreement and constitutes the entire understanding between the parties relating to the subject matter of this Agreement. No amendments or variation thereof shall be valid unless evidenced by a writing signed by both parties.

6.3 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri.

6.4 Severability. In the event any provision of this Agreement is invalid or unenforceable, such invalid or unenforceable provision shall not invalidate or affect the other provisions of this Agreement which shall remain in effect and be construed as if such provision were not a part hereof, provided that if the invalidation or unenforceability of such provision shall, in the opinion of either party to the Agreement, have a material effect on such party's rights or obligations under this Agreement, then the Agreement may be terminated by such party upon thirty (30) days prior written notice by such party to the other party.

6.5 Notices. All notices given pursuant to this Agreement shall be deemed effectively given when personally delivered, sent by tele-facsimile with confirmation of receipt or sent by certified mail, postage fully paid, to the party's last known address or such other address as the parties may designate in writing. The date of the notice shall be the date of delivery if notice is personally delivered, the date appearing on the confirmation notice if faxed, or the date of mailing if the notice is sent by certified mail.

6.6 Assignment and Subcontracting. Except as provided in Section 2.1, above, with respect to the designation of Physician, neither party hereto may assign its rights or obligations under this Agreement to any other person or entity. Notwithstanding the foregoing, Hospital may assign this Agreement to any corporation owned by or under common control with, Hospital.

## 7. HIPAA COMPLIANCE

7.1 The parties of this agreement believe they will qualify as a Covered Entity and Business Associate as defined within the Health Insurance Portability and Accountability Act and its accompanying regulations ("HIPAA"). In order to comply with the applicable provisions of HIPAA, the parties agree to the provisions of the HIPAA Business Associate Addendum attached hereto and incorporated herein as Attachment C.

## 8. AFFIRMATIVE ACTION STATEMENT

8.1 Hospital is an equal opportunity employer. As part of its affirmative action policies and obligations, Hospital is subject to and will comply with the provisions governing federal contractors as set forth on 41 CFR 60-1.4(a), 41 CFR 741.5(a) and 41 CFR 250.5(a), and these regulation are hereby incorporated into this contract by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

**City of Scott City, Missouri**

**Southeast Hospital**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT A

### SCOPE OF MEDICAL DIRECTOR SERVICES

The Medical Director, in cooperation with Dispatch Center administration, shall perform the following duties:

1. Develop, implement and annually review:
  - (a) Medical and treatment protocols for medical, trauma and pediatric patients;
  - (b) Triage protocols;
  - (c) Protocols for do-not-resuscitate requests;
  - (d) Air ambulance utilization; and
  - (e) Medications and medical equipment to be utilized.
  
2. Ensure that all licensed service personnel meet the educational skills competencies required for their level of license and patient care environment. The Medical Director shall have authority to require additional education and training for any licensed service personnel who fail to meet this requirement, and limit the patient care activities of those who deviate from established standards.
  
3. Develop and implement a quality assurance and improvement program that includes at least an annual review of the following:
  - (a) Prolonged emergency medical response agency response times;
  - (b) Incomplete run documentation;
  - (c) Compliance with adult and pediatric triage, treatment protocols (or sample thereof);
  - (d) Skills performance (or sample thereof); and
  - (e) Any other activities that Dispatch Center administration or the Medical Director deems necessary.
  
4. Advise the Dispatch Center Director and the City Administrator on issues relating to the provision of quality emergency medical care by the agency's personnel.
  
5. Perform any other Medical Director duties as reasonably requested by Dispatch Center and agreed to by the Medical Director.



**ATTACHMENT B**  
**GRIEVANCE PROCEDURES**

As required by Section 190.103.4 of the Missouri Revised Statutes, there is established herein a grievance procedure between Dispatch Center and the Medical Director as follows:

- A. At the earliest opportunity, the Parties shall establish a three (3) person dispute resolution panel ("Dispute Resolution Panel"), with one person appointed by Dispatch Center, one person appointed by Hospital, and one person mutually agreed upon, and appointed by, the other two Dispute Resolution Panel members.
- B. Upon the filing of a written grievance with either Dispatch Center or the Hospital, the party receiving the grievance shall attempt to resolve the grievance with the complainant. If the grievance is not resolved informally, the party receiving the grievance shall schedule, within thirty (30) working days of receipt of the grievance, a hearing, at a mutually agreeable location, with the Dispute Resolution Panel in which the complainant(s) and the respondent(s) to the grievance shall each have an opportunity to present evidence to the Dispute Resolution Panel regarding his/her or its grievance or response.
- C. After closing the hearing, the Dispute Resolution Panel shall issue its resolution of said grievance(s) within sixty (60) days. The Dispute Resolution Panel shall retain final authority for all non-clinical decisions, but shall retain a duly qualified physician, agreed upon by the parties, to render a final decision regarding any clinical issue in dispute between the Medical Director and Dispatch Center. The Decisions of the Dispute Resolution Panel and any duly qualified physician shall be in writing and final, and shall take into consideration the authority granted to Scott City Dispatch Center and Medical Director under Missouri law.

**ATTACHMENT C**  
**BUSINESS ASSOCIATE ADDENDUM**

The parties to the Agreement are committed to complying with the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder (collectively "HIPAA"). In order to ensure such compliance this Exhibit sets forth the terms and conditions pursuant to which Protected Health Information that is provided to, or created or received by, Business Associate from or on behalf of Covered Entity will be handled ("*HIPAA Exhibit*").

1. Definitions:

A. Business Associate. "Business Associate" shall mean, as defined by HIPAA (45 CFR section 160.103), with respect to a covered entity, a person who--

1). On behalf of the covered entity or of an organized healthcare arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement;

2). Creates, receives, maintains, or transmits protected health information for a function or activity regulated by 9 CSR 10-5.220 and 45 CFR section 160.103, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, patient safety activities listed at 42 CFR 3.20, billing, benefit management, practice management, and repricing; or

3). Provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized healthcare arrangement in which the covered entity participates, where the provision of the service involves the disclosure of protected health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

B. Covered Entity. "Covered Entity" shall mean Scott City Dispatch Center.

C. Designated Record Set. The phrase "Designated Record Set" shall have the same meaning as the phrase "designated record set" set forth within the Privacy and Security Rule, as may be amended from time to time.

D. Individual. The term "Individual" shall have the same meaning as the term "individual" in the Privacy and Security Rule and shall include a person who qualifies as a personal representative in accordance with the Privacy and Security Rule.

- E. Privacy and Security Rule. The phrase "Privacy and Security Rule" shall mean the Standards for Privacy of Individually Identifiable Information and the Security Standards for the Protection of Electronic Health Information at 45 C.F.R. part 160 and part 164, as amended from time to time.
- F. Protected Health Information. The phrase "Protected Health Information" shall have the same meaning as the phrase "protected health information" set forth within the Privacy and Security Rule, as may be amended from time to time, to the extent such information is provided to, or created or received by, Business Associate from or on behalf of Covered Entity.
- G. Secretary. The term "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his/her designee.

Terms or phrases used, but not otherwise defined, in this HIPAA Exhibit shall have the same meaning as those terms in the Privacy and Security Rule.

2. Scope. This HIPAA Exhibit applies to all actions, relationships and transactions between Covered Entity and Business Associate pursuant to the Agreement and through which Covered Entity provided Protected Health Information to the Business Associate in any form or medium whatsoever.

3. Purpose: General Rules Regarding Protected Health Information. This HIPAA Exhibit sets forth the terms and conditions pursuant to which Protected Health Information that is held, transmitted, disclosed, received or created by Business Associate from or on behalf of Covered Entity will be handled. Except as otherwise specified herein, Business Associate may make all uses and disclosures of Protected Health Information necessary to perform its obligations to Covered Entity under the Agreement or pursuant to Covered Entity's written instruction, provided that such uses or disclosures would not violate the Privacy and Security Rule. All other uses and disclosures not required by law, authorized by this HIPAA Exhibit or authorized by any other written agreement with Covered Entity or Covered Entity's written instructions are prohibited.

4. Business Activities of the Business Associate. Unless otherwise limited herein, Business Associate may:

- A. Use and/or disclose Protected Health Information in its possession for the proper management and administration of Business Associate as it relates to the services provided to Covered Entity, provided that such uses and/or disclosures are permitted by federal and state laws;
- B. Disclosure Protected Health Information in its possession to third parties for the proper management and administration of Business Associate or to fulfill any present or future legal responsibilities of Business Associate, provided that the disclosures are required by law or Business Associate represents to Covered Entity, in writing, that Business Associate has obtained reasonable

assurances from the third party that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the third party and the third party notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

- C. Use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. Section 164.504(e)(2)(i)(B), except as otherwise limited in this HIPAA Exhibit; and
- D. Use Protected Health Information to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. Section 164.502(j)(1).

5. Responsibilities of Business Associate. With regard to its use and/or disclosure of Protected Health Information, Business Associate hereby agrees to do the following:

- A. Use and/or disclose the Protected Health Information in its possession only as permitted by this HIPAA Exhibit or otherwise permitted or required by federal and state laws;
- B. Ensure that all of its employees, representatives, subcontractors or agents that receive, use or have access to Protected Health Information under this HIPAA Exhibit agree to adhere to the same terms and conditions on the use and/or disclosure of Protected Health Information that apply herein, including the obligation to return, destroy or maintain the confidentiality of, Protected Health Information as provided under Section 8(B)(2) of this HIPAA Exhibit;
- C. Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Health Information that it creates, receives, maintains or transmits on behalf of the Covered Entity, as required by the Privacy and Security Rule;
- D. Establish procedures for mitigating improper use and/or disclosure of Protected Health Information in the event Business Associate discloses Protected Health Information to any third party for purposes other than "treatment," "payment" or "health care operations" as those terms are used and defined within the Privacy and Security Rule. Business Associate shall provide prompt notice of the date and purpose of each disclosure as well as the name and address of the recipient, to the Covered Entity at the address set forth herein.
- E. Report to the designated Privacy Officer of Covered Entity, in writing, any use and/or disclosure of the Protected Health Information that is not permitted or required by this HIPAA Exhibit or a security incident of which Business

Associate becomes aware within ten (10) days of Business Associate's discovery of such unauthorized use and/or disclosure or security incident;

- F. Upon written request, make available during normal business hours at Business Associate's offices, all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to Covered Entity within ten (10) days of receiving the request for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of this HIPAA Exhibit;
- G. Make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of Protected Health Information to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Rule, subject to attorney-client privilege and other applicable legal privileges; and
- H. Within thirty (30) days of receiving written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an Individual to account for disclosures of the Individual's Protected Health Information or to amend the Individual's Protected Health Information in accordance with Section 7 of this HIPAA Exhibit.

6. Responsibilities of Covered Entity

- A. Provide Business Associate with a copy of the notice of privacy practices that it utilizes in accordance with the Privacy and Security Rule, as well as inform Business Associate of any changes in said notice;
- B. Inform Business Associate of any changes in, or revocation of, permission by the Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses or disclosures; and
- C. Notify Business Associate, in writing and in a timely manner, of any restrictions on the use and/or disclosure of Protected Health Information agreed to by Covered Entity in accordance with the Privacy and Security Rule.

7. Handling of Designated Record Sets. In the event that the Protected Health Information received or created by the Business Associate on behalf of the Covered Entity constitutes a Designated Record Set:

- A. Business Associate agrees to make any amendments to the Protected Health Information that the Covered Entity directs pursuant to the Privacy and

Security Rule and at the request of the Covered Entity or the Individual and in the time and manner reasonably designated by Covered Entity.

B. Covered Entity agrees to:

1. Notify Business Associate, in writing, of any Protected Health Information Covered Entity seeks to make available to an Individual pursuant to the Privacy and Security Rule and the time and manner in which Business Associate should provide such access; and
2. Notify Business Associate, in writing, of any amendments to the Protected Health Information in the possession of Business Associate that Business Associate should make and the time and manner in which such amendments should be made.

8. Term and Termination.

A. Term: The provisions of this HIPAA Exhibit shall remain in effect for the term of the Agreement, unless otherwise provided in this HIPAA Exhibit.

B. Termination. Unless otherwise provided herein, this HIPAA Exhibit 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 unfeasible to return or destroy the Protected Health Information, protections are extended to such information in accordance with the provisions of this Section.

1. As provided under the Privacy and Security Rule, upon Covered Entity's knowledge of a material breach of the terms of this HIPAA Exhibit by Business Associate, Covered Entity shall provide Business Associate with an opportunity to cure said material breach in accordance with the terms of the Agreement. Covered Entity shall make any reports deemed necessary, in its sole discretion, to the Secretary.
2. Unless Business Associate has an independent legal right to the Protected Health Information provided to, or created or received by, Business Associate on behalf of Covered Entity, Business Associate shall return to Covered Entity or destroy, as requested by Covered Entity, within sixty (60) days of the termination of the Agreement, Protected Health Information in Business Associate's possession and retain no copies or back up files or tapes. If Business Associate retains Protected Health Information, the terms of this HIPAA Exhibit shall remain in effect for so long as Business Associate remains in possession of any Protected Health Information provided to, 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 agents or subcontractors of Business Associate.

3. In the event Business Associate determines that returning or destroying the Protected Health Information is unfeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible. Upon mutual agreement of the parties that return or destruction is unfeasible, Business Associate shall extend the protections of this HIPAA Exhibit 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 unfeasible, for so long as Business Associate maintains such Protected Health Information.

9. Miscellaneous.

- A. No Third Party Beneficiaries. There are no intended third party beneficiaries to the provisions of this HIPAA Exhibit. Without in any way limiting the foregoing, it is the parties' specific intent that nothing contained in this HIPAA Exhibit give rise to any right or cause of action, contractual or otherwise, in or on behalf of any Individual whose Protected Health Information is used or disclosed pursuant to this HIPAA Exhibit.
- B. References. A reference in this HIPAA Exhibit to a section in the Privacy and Security Rule means the section as in effect or as amended, and for which compliance is required.
- C. Amendment. The parties agree to take such action as is necessary to amend this HIPAA Exhibit from time to time in order for Covered Entity to comply with the requirements of the Privacy and Security Rule. No amendment to this HIPAA Exhibit shall be effective until reduced to writing and signed by the parties.
- D. Survival. The respective rights and obligations of Business Associate and Covered Entity set forth in this HIPAA Exhibit shall survive the termination of the Agreement.