

BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT, effective _____, 2018, is made and entered into by and between the **COUNTY OF LIVINGSTON**, a political subdivision and municipal corporation of the State of Michigan (hereinafter referred to as the "County") and **ST. JOHN PROVIDENCE ASCENSION**, with offices at Howell, Michigan (hereinafter referred to as the "Business Associate"), as part of the Subcontract between the County on behalf of the Covered Entity and the Business Associate for employee health and pre-employment physical and drug screening services (hereinafter referred to as the "Subcontract").

W I T N E S S E T H:

WHEREAS, the Covered Entity requires the Business Associate to provide services that may involve the use and/or disclosure of protected health information; and

WHEREAS, the Business Associate is capable of performing the services while complying with the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Standards") set forth by the U.S. Department of Health and Human Services ("HHS") pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended ("HIPAA") including the amendments made to HIPAA by the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), part of the American Recovery and Reinvestment Act of 2009 ("ARRA") and the Genetic Information Nondiscrimination Act of 2008 ("GINA"); and

WHEREAS, the Business Associate desires to provide the services which the Covered Entity requires and agrees to comply with requirements of HIPAA as amended and the rules and regulations promulgated pursuant thereto.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, **IT IS HEREBY AGREED**, as follows:

1. **DEFINITIONS:** Unless otherwise provided below, the terms used in this Agreement shall have the same meaning as those definitions set forth in HIPAA, the HITECH Act, the ARRA and GINA, as amended, and the federal rules and regulations promulgated pursuant thereto including, but not limited to, 45 CFR 160.103, 45 CFR 162.103 and 45 CFR 164.501.
 - (a) **Breach.** "Breach" shall have the same meaning given to the term "breach" in 45 CFR 164.402.
 - (b) **Business Associate.** "Business Associate" shall mean St. John Providence Ascension.
 - (c) **CFR.** "CFR" shall mean Code of Federal Regulations.
 - (d) **Covered Electronic Transactions.** "Covered Electronic Transactions" shall have the meaning given the term "transaction" in 45 CFR §160.103.
 - (e) **Covered Entity.** "Covered Entity" shall mean the County of Livingston.

- (f) **Designated Record Set.** “Designated Record Set” has the same meaning as the term “Designated Record Set” in 45 CFR 164.501.
- (g) **Electronic Health Record.** “Electronic Health Record” means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- (h) **Electronic Protected Health Information (EPHI).** “Electronic Protected Health Information” shall have the same meaning as the term “electronic protected health information” in 45 CFR §160.103.
- (i) **HHS.** “HHS” means the U.S. Department of Health and Human Services.
- (j) **Individual.** “Individual” means the person who is the subject of the Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (k) **Minimum Necessary.** “Minimum Necessary” shall have the meaning set out in 45 CFR § 164.502(b).
- (l) **Privacy Rule.** “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.
- (m) **Protected Health Information (PHI).** “Protected Health Information” or “PHI” shall mean individually identifiable health information as set forth in 45 CFR 160.103, limited to the information created or received by the Business Associate from or on behalf of the Covered Entity.
- (n) **Required By Law.** “Required By Law” shall mean a mandate contained in law that compels the Covered Entity to make a use or disclosure of protected health information and that is enforceable in a court of law and as further defined in 45 CFR 164.103, et seq.
- (o) **Secretary.** “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (p) **Security Incident.** “Security Incident” shall have the same meaning as the term “security incident” in 45 CFR §164.304.
- (q) **Security Rule.** “Security Rule” means the Security Standards and Implementation Specifications in 45 CFR Part 160 and Part 164, subpart C.
- (r) **Standard Transactions.** “Standard Transactions” shall have the meaning set out in 45 CFR § 162.103.
- (s) **Unsecured Protected Health Information.** “Unsecured Protected Health Information” shall have the meaning given the term “unsecured protected health information” in 45 CFR §164.402.

2. **SCOPE OF SERVICES:** Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Subcontract entered into between the County for the Covered Entity and the Business Associate. The services to be provided by the Business Associate are more fully set forth in the attached Exhibit A Scope of Services, which is incorporated by reference into this Agreement.

The Business Associate by entry into this Agreement acknowledges that it is obligated to independently comply with the Privacy Rule, Security Rule and rules pertaining to breach notification and that it may be directly liable to the Federal Government for fines and other sanctions imposed by HHS for non-compliance.

3. **PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION:** Except as otherwise limited by this Agreement, the Business Associate may:

- (a) Business Associate is permitted to create, request, use and disclose the Minimum Necessary Protected Health Information on Covered Entity's behalf, and to use and to disclose the Minimum Necessary Protected Health Information to perform functions, activities or services for or on behalf of Covered Entity as specified in this Agreement provided such use or disclosure would not violate the Privacy Rule if done by the Covered Entity or the minimum necessary policies and procedures of the Covered Entity. The Business Associate and Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with the definition of the term set forth in 45 CFR 164.502(b).
- (b) Business Associate may use the Minimum Necessary Protected Health Information for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities, provided that the Business Associate represents to the Covered Entity in writing that (i) the disclosures are required by law, or (ii) the Business Associate obtains reasonable written assurances from the third party to whom the information is disclosed regarding its confidential handling of such Protected Health Information, as required under 45 CFR 164.504(e)(4), that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party and the third party shall promptly notify the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Upon receipt of such notice of breach the Business Associate shall promptly notify the Covered Entity.
- (c) The Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

- (d) In the event the Business Associate maintains Protected Health Information in a Designated Record Set, Business Associate shall provide access to such Protected Health Information that it maintains in a Designated Record Set to the Individual to whom the Protected Health Information relates in accordance with 45 CFR 164.524. Furthermore, at the request of the Covered Entity, the Business Associate shall make amendments to Protected Health Information that it maintains in a Designated Record Set as directed by the Covered Entity and to incorporate any amendments to Protected Health Information in accordance with 45 CFR 164.526.
- (e) The Business Associate will neither use nor disclose the Covered Entity's Protected Health Information, except as permitted or required by this Agreement or in writing by the Covered Entity or as required by law. This Agreement does not authorize the Business Associate to use or disclose the Covered Entity's Protected Information in a manner that will violate the Privacy Rule or Security Rule if done by the Covered Entity.
- (f) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

4. RESPONSIBILITIES OF THE BUSINESS ASSOCIATE WITH REGARD TO PROTECTED HEALTH INFORMATION: With regard to its use and/or disclosure of Protected Health Information, the Business Associate agrees to the following:

- (a) Business Associate understands that it is subject to the HIPAA Privacy and Security Rules in a similar manner as the rules apply to the Covered Entity.
- (b) Business Associate agrees to take all actions necessary to comply with the HIPAA Privacy and Security Rules, including, but not limited to, appointing a HIPAA privacy officer and a HIPAA security officer.
- (c) Business Associate shall establish written policies and procedures to ensure compliance with the Privacy and Security Rules. Business Associate shall train its workforce regarding the Privacy and Security Rules.
- (d) Business Associate shall enter into business associate agreements with its subcontractors that perform functions relating to Business Associate's Subcontract with the Covered Entity involving PHI, and Business Associate shall conduct a security risk analysis.
- (e) Business Associate shall not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.
- (f) Business Associate shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided by this Agreement.

- (g) Business Associate shall implement administrative, physical and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of the Covered Entity as required by the Security Rule. The safeguards shall include, but not limited to, physical, administrative and technical safeguards such as locking cabinets or rooms where PHI is housed, using computer passwords or other security measures to prevent unauthorized access to PHI in electronic format; providing encryption or comparable protection for electronic PHI at rest and in motion, implementing policies and procedures describing authorized access and use for the Business Associate's workforce; and human resources policies and procedures to enforce these rules.
- (h) Business Associate shall 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.
- (i) Business Associate shall report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware in a timely manner.
- (j) In addition, Business Associate agrees to the following:
 - (1) If Business Associate discovers a breach of unsecured PHI, as those terms are defined by 45 CFR 164.402, Business Associate shall notify Covered Entity without unreasonable delay and within five (5) calendar days after discovery. For this purpose, discovery means the first day on which the breach is known to Business Associate or by exercising reasonable diligence would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a breach if the breach is known or exercising reasonable diligence would have been known to any person, other than the person committing the breach, who is an employee, officer, subcontractor or other agent of Business Associate. The notification must include identification of each individual whose unsecured PHI has been or it has reasonably believed to have been breached and any other available information in Business Associate's possession which Covered Entity is required to include in the individual notice contemplated by 45 CFR 164.404.
 - (2) Business Associate shall coordinate with the Covered Entity to (a) investigate the breach event, (b) inform all affected individuals, and (c) mitigate the breach. Business Associate shall be responsible for any and all costs associated with responding to and mitigating breaches, including but not limited to investigation costs, mailing costs, call center costs, personnel costs, attorneys' fees and other related expenses or costs associated with compliance with the breach notification requirements in 45 CFR Part 164, Subpart D. the Business

Associate shall provide the Covered Entity with the following information for each breach in accordance with 45 CFR 164.404:

- (i) A description of what occurred with respect to the breach, including, to the extent known, the date of the breach and the date in which the breach was discovered.
 - (ii) A description of the types of unsecured PHI that were disclosed during the breach; and
 - (iii) All other information required by the Covered Entity in order to fulfill its obligations under 45 CFR Part 164, Subpart D.
- (3) Business Associate shall maintain a log of breaches of unsecured PHI and shall submit the log to the Covered Entity within fifteen (15) calendar days following the end of each calendar year so that the Covered Entity may report breaches to the Secretary in accordance with 45 CFR 164.408.
- (k) Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate pursuant to its Subcontract with Ingham County, agrees in writing to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. Moreover, Business Associate shall ensure that any such agent or subcontractor agrees to implement reasonable and appropriate safeguards to protect electronic PHI.
 - (l) Business Associate shall provide reasonable access, at the written request of the Covered Entity, to Protected Health Information in a Designated Record Set, to the Covered Entity or, as directed in writing by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
 - (m) Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs in writing or agrees to pursuant to 45 CFR 164.526 at the written request of Covered Entity or an Individual.
 - (n) Following receipt of a written request by Covered Entity, 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 reasonably available to the Secretary for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the Privacy Rule and/or Security Rule.
 - (o) Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required

for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

- (p) Following receipt of a written request by Covered Entity, Business Associate agrees to provide to Covered Entity or an Individual, information collected in accordance with the Subcontract, 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 CFR 164.528.
- (q) Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual unless the Covered Entity or Business Associate obtain from the Individual, in accordance with 45 CFR 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that Individual.
- (r) The Business Associate agrees to make internal practices, books, records, including policies and procedures, and agreements relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity, available to the Covered Entity, or at the request of the Covered Entity, and/or the Secretary, in a time and manner designated by the Covered Entity, or the Secretary, for purposes of the Covered Entity or Secretary determining the Business Associate's compliance with the Privacy Rule and/or the Security Rule or to allow the Covered Entity to monitor compliance with this Agreement.
- (s) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate or an agent or subcontractor of the Business Associate in violation of the requirements of this Agreement.
- (t) Subject to Section 11 below, the Business Associate agrees to return to the Covered Entity, or destroy, the Protected Health Information in its possession, within thirty (30) days of the termination of this Agreement, and retain no hard or electronic copies, including the destruction of all backup tapes, if applicable.
- (u) Business Associate shall within five (5) business days after the Covered Entity's request, to make available to the Covered Entity or, at the Covered Entity's direction, to the Individual (or the Individual's personal representative) for inspection and obtaining copies, any Protected Health Information about the Individual that is in Business Associate's custody or control, so that Covered Entity may meet its access obligations under 45 CFR 164.524.

- (v) Business Associate shall, upon receipt of notice from the Covered Entity, promptly amend or permit the Covered Entity access to amend any applicable portion of the Protected Health Information under 45 CFR 164.526.

5. DISCLOSURE ACCOUNTING.

- (a) **Disclosure Tracking.** Business Associate will record information concerning each disclosure of Protected Health Information that Business Associate makes to Covered Entity or a third party. The information which the Business Associate shall record for each accountable disclosure shall include (1) the disclosure date, (2) the name and (if known) address of the person or entity to which the disclosure was made, (3) a brief description of the Protected Health Information disclosed, and (4) a brief statement of the purpose of the disclosure. 45 CFR 164.528(b).
- (b) **Disclosure Information for Repetitive Disclosures.** For repetitive disclosures made by Business Associate to the same person or entity (including the Covered Entity) for a single purpose, Business Associate shall record the disclosure either as set forth above or it may provide (i) the disclosure information for the first of these repetitive disclosures; (ii) the frequency, periodicity or number of these repetitive disclosures; and (iii) the date of the last of these repetitive disclosures. Business Associate will make this disclosure information available to Covered Entity within five (5) business days after Covered Entity's request. 45 CFR 164.528(b).
- (c) **Disclosure Tracking Time Periods.** Business Associate must have available for Covered Entity the disclosure information required by this Agreement's Section 5(a) for the six (6) years preceding Covered Entity's request for the disclosure information. 45 CFR 164.528(b).

6. RESTRICTION REQUESTS; CONFIDENTIAL COMMUNICATIONS. Individuals, pursuant to 45 CFR § 164.522 (a), may request that uses or disclosures of their Protected Health Information, be restricted to: (i) uses or disclosures of Protected Health Information about the individual to carry out treatment, payment, or health care operations; and (ii) disclosures permitted under 45 CFR § 164.510 (b). Individuals also, pursuant to 45 CFR § 164.522 (b), may make reasonable requests to covered health care providers and/or health plans to receive communications of Protected Health Information from such providers or health plans by alternative means or at alternative locations. The Business Associate shall comply with such requests to the extent that: (i) they are permitted by 45 CFR § 164.522, (ii) have been agreed to by the Covered Entity; and (iii) the Business Associate has been made aware of the request.

7. INSPECTION OF BOOKS AND RECORDS. Business Associate will make its internal practices, books and records, relating to its use and disclosure of Public Health Information available to Covered Entity and to the U.S. Department of Health and Human Services to determine compliance with 45 CFR Parts 160-164 or this Agreement.

8. **RESPONSIBILITIES OF THE COVERED ENTITY WITH REGARD TO PROTECTED HEALTH INFORMATION:** With regard to the use and/or disclosure of Protected Health Information by the Business Associate, the Covered Entity hereby agrees:
- (a) To provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR 164.520, as well as any limitations to such notice, to the extent that such limitations may affect the Business Associate's use or disclosure of Protected Health Information.
 - (b) To provide the Business Associate with any changes in, or revocation of, or consent by an individual to use or disclose Protected Health Information, if such changes affect the Business Associate's permitted or required uses and disclosures. (45 CFR 164.506 and 164.508)
 - (c) To notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected Health Insurance.
9. **PERMISSIBLE REQUESTS BY COVERED ENTITY:** The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule or Security Rule if done by the Covered Entity.
10. **SECURITY INCIDENT.** If Business Associate becomes aware of any Security Incident, Business Associate shall report the same in writing to Covered Entity as provided below. Business Associate agrees to mitigate, to the extent practicable, any harmful effect resulting from such Security Incident.
- (a) Business Associate certifies that there are a significant number of meaningless attempts to, without authorization, access, use, disclose, modify or destroy Protected Health Information such that to report each such unsuccessful incident separately would be impractical. Because there is no significant benefit for data security gained from required reporting each such unsuccessful intrusion attempt and the cost of reporting such unsuccessful attempts as they occur far outweighs any potential benefit gained from reporting them, Covered Entity and Business Associate agree that this Agreement shall constitute Business Associate's notice and written report of such unsuccessful attempts at unauthorized access or system interference as required above and by 45 CFR Part 164 and that no further notice or report of such unsuccessful attempts will be required.
 - (b) Business Associate shall, however, separately report to Covered Entity any successful unauthorized access, use, disclosure, modification, or destruction of Covered Entity's Protected Health Information of which Business Associate becomes aware or, by exercising reasonable diligence, would have been known to the Business Associate, if such security incident either (i) results in

a breach of confidentiality; (ii) results in a breach of integrity but only if such breach results in a significant, unauthorized alteration or destruction of Covered Entity's Protected Health Information; or (iii) results in a breach of availability of Protected Health Information, but only if said breach results in a significant interruption to normal business operations. Such reports will be provided in writing within five (5) calendar days after Business Associate becomes aware or, by exercising reasonable diligence, would have been known to the Business Associate, of the impact of such Security Incident upon Covered Entity's Protected Health Information.

11. TERM AND TERMINATION:

- (a) Term. The term of this Agreement shall be effective as of _____, 2018, and shall continue as long as the Subcontract remains in effect. This Agreement shall terminate when the Subcontract terminates. When this Agreement terminates, all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, shall be destroyed or returned to the Covered Entity. If it is infeasible to return or destroy Protected Health Information, protections shall be extended by the Business Associate to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause.
 - (i) If the Covered Entity determines that there has been a material breach of this Agreement by the Business Associate, the Covered Entity may immediately terminate this Agreement and the Subcontract.
 - (ii) The Covered Entity may provide an opportunity for the Business Associate to cure the breach or end the violation to the satisfaction of the Covered Entity within ten (10) days upon written notice of the existence of the alleged breach. In the event the Business Associate does not cure the breach or end the violation within the set time, the Covered Entity shall terminate this Agreement and the Subcontract; or
 - (iii) If neither termination nor cure are feasible, the Covered Entity shall report the violation to the Secretary.
- (c) Effect of Termination.
 - (i) Except as provided in paragraph (b) of this Section, upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the

Business Associate. The Business Associate shall retain no copies of the Protected Health Information.

- (ii) In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible whether from itself or from an agent or subcontractor, the Business Associate shall provide to the Covered Entity written notification of the specific reasons that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, the 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.
- (iii) The Business Associate's obligations to protect the privacy and safeguard the security of the Covered Entity's Protected Health Information as specified in this Agreement will be continuous and survive the termination or other conclusion of this Agreement.

12. **INTERPRETATION:** Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule and Security Rule.

13. **NONDISCRIMINATION:** The Business Associate, as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, programs and services provided, or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position or political affiliation. The Business Associate shall include the language of this assurance in all subcontracts for services covered by this Agreement.

Breach of any provisions of this section shall be regarded as a material breach of this Agreement.

14. **COMPLIANCE WITH THE LAW:** The Business Associate shall provide all services in complete compliance with HIPAA, as amended, and all other applicable Federal, State and local laws, ordinances, rules and regulations. The Business Associate acknowledges that it is subject to civil and criminal enforcement for failure to comply with the Privacy Rule and Security Rule, as amended by the HITECH Act.

15. **INDEPENDENT CONTRACTOR:** It is expressly understood and agreed that the Business Associate is an independent contractor. The Business Associate, its officers, employees, or agents shall in no way be deemed to be and shall not hold themselves out as employees or agents of either the Covered Entity or the County and shall not be entitled to fringe benefits of the County, such as, but not limited to, health and accident insurance, life insurance, paid sick or vacation leave or longevity.

16. **INDEMNIFICATION AND HOLD HARMLESS:** The Business Associate shall, at its own expense, protect, defend, indemnify, save and hold harmless the Covered Entity, the County, the County's elected and appointed officers, employees, servants and agents from all claims, damages, costs and expenses, including, but not limited to, all costs from administrative proceedings, court costs and attorney fees, that they may incur as a result of any breach of this Agreement by the Business Associate, its officers, employees, affiliates, subcontractors or agents that may arise out of their breach of any of the terms of this Agreement or violation of HIPAA, as amended, federal rules and regulations promulgated pursuant thereto, and any other applicable federal, or State of Michigan laws or regulations.

The Business Associates indemnification responsibilities under this section shall include the sum of damages, costs and expenses which are in excess of the sum paid out on behalf of or reimbursed to the Covered Entity, the County, and the County's elected and appointed officers, employees and agents by the insurance coverage obtained and/or maintained by the Business Associate.

17. **LIABILITY INSURANCE:** The Business Associate shall be responsible for obtaining and maintaining liability insurance required in the Subcontract between the County and Business Associate.
18. **CHOICE OF LAW:** This Agreement shall be governed by and interpreted in accordance with HIPAA, and HITECH Act, as amended, the regulations promulgated pursuant, and the laws of the State of Michigan, not including, however, the rules relating to choice or conflict of laws.
19. **NOTICES:** Any notices to be given hereunder to a Party shall be made via certified mail or express courier to such Party's address given below:

If to Covered Entity to:

Jennifer Palmbo
Human Resources/Labor Relations Director
304 East Grand River Avenue
Howell, MI 48843
(517) 540-8790
jpalmbo@livgov.com

If to Business Associate to:

Either party may change the name and address of who shall receive notices on its behalf by sending the other party written notice of the change.

20. **WAIVERS:** No failure or delay on the part of either of the parties to this Agreement in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege.
21. **MODIFICATION OF AGREEMENT:** Modifications, amendments or waivers of any provision of this Agreement may be made only by the written mutual consent of the parties hereto.
22. **SUCCESSOR AND ASSIGNS:** This Agreement will inure to the benefit of and be binding upon the successors and assigns of the Covered Entity and Business Associate. However, this Agreement is not assignable by any party without prior written consent of the other party.
23. **SECTION TITLES:** The titles of the sections set forth in this Agreement are inserted for the convenience of reference only and shall be disregarded when construing or interpreting any of the provisions of this Agreement.
24. **COMPLETE AGREEMENT:** This Agreement, the Subcontract and any additional or supplementary documents incorporated herein by specific reference contains all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.
25. **SURVIVAL CLAUSE:** All rights, duties, and responsibilities of either the Covered Entity or Business Associate that either expressly or by their nature, extend into the future, including but not limited to retention of and access to records, responsibilities on termination as set forth in Section 11, and indemnification as set forth in Section 16, shall extend beyond the end of the term or termination of this Agreement.
26. **INVALID/UNENFORCEABLE PROVISIONS:** If any clause or provision of this Agreement is rendered invalid or unenforceable because of any State or Federal statute or regulation or ruling by any tribunal of competent jurisdiction, that clause or provision shall be null and void, and any such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement. Where the deletion of the invalid or unenforceable clause or provision would result in the illegality and/or unenforceability of this Agreement, this Agreement and the Subcontract shall be considered to have terminated as of the date in which the clause or provision was rendered invalid or unenforceable.
27. **NON-BENEFICIARY CONTRACT:** This Agreement is not intended to be a third party beneficiary contract and confers no rights on anyone other than the parties to this Agreement.
28. **CERTIFICATION OF AUTHORITY TO SIGN AGREEMENT:** The people signing this Agreement certify by their signatures that they are duly authorized to sign this Agreement on behalf of the party they represent and that this Agreement has been authorized by said party.

THE AUTHORIZED REPRESENTATIVES OF THE PARTIES HERETO HAVE FULLY SIGNED THIS BUSINESS ASSOCIATE AGREEMENT IN THE SPACES PROVIDED BELOW.

**FOR COVERED ENTITY
COUNTY OF LIVINGSTON**

FOR BUSINESS ASSOCIATE

By: _____
Donald S. Parker, Chairman
County Board of Commissioners

By: _____
(Signature)

Name: _____
(Print or Type)

Title: _____
(Print or Type)

**APPROVED AS TO FORM FOR COUNTY OF LIVINGSTON:
COHL, STOKER & TOSKEY, P.C.
By: MATTIS D. NORDEFJORD
On:**