Request for Proposal
UK-1770-17
Proposal Due Date – 06/28/2017

Post-Acute Care Substance Abuse Disorder Services
REQUEST FOR PROPOSAL (RFP)

ATTENTION: This is not an order. Read all instructions, terms and conditions carefully.

<table>
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<th>PROPOSAL NO.:</th>
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<tr>
<td>Issue Date:</td>
<td>5/26/2017</td>
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<tr>
<td>Title:</td>
<td>Post-Acute Care Substance Abuse Disorder Services</td>
</tr>
<tr>
<td>Purchasing Officer:</td>
<td>John Deans</td>
</tr>
<tr>
<td>Phone:</td>
<td>859.257.6759</td>
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**RETURN ORIGINAL COPY OF PROPOSAL TO:**

**UNIVERSITY OF KENTUCKY**
**PURCHASING DIVISION**
**411 S LIMESTONE**
**LEXINGTON, KY 40506-0005**

**IMPORTANT: PROPOSALS MUST BE RECEIVED BY:** 6/28/2017 3 P.M. LEXINGTON, KY TIME.

**NOTICE OF REQUIREMENTS**

1. The University’s General Terms and Conditions and Instructions to Bidders, viewable at [www.uky.edu/Purchasing/terms.htm](http://www.uky.edu/Purchasing/terms.htm), apply to this RFP. When the RFP includes construction services, the University’s General Conditions for Construction and Instructions to Bidders, viewable at [www.uky.edu/Purchasing/cicphome.htm](http://www.uky.edu/Purchasing/cicphome.htm), apply to the RFP.
2. A proposal is to be accompanied by evidence of the authority to sign on its behalf (if the offeror is an individual), a partner, (if the offeror is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the offeror is a corporation).
3. Contracts resulting from this RFP must be governed by and in accordance with the laws of the Commonwealth of Kentucky.
4. Any agreement or collusion among offerors or prospective offerors, which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to bid at a fixed price or to refrain from offering, or otherwise, is prohibited.
5. Any person who violates any provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars nor more than ten thousand dollars, or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment. Any firm, corporation, or association who violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars or more than twenty thousand dollars.

**AUTHENTICATION OF BID AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST**

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the offeror (if the offeror is an individual), a partner, (if the offeror is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the offeror is a corporation);
2. That the attached proposal has been arrived at by the offeror independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other Contractor of materials, supplies, equipment or services described in the RFP, designed to limit independent bidding or competition;
3. That the contents of the proposal have not been communicated by the offeror or its employees or agents to any person not an employee or agent of the offeror or its surety on any bond furnished with the proposal and will not be communicated to any such person prior to the official closing of the RFP;
4. That the offeror is legally entitled to enter into contracts with the University of Kentucky and is not in violation of any prohibited conflict of interest, including, but not limited to, those prohibited by the provisions of KRS 45A.330 to .340, and164.390;
5. That the offeror, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sale and use tax imposed by Chapter 139 to the extent required by Kentucky law and will remain registered for the duration of any contract award;
6. That I have fully informed myself regarding the accuracy of the statement made above.

**SWORN STATEMENT OF COMPLIANCE WITH CAMPAIGN FINANCE LAWS**

In accordance with KRS45A.110 (2), the undersigned hereby swears under penalty of perjury that he/she has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to a bidder will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky. 

**CONTRACTOR REPORT OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341 & 342**

The contractor by signing and submitting a proposal agrees as required by 45A.485 to submit final determinations of any violations of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that have occurred in the previous five (5) years prior to the award of a contract and agrees to remain in continuous compliance with the provisions of the statutes during the duration of any contract that may be established. Final determinations of violations of these statutes must be provided to the University by the successful contractor prior to the award of a contract.

**CERTIFICATION OF NON-SEGREGATED FACILITIES**

The contractor, by submitting a proposal, certifies that he/she is in compliance with the Code of Federal Regulations, No. 41 CFR 60-1.8(b) that prohibits the maintaining of segregated facilities.

**SIGNATURE REQUIRED:** This proposal cannot be considered valid unless signed and dated by an authorized agent of the offeror. Type or print the signatory's name, title, address, phone number and fax number in the spaces provided. Offers signed by an agent are to be accompanied by evidence of his/her authority unless such evidence has been previously furnished to the issuing office.

**DELIVERY TIME:**

**NAME OF COMPANY:**

**DUNS #**

**PROPOSAL FIRM THROUGH:**

**ADDRESS:**

**Phone/Fax:**

**PAYMENT TERMS:**

**CITY, STATE & ZIP CODE:**

**E-MAIL:**

**SHIPPING TERMS: F. O. B. DESTINATION PREPAID AND ALLOWED**

**TYPED OR PRINTED NAME:**

**WEB ADDRESS:**

**FEDERAL EMPLOYER ID NO.:**

**SIGNATURE:**

**DATE:**
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Appendix A. HIPAA Business Associate Agreement
1.0 DEFINITIONS

The term "addenda" means written or graphic instructions issued by the University of Kentucky prior to the receipt of proposals that modify or interpret the RFP documents by additions, deletions, clarifications and/or corrections.

The term "competitive negotiations" means the method authorized in the Kentucky Revised Statutes, Chapter 45A.085.

The terms "offer" or "proposal" mean the offeror's/offerors' response to this RFP.

The term "offeror" means the entity or contractor group submitting the proposal.

The term "contractor" means the entity receiving a contract award.

The term "purchasing agency" means the University of Kentucky, Purchasing Division, Room 322 Peterson Service Building, Lexington, KY 40506-0005.

The term "purchasing official" means the University of Kentucky's appointed contracting representative.

The term "responsible offeror" means a person, company or corporation that has the capability in all respects to perform fully the contract requirements.

The term "solicitation" means RFP.

The term "University" means University of Kentucky.
2.0 GENERAL OVERVIEW

2.1 Intent and Scope

The Request for Proposal (RFP) is being issued by the University of Kentucky to obtain proposals from qualified, experienced, financially sound and responsible entity(ies)/providers. The purpose of this RFP is to solicit service providers to deliver rehabilitation services in an appropriate post-acute care setting for those patients also requiring long-term antibiotic(s). The information is being requested specifically for the purpose of encompassing a comprehensive rehabilitation service that will assimilate and validate data to improve ultimate rehabilitation services and outcomes for those served.

The selected Entity(ies)/Provider(s) shall provide quality services, capability, and the integrity and reliability that will assure good faith performance. In determining whether an offeror is responsible, the University may evaluate various factors including (but not limited to): financial resources; experience; organization; technical qualifications; available resources; record of performance; integrity; judgment; ability to perform successfully under the terms and conditions of the contract; adversarial relationship between the offeror and the University that is so serious and compelling that it may negatively impact the work performed under this RFP; or any other cause determined to be so serious and compelling as to affect the responsibility of the offeror. The selected Entity(ies)/Provider(s) will be required to sign the University HIPAA Business Associate Agreement (See Appendix A).

The University encourages Offerors to propose solutions that support emerging trends/treatment/care of patients within this population. While it is the intent to make a single award, split or multiple awards may result as deemed in the best interest of the University and the population served.

2.2 Background Information

The UK Chandler Medical Center, now known as UK HealthCare, which opened in 1960, is considered one of the nation’s finest academic medical centers. As one of the two Level 1 Trauma Centers in Kentucky, UK HealthCare cares for the most critically injured and ill patients in the region. UK HealthCare has 934 licensed beds between its Chandler Medical Center, Good Samaritan Hospital and UK Children’s Hospital. UK HealthCare is supported by more than 650 Physicians and 565 Residents and Fellows that are committed to high-quality patient care.

UK HealthCare frequently receives substance use disorder patients from all areas of the State. The National Safety Council reports that in 2014, 18,893 people died as a result of opioid overdose. Also reported by the Council, The United States makes up 4.6 percent of the world’s population but consume 81 percent of the drug supply of oxycodone; 4.3 million adolescents and adults reported non-medical use of opioids in 2014; and 4 out of 5 heroin users started on prescription opioids. The United States is confronting the deadliest drug crisis on record. (Centers for Disease Control & Prevention, 2016).

Opioid abuse is associated with a number of potential downstream consequences, including serious infections related to intravenous administration. Infections may include but are not limited to endocarditis, osteomyelitis, septic arthritis, and epidural abscess. Such serious infections require
longer treatment with antibiotic therapy to resolve the infection. Patients are typically ready to leave the hospital but due to their history of substance abuse disorder and the requirement for longer antibiotic therapy physicians do not feel comfortable in discharging the patient back into the community with an intravenous access in place, which is required for administration of the antibiotic(s). The patient remains in the acute care (hospital) setting although acute care services are no longer required.

The inability to discharge patients in this population routinely prevents other patients from receiving their acute care needs at UK HealthCare. During the patient(s) long hospital stay, there are no active rehabilitation therapies to assist in SUDs recovery, thus the care becomes a vicious cycle of physical illness, treatment, returning to same environment and behaviors. Drug overdose is the leading cause of accidental death in the United States and opioid addiction is driving the epidemic according to the American Society of Addiction Medicine. In an effort to reduce substance abuse disorder, create a healthier community for the State and provide much needed services to other populations, a post-acute care partner is being sought to assist in solving the discussed issues.

### 2.3 University Information

Since his arrival, President Eli Capilouto has set forth an ambitious agenda to extend and enhance our role as Kentucky’s land-grant and flagship research university. By focusing on infrastructure growth and improvement; creating opportunities for innovative teaching, learning, and academic excellence; fostering a robust research and creative scholarship enterprise; providing life-saving subspecialty care; empowering communities through service and outreach; and encouraging a transparent and shared dialogue about institutional priorities; the University of Kentucky will ensure a new century of promise for the people we impact.

Founded in 1865 as a land-grant institution adjacent to downtown Lexington, UK is nestled in the scenic heart of the beautiful Bluegrass Region of Kentucky. From its early beginnings, with only 190 students and 10 professors, UK’s campus now covers more than 918 acres and is home to more than 30,000 students and approximately 14,500 employees, including more than 2,300 full-time faculty. UK is one of a small number of universities in the United States that has programs in agriculture, engineering, a full complement of health colleges including medicine and pharmacy, law and fine arts on a single campus, leading to groundbreaking discoveries and unique interdisciplinary collaboration. The state’s flagship university consists of 17 academic and professional colleges where students can choose from more than 200 majors and degree programs at the undergraduate and graduate levels. The colleges are Agriculture, Food and Environment; Arts and Sciences; Business and Economics; Communication and Information; Dentistry; Design; Education; Engineering; Fine Arts; Graduate School; Health Sciences; Law; Medicine; Nursing; Pharmacy; Public Health; and Social Work. These colleges are supported by a modern research library system.

Research at the University of Kentucky is a dynamic enterprise encompassing both traditional scholarship and emerging technologies, and UK’s research faculty, staff and students are establishing UK as one of the nation’s most prolific public research universities. UK’s research enterprise attracted $285 million in research grants and contracts from out-of-state sources, which generated a $580 million impact on the Kentucky economy. Included in this portfolio is $153 million in federal awards from the National Institutes of Health, non-NIH grants from the Department Health and Human Services, the National Science Foundation, Department of Energy, Department of
Agriculture and NASA, among others. The National Science Foundation ranks UK’s research enterprise 44th among public institutions.

With more than 50 research centers and institutes, UK researchers are discovering new knowledge, providing a rich training ground for current students and the next generation of researchers, and advancing the economic growth of the Commonwealth of Kentucky. Several centers excel in the services offered to the public. The Gluck Equine Research Center is one of only three facilities of its kind in the world, conducting research in equine diseases.

The Center for Applied Energy Research is pursuing groundbreaking discovery across the energy disciplines. CAER staff are pioneering new ways to sustainably utilize Kentucky natural resources through carbon-capture algae technology, biomass/coal to liquid products and the opening of UK’s first LEED-certified research lab to support the development of Kentucky’s growing alternative energy industry. Among the brightest examples of UK’s investment in transformative research is the Markey Cancer Center. As a center of excellence and distinction at UK, Markey’s robust research and clinical enterprise is the cornerstone of our commitment to Kentucky – fundamental to our success in uplifting lives through our endeavors and improving the general health and welfare of our state – burdened by the nation’s highest rate of cancer deaths per 100,000 people. In 2013, Markey earned the prestigious National Cancer Institute-designation (NCI) – one of 68 nationally and the only one in Kentucky.

The University of Kentucky was awarded a $20 million Clinical Translational Sciences Award (CTSA) from the National Institutes of Health (NIH). As one of only 60 institutions with this research distinction, UK was awarded the CTSA for its potential in moving research and discovery in the lab into practical field and community applications. The CTSA and NCI are part of a trifecta of federal research grants that includes an Alzheimer’s Disease Center. UK is one of only 22 universities in the country to hold all three premier grants from NIH.

Established in 1957, the medical center at UK is one of the nation’s finest academic medical centers and includes the University’s clinical enterprise, UK HealthCare. The 569-bed UK Albert B. Chandler Hospital and Kentucky Children’s Hospital, along with 256 beds at UK Good Samaritan Hospital, are supported by a growing faculty and staff providing the most advanced subspecialty care for the most critically injured and ill patients throughout the Commonwealth and beyond. Over the last several years, the number of patients served by the medical enterprise has increased from roughly 19,000 discharges to more than 36,000 discharges in 2014.

UK Chandler Hospital includes the only Level 1 Trauma Center for both adult and pediatric patients in Central and Eastern Kentucky. In addition, UK HealthCare recently opened one of the country's largest robotic hybrid operating rooms and the first of its kind in the region. While our new patient care pavilion is the leading healthcare facility for advanced medical procedures in the region, our talented physicians consult with and travel to our network of affiliate hospitals so Kentucky citizens can receive the best health care available close to their home and never need to leave the Bluegrass for complex subspecialty care.

UK’s agenda remains committed to accelerating the University’s movement toward academic excellence in all areas and gain worldwide recognition for its outstanding academic programs, its commitment to students, its investment in pioneering research and discovery, its success in building a diverse community and its engagement with the larger society. It is all part of the University’s fulfillment of our promise to Kentucky to position our state as a leader in American prosperity.
3.0 PROPOSAL REQUIREMENTS

3.1 Key Event Dates

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<td>Release of RFP</td>
<td>5/26/2017</td>
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<tr>
<td>Deadline for Written Questions</td>
<td>3 p.m. Lexington Time on 06/09/2017</td>
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<td>RFP Proposals Due</td>
<td>06/28/2017</td>
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<td>Offeror Presentations*</td>
<td>07/10/2017</td>
</tr>
<tr>
<td>Contract Award*</td>
<td>07/23/2017</td>
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*projected dates

3.2 Offeror Communication

To ensure that RFP documentation and subsequent information (modifications, clarifications, addenda, Written Questions and Answers, etc.) are directed to the appropriate persons within the offeror's firm, each offeror who intends to participate in this RFP is to provide the following information to the purchasing officer. Prompt, thorough compliance is in the best interest of the offeror. Failure to comply may result in incomplete or delayed communication of addenda or other vital information. Contact information is the responsibility of the offeror. Without the prompt information, any communication shortfall shall reside with the offeror.

- Name of primary contact
- Mailing address of primary contact
- Telephone number of primary contact
- Fax number of primary contact
- E-mail address of primary contact
- Additional contact persons with same information provided as primary contact

This information shall be transmitted via fax or e-mail to:

Ms. John Deans  
Purchasing Division  
University of Kentucky  
322 Peterson Service Building  
Lexington, KY 40506-0005  
Phone: (859) 257-5749  
Fax: (859) 257-1951  
E-mail: john.deans@uky.edu

All communication with the University regarding this RFP shall only be directed to the purchasing officer listed above.
3.3 **Offeror Presentations**

All offerors whose proposals are judged acceptable for award may be required to make a presentation to the evaluation committee.

3.4 **Preparation of Offers**

The offeror is expected to follow all specifications, terms, conditions and instructions in this RFP. The offeror will furnish all information required by this solicitation.

Proposals should be prepared simply and economically, providing a description of the offeror's capabilities to satisfy the requirements of the solicitation. Emphasis should be on completeness and clarity of content. All documentation submitted with the proposal should be bound in the single volume except as otherwise specified.

An electronic version of the RFP, in `.PDF` format only, is available through the University of Kentucky Purchasing Division web site: [www.uky.edu/purchasing/bidlist.htm](http://www.uky.edu/purchasing/bidlist.htm)

3.5 **Proposed Deviations from the RFP**

The stated requirements appearing elsewhere in this RFP shall become a part of the terms and conditions of any resulting contract. Any deviations therefrom must be specifically defined in accordance with the transmittal letter, Section 4.3 (d). If accepted by the University, the deviations shall become part of the contract, but such deviations must not be in conflict with the basic nature of this RFP.

Note: Offerors shall not submit their standard terms and conditions as exceptions to the University's General Terms and Conditions. Each exception to the University’s General Terms and Conditions shall be individually addressed.

3.6 **Proposal Submission and Deadline**

Offeror must provide the following materials prior to 3 p.m. (Lexington, KY time) on the date specified in Section 3.1 and addressed to the purchasing officer listed in Section 3.2:

- **Technical Proposal**: Two (2) copies on electronic storage devices (CD or USB) (1 copy per storage device) each clearly marked with the proposal number and name, firm name and what is included (Technical Proposal) and two (2) printed original copies

  - **Financial Proposal**: Two (2) copies on electronic storage devices (CD or USB) (1 copy per storage device) each clearly marked with the proposal number and name, firm name and what is included (Financial Proposal) and two (2) printed original copies

*Note: Proposals received after the closing date and time will not be considered. In addition, proposals received via fax or e-mail are not acceptable.*
The University of Kentucky accepts deliveries of RFPs Monday through Friday from 8 a.m. to 5 p.m. Lexington, KY time. However, RFPs must be received by 3 p.m. Lexington, KY time on the date specified on the RFP in order to be considered.

Proposals shall be enclosed in sealed envelopes to the above referenced address and shall show on the face of the envelope: the closing time and date specified, the solicitation number and the name and address of the offeror. The technical proposal shall be submitted in a sealed envelope and the financial proposal shall be submitted in a sealed envelope under separate cover. Both sealed envelopes shall have identical information on the cover, with the addition that one will state “Technical Information,” and the other, “Financial Proposal.”

Note: In accordance with the Kentucky Revised Statute 45A.085, there will be no public opening.

3.7 Modification or Withdrawal of Offer

An offer and/or modification of offer received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered.

An offer may be modified or withdrawn by written notice before the exact hour and date specified for receipt of offers. An offer also may be withdrawn in person by an offeror or an authorized representative, provided the identity of the person is made known and the person signs a receipt for the offer, but only if the withdrawal is made prior to the exact hour and date set for receipt of offers.

3.8 Acceptance or Rejection and Award of Proposal

The University reserves the right to accept or reject any or all proposals (or parts of proposals), to waive any informalities or technicalities, to clarify any ambiguities in proposals and (unless otherwise specified) to accept any item in the proposal. In case of error in extension or prices or other errors in calculation, the unit price shall govern. Further, the University reserves the right to make a single award, split awards, multiple awards or no award, whichever is in the best interest of the University.

3.9 Rejection

Grounds for the rejection of proposals include (but shall not be limited to):

- Failure of a proposal to conform to the essential requirements of the RFP.

- Imposition of conditions that would significantly modify the terms and conditions of the solicitation or limit the offeror’s liability to the University on the contract awarded on the basis of such solicitation.

- Failure of the offeror to sign the University RFP. This includes the Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest statements.

- Receipt of proposal after the closing date and time specified in the RFP.
3.10 **Addenda**

Any addenda or instructions issued by the purchasing agency prior to the time for receiving proposals shall become a part of this RFP. Such addenda shall be acknowledged in the proposal. No instructions or changes shall be binding unless documented by a proper and duly issued addendum.

3.11 **Disclosure of Offeror’s Response**

The RFP specifies the format, required information and general content of proposals submitted in response to this RFP. The purchasing agency will not disclose any portions of the proposals prior to contract award to anyone outside the Purchasing Division, the University’s administrative staff, representatives of the state or federal government (if required) and the members of the committee evaluating the proposals. After a contract is awarded in whole or in part, the University shall have the right to duplicate, use or disclose all proposal data submitted by offerors in response to this RFP as a matter of public record.

Any submitted proposal shall remain valid six (6) months after the proposal due date.

The University shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal will not affect this right.

3.12 **Restrictions on Communications with University Staff**

From the issue date of this RFP until a contractor is selected and a contract award is made, offerors are not allowed to communicate about the subject of the RFP with any University administrator, faculty, staff or members of the board of trustees except: the purchasing office representative, any University purchasing official representing the University administration, others authorized in writing by the purchasing office and University representatives during offeror presentations. If violation of this provision occurs, the University reserves the right to reject the offeror’s proposal.

3.13 **Cost of Preparing Proposal**

Costs for developing the proposals and any subsequent activities prior to contract award are solely the responsibility of the offerors. The University will provide no reimbursement for such costs.

3.14 **Disposition of Proposals**

All proposals become the property of the University. The successful proposal will be incorporated into the resulting contract by reference.

3.15 **Alternate Proposals**
Offerors may submit alternate proposals. If more than one proposal is submitted, all must be complete (separate) and comply with the instructions set forth within this document. Each proposal will be evaluated on its own merits.

3.16 Questions

All questions should be submitted by either fax or e-mail to the purchasing officer listed in Section 3.2 no later than the date listed in Section 3.1.

3.17 Section Titles in the RFP

Section titles used herein are for the purpose of facilitating ease of reference only and shall not be construed to infer the construction of contractual language.

3.18 No Contingent Fees

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, except bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. For breach or violation of this provision, the University shall have the right to reject the proposal, annul the contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

3.19 Proposal Addenda and Rules for Withdrawal

Prior to the date specified for receipt of offers, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the University purchasing office, signed by the offeror. Unless requested by the University, the University will not accept revisions or alterations to proposals after the proposal due date.
4.0 PROPOSAL FORMAT AND CONTENT

4.1 Proposal Information and Criteria

The following list specifies the items to be addressed in the proposal. Offerors should read it carefully and address it completely and in the order listed to facilitate the University's review of the proposal.

Proposals shall be organized into the sections identified below. The content of each section is detailed in the following pages. It is strongly suggested that offerors use the same numbers for the following content that are used in the RFP.

- Signed Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest Form
- Transmittal Letter
- Executive Summary and Proposal Overview
- Criteria 1 - Offeror Qualifications
- Criteria 2 - Services Defined
- Criteria 3 - Financial Proposal
- Criteria 4 - Evidence of Successful Performance and Implementation Schedule
- Criteria 5 - Other Additional Information

4.2 Signed Authentication of Proposal and Statements of Non-Collusion and Non-Conflict of Interest Form

The Offeror will sign and return the proposal cover sheet and print or type their name, firm, address, telephone number and date. The person signing the offer must initial erasures or other changes. An offer signed by an agent is to be accompanied by evidence of their authority unless such evidence has been previously furnished to the purchasing agency. The signer shall further certify that the proposal is made without collusion with any other person, persons, company or parties submitting a proposal; that it is in all respects fair and in good faith without collusion or fraud; and that the signer is authorized to bind the principal offeror.

4.3 Transmittal Letter

The Transmittal Letter accompanying the RFP shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the offeror. It shall include:

- A statement referencing all addenda and written questions, the answers and any clarifications to this RFP issued by the University and received by the offeror (If no addenda have been received, a statement to that effect should be included.).

- A statement that the offeror’s proposal shall remain valid for six (6) months after the closing date of the receipt of the proposals.

- A statement that the offeror will accept financial responsibility for all travel expenses incurred for oral presentations (if required) and candidate interviews.
4.4 Executive Summary and Proposal Overview

The Executive Summary and Proposal Overview shall condense and highlight the contents of the technical proposal in such a way as to provide the evaluation committee with a broad understanding of the entire proposal.

4.5 Criteria 1 - Offeror Qualifications

The purpose of the Offeror Qualifications section is to determine the ability of the offeror to respond to this RFP. Offerors must describe and offer evidence of their ability to meet each of the qualifications listed below.

1. Provide a brief narrative describing the history of your firm. Identify the number of employees in your firm, the Ownership and if the company has ever filed for bankruptcy, been in loan default, or if there are pending liens, claims or lawsuits against the firm. If so, please describe.

2. Provide resumes for key personnel, e.g. Chief Executive Officer; Owner, etc.

3. Indicate if your company has had a contract terminated for default during the past five (5) years. All such incidents must be described in detail, including the other party’s name, address, and telephone number and present your company’s position on the matter.

4. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationship of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management.

5. Provide a company prospectus and/or the last two company annual reports.

6. Identify any subcontractors/business partners which would be used by your firm and describe their role and relationship to your firm. Specifically address any data conversion and clearing house subcontractors/business partners.

7. Explain the consequences for the University should the Offeror be sold or go out of business.

8. Describe firm’s quality assurance methodology, approach to total quality management, and performance improvement program.

9. Describe why your company should be selected over other competitors of similar capability.

4.6 Criteria 2 – Services Defined
1. Discuss how your firm will perform the proposed services identified in Section 2.1 and 2.2 and the specific patient populations for UK Healthcare and the anticipated level of effort. Include a complete description of the proposed approach and methodology for the project, provide how to assist UK in moving these patients through the system, seamlessly, to increase efficiencies and provide optimal patient care. All project requirements and the tasks required accomplishing the project. The plan must be in sufficient detail to convey to the evaluation team the Respondor’s knowledge of the subjects and skills necessary to the project.

2. Discuss the information and support that would be required from the University.

3. Describe offer’s leadership, corroborated by references, in management of service for services.

4. Describe your ability to coordinate and provide superior service to the state of Kentucky.

5. Demonstrated ability to provide a portion or an all-encompassing program for population needs/services.

6. Demonstrated sustained excellence in the care services field.

7. Describe proven quality outcomes and quality improvement programs.

8. Demonstrated standard process flow to patients through care continuum.

9. Demonstrates a willingness to work with UK’s strategic goals and values.

10. Provide accreditation or certification.

11. Integrative and collaborative approach to performance improvement across the care continuum. Commitment to an organizational structure that promotes collaboration through data transparency and commitment to patient centered therapeutic and service outcomes and works to contribute data into UK’s Enterprise Data Trust.

12. Describe how your firm would integrate UK’s quality initiatives across the continuum.

13. Describe how your firm would provide UK Faculty the opportunity to participate and collaborate in medical decision-making within the proposed continuum of care.

14. Describe how your firm would offer UK patients with seamless access to care irrespective of current or expected insurance coverage or ability to pay.

15. Describe your firms willingness to participate in and collaborate on research and innovation around care models and economic models of care with potential risk sharing and consideration for value based purchasing approaches

16. Responder shall provide detailed explanation of its approach and philosophy to care as regards the Services contemplated by this RFP, including but not limited to: staffing models, use of protocols, etc.

4.7 Criteria 3 – Financial Proposal

Revised 1-5-2017
The Financial Summary Form shall contain the complete financial offer made to the University using the format contained in Section 7.0. All financial information must be submitted in a sealed envelope under separate cover.

4.8 **Criteria 4 – Evidence of Successful Performance and Implementation Schedule**

1. Respondor shall demonstrate past successful relationships with other hospital clients for which Respondor rendered services similar to those contemplated by this RFI.
2. Respondor shall provide details for collaboration on transitions of care initiatives.
3. Respondor shall provide details as to how they will collaborate with UK on the following services:
   a. Leadership Engagement and Commitment
   b. Physician Engagement and Alignment
   c. Complementary Clinical Capabilities
   d. Communication Protocols
   e. Track Outcomes

4.9 **Criteria 5 – Other Additional Information**

Please provide any additional information that the offeror feels should be considered when evaluating their proposal.

The offeror may present any creative approaches that might be appropriate. The offeror may also provide supporting documentation that would be pertinent to this RFP.
5.0 EVALUATION CRITERIA PROCESS

A committee of University officials appointed by the Director of Purchasing will evaluate proposals and make a recommendation to the Director of Purchasing. The evaluation will be based upon the information provided in the proposal, additional information requested by the University for clarification, information obtained from references and independent sources and oral presentations (if requested).

The evaluation of responsive proposals shall then be completed by an evaluation team, which will determine the ranking of proposals. Proposals will be evaluated strictly in accordance with the requirements set forth in this solicitation, including any addenda that are issued. The University will award the contract to the responsible offeror whose proposal is determined to be the most advantageous to the University, taking into consideration the evaluation factors set forth in this RFP.

The evaluation of proposals will include consideration of responses to the list of criteria in Section 4.0. Offerors must specifically address all criteria in their response. Any deviations or exceptions to the specifications or requirements must be described and justified in a transmittal letter. Failure to list such exceptions or deviations in the transmittal letter may be considered sufficient reason to reject the proposal.

The relative importance of the criteria is defined below:

**Primary Criteria**

- Offeror Qualifications
- Services Defined
- Financial Proposal
- Evidence of Successful Performance and Implementation

**Secondary Criteria**

- Other Additional Services

The University will evaluate proposals as submitted and may not notify offerors of deficiencies in their responses.

Proposals must contain responses to each of the criteria, listed in Section 4 even if the offeror’s response cannot satisfy those criteria. A proposal may be rejected if it is conditional or incomplete in the judgment of the University.
6.0 SPECIAL CONDITIONS

6.1 Contract Term

The contract resulting from this RFP shall be effective on the signature date for one year and is renewable for up to five (5) additional one-year renewal periods. The total contract period will not exceed six (6) years. Annual renewal shall be contingent upon the University’s satisfaction with the services performed.

6.2 Effective Date

The effective date of the contract shall be the date upon which the parties execute it and all appropriate approvals, including that of the Commonwealth of Kentucky Government Contracts Review Committee, have been received.

6.3 Competitive Negotiation

It is the intent of the RFP to enter into competitive negotiation as authorized by KRS 45A.085.

The University will review all proposals properly submitted. However, the University reserves the right to request necessary modifications, reject all proposals, reject any proposal that does not meet mandatory requirement(s) or cancel this RFP, according to the best interests of the University.

Offeror(s) selected to participate in negotiations may be given an opportunity to submit a Best and Final Offer to the purchasing agency. All information-received prior to the cut-off time will be considered part of the offeror’s Best and Final Offer.

The University also reserves the right to waive minor technicalities or irregularities in proposals providing such action is in the best interest of the University. Such waiver shall in no way modify the RFP requirements or excuse the offeror from full compliance with the RFP specifications and other contract requirements if the offeror is awarded the contract.

6.4 Appearance Before Committee

Any, all or no offerors may be requested to appear before the evaluation committee to explain their proposal and/or to respond to questions from the committee concerning the proposal. Offerors are prohibited from electronically recording these meetings. The committee reserves the right to request additional information.

6.5 Additions, Deletions or Contract Changes

The University reserves the right to add, delete, or change related items or services to the contract established from this RFP. No modification or change of any provision in the resulting contract shall be made unless such modification is mutually agreed to in writing by the contractor and the Director of Purchasing and incorporated as a written modification to the contract. Memoranda of understanding and correspondence shall not be interpreted as a modification to the contract.
6.6 **Contractor Cooperation in Related Efforts**

The University reserves the right to undertake or award other contracts for additional or related work to other entities. The contractor shall fully cooperate with such other contractors and University employees and carefully fit its work to such additional work. The contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by University employees. This clause shall be included in the contracts of all contractors with whom this contractor will be required to cooperate. The University shall equitably enforce this clause to all contractors to prevent the imposition of unreasonable burdens on any contractor.

6.7 **Entire Agreement**

The RFP shall be incorporated into any resulting contract. The resulting contract, including the RFP and those portions of the offeror’s response accepted by the University, shall be the entire agreement between the parties.

6.8 **Governing Law**

The contractor shall conform to and observe all laws, ordinances, rules and regulations of the United States of America, Commonwealth of Kentucky and all other local governments, public authorities, boards or offices relating to the property or the improvements upon same (or the use thereof) and will not permit the same to be used for any illegal or immoral purposes, business or occupation. The resulting contract shall be governed by Kentucky law and any claim relating to this contract shall only be brought in the Franklin Circuit Court in accordance with KRS 45A.245.

6.9 **Kentucky’s Personal Information Security and Breach Investigation Procedures and Practices Act**

To the extent Company receives Personal Information as defined by and in accordance with Kentucky’s Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, 61.932 and 61.933 (the “Act”), Company shall secure and protect the Personal Information by, without limitation: (i) complying with all requirements applicable to non-affiliated third parties set forth in the Act; (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as University’s and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction; (iii) notifying University of a security breach relating to Personal Information in the possession of Company or its agents or subcontractors within seventy-two (72) hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 applies and Company abides by the requirements set forth in that exception; (iv) cooperating with University in complying with the response, mitigation, correction, investigation, and notification requirements of the Act, (v) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information suffered by Company; and (vi) at University’s discretion and direction, handling all administrative functions associated with notification, investigation and mitigation.
6.10 **Termination for Convenience**

The University of Kentucky, Purchasing Division, reserves the right to terminate the resulting contract without cause with a thirty (30) day written notice. Upon receipt by the contractor of a “notice of termination,” the contractor shall discontinue all services with respect to the applicable contract. The cost of any agreed upon services provided by the contractor will be calculated at the agreed upon rate prior to a “notice of termination” and a fixed fee contract will be pro-rated (as appropriate).

6.11 **Termination for Non-Performance**

**Default**

The University may terminate the resulting contract for non-performance, as determined by the University, for such causes as:

- Failing to provide satisfactory quality of service, including, failure to maintain adequate personnel, whether arising from labor disputes, or otherwise any substantial change in ownership or proprietorship of the Contractor, which in the opinion of the University is not in its best interest, or failure to comply with the terms of this contract;

- Failing to keep or perform, within the time period set forth herein, or violation of, any of the covenants, conditions, provisions or agreements herein contained;

- Adjudicating as a voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section from time to time, or under any similar law or statute of the United States or any state thereof, or if an order for relief shall be entered against the Contractor in any proceeding filed by or against contractor thereunder. In the event of any such involuntary bankruptcy proceeding being instituted against the Contractor, the fact of such an involuntary petition being filed shall not be considered an event of default until sixty (60) days after filing of said petition in order that Contractor might during that sixty (60) day period have the opportunity to seek dismissal of the involuntary petition or otherwise cure said potential default; or

- Making a general assignment for the benefit of its creditors, or taking the benefit of any insolvency act, or if a permanent receiver or trustee in bankruptcy shall be appointed for the Contractor.

**Demand for Assurances**

In the event the University has reason to believe Contractor will be unable to perform under the Contract, it may make a demand for reasonable assurances that Contractor will be able to timely perform all obligations under the Contract. If Contractor is unable to provide such adequate assurances, then such failure shall be an event of default and grounds for termination of the Contract.

**Notification**
The University will provide ten (10) calendar days written notice of default. Unless arrangements are made to correct the non-performance issues to the University's satisfaction within ten (10) calendar days, the University may terminate the contract by giving forty-five (45) days notice, by registered or certified mail, of its intent to cancel this contract.

6.12  **Funding Out**

The University may terminate this contract if funds are not appropriated or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The University shall provide the contractor thirty (30) calendar days' written notice of termination under this provision.

6.13  **Prime Contractor Responsibility**

Any contracts that may result from the RFP shall specify that the contractor(s) is/are solely responsible for fulfillment of the contract with the University.

6.14  **Assignment and Subcontracting**

The Contractor(s) may not assign or delegate its rights and obligations under any contract in whole or in part without the prior written consent of the University. Any attempted assignment or subcontracting shall be void.

6.15  **Permits, Licenses, Taxes**

The contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of all federal, state and local governments in which work under this contract is performed.

The contractor must furnish certification of authority to conduct business in the Commonwealth of Kentucky as a condition of contract award. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. However, the contractor need not be registered as a prerequisite for responding to the RFP.

The contractor shall pay any sales, use, personal property and other tax arising out of this contract and the transaction contemplated hereby. Any other taxes levied upon this contract, the transaction or the equipment or services delivered pursuant hereto shall be the responsibility of the contractor.

The contractor will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law including (but not limited to) old age pension, social security or annuities.

6.16  **Attorneys’ Fees**

In the event that either party deems it necessary to take legal action to enforce any provision of the contract and in the event that the University prevails, the contractor agrees to pay all expenses of such action including attorneys' fees and costs at all stages of litigation.
6.17 **Royalties, Patents, Copyrights and Trademarks**

The Contractor shall pay all applicable royalties and license fees. If a particular process, products or device is specified in the contract documents and it is known to be subject to patent rights or copyrights, the existence of such rights shall be disclosed in the contract documents and the Contractor is responsible for payment of all associated royalties. To the fullest extent permitted by law the Contractor shall indemnify, hold the University harmless, and defend all suits, claims, losses, damages or liability resulting from any infringement of patent, copyright, and trademark rights resulting from the incorporation in the Work or device specified in the Contract Documents.

Unless provided otherwise in the contract, the Contractor shall not use the University’s name nor any of its trademarks or copyrights, although it may state that it has a Contract with the University.

6.18 **Indemnification**

The contractor shall indemnify, hold and save harmless the University, its affiliates and subsidiaries and their officers, agents and employees from losses, claims, suits, actions, expenses, damages, costs (including court costs and attorneys’ fees of the University’s attorneys), all liability of any nature or kind arising out of or relating to the Contractor’s response to this RFP or its performance or failure to perform under the contract awarded from this RFP. This clause shall survive termination for as long as necessary to protect the University.

6.19 **Insurance**

The successful Contractor shall procure and maintain, at its expense, the following minimum insurance coverages insuring all services, work activities and contractual obligations undertaken in this contract. These insurance policies must be with insurers acceptable to the University.

<table>
<thead>
<tr>
<th>COVERAGES</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers’ Compensation</td>
<td>Statutory Requirements (Kentucky)</td>
</tr>
<tr>
<td>Employer’s Liability</td>
<td>$500,000/$500,000/$500,000</td>
</tr>
<tr>
<td>Commercial General Liability including</td>
<td>$1,000,000 each occurrence</td>
</tr>
<tr>
<td>operations/completed operations, products and</td>
<td>(BI &amp; PD combined) $2,000,000 Products and</td>
</tr>
<tr>
<td>contractual liability (including defense and</td>
<td>Completed Operations Aggregate</td>
</tr>
<tr>
<td>investigation costs), and this contract</td>
<td></td>
</tr>
<tr>
<td>Business Automobile Liability covering owned,</td>
<td>$1,000,000 each occurrence</td>
</tr>
<tr>
<td>leased, or non-owned autos</td>
<td>(BI &amp; PD combined)</td>
</tr>
</tbody>
</table>

The successful contractor agrees to furnish Certificates of Insurance for the above described coverages and limits to the University of Kentucky, Purchasing Division. The University, its trustees and employees must be added as additional insured on the Commercial General Liability policy with regard to the scope of this solicitation. Any deductibles or self-insured retention in the above-described policies must be paid and are the sole responsibility of the contractor. Coverage is to be primary and non-contributory with other coverage (if any) purchased by the University. All of these required policies must include a Waiver of Subrogation (except Workers’ Compensation) in favor of the University, its trustees and employees.
6.20  **Method of Award**

It is the intent of the University to award a contract to the qualified offeror whose offer, conforming to the conditions and requirements of the RFP, is determined to be the most advantageous to the University, cost and other factors considered.

Notwithstanding the above, this RFP does not commit the University to award a contract from this solicitation. The University reserves the right to reject any or all offers and to waive formalities and minor irregularities in the proposal received.

6.21  **Reciprocal Preference**

In accordance with KRS 45A.494, a resident offeror of the Commonwealth of Kentucky shall be given a preference against a nonresident offeror. In evaluating proposals, the University will apply a reciprocal preference against an offeror submitting a proposal from a state that grants residency preference equal to the preference given by the state of the nonresident offeror. Residency and non-residency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively. Any offeror claiming Kentucky residency status shall submit with its proposal a notarized affidavit affirming that it meets the criteria as set forth in the above reference statute.

6.22  **Reports and Auditing**

The University, or its duly authorized representatives, shall have access to any books, documents, papers, records or other evidence which are directly pertinent to this contract for the purpose of financial audit or program review.

6.23  **Confidentiality**

The University recognizes an offeror’s possible interest in preserving selected information and data included in the proposal; however, the University must treat such information and data as required by the Kentucky Open Records Act, KRS 61.870, et seq.

Information areas which normally might be considered proprietary, and therefore confidential, shall be limited to individual personnel data, customer references, formulae and company financial audits which, if disclosed, would permit an unfair advantage to competitors. If a proposal contains information in these areas and the offeror declares them to be proprietary in nature and not available for public disclosure, the offeror shall declare in the Transmittal Letter the inclusion of proprietary information and shall noticeably label as confidential or proprietary each sheet containing such information. Proposals containing information declared by the offeror to be proprietary or confidential, either wholly or in part, outside the areas listed above may be deemed non-responsive and may be rejected.

The University's General Counsel shall review each offeror’s information claimed to be confidential and, in consultation with the offeror (if needed), make a final determination as to whether or not the confidential or proprietary nature of the information or data complies with the Kentucky Open Records Act.
6.24 **Conflict of Interest**

This Request for Proposal and resulting Contract are subject to provisions of the Kentucky Revised Statutes regarding conflict of interest and the University of Kentucky's Ethical Principles and Code of Conduct ([www.uky.edu/Legal/ethicscode.htm](http://www.uky.edu/Legal/ethicscode.htm)). When submitting and signing a proposal, an offeror is certifying that no actual, apparent or potential conflict of interest exists between the interests of the University and the interests of the offeror. A conflict of interest (whether contractual, financial, organizational or otherwise) exists when any individual, contractor or subcontractor has a direct or indirect interest because of a financial or pecuniary interest, gift or other activities or relationships with other persons (including business, familial or household relationships) and is thus unable to render or is impeded from rendering impartial assistance or advice, has impaired objectivity in performing the proposed work or has an unfair competitive advantage.

Questions concerning this section or interpretation of this section should be directed to the University purchasing officer identified in this RFP.

6.25 **Extending Contract**

The offeror’s response to this RFP must state whether or not the offeror will permit the use of this contract by other Universities, state agencies, public and private institutions in the Commonwealth of Kentucky. An answer to this issue must be submitted within the response.

6.26 **Personal Service Contract Policies**

Pursuant to the Kentucky Model Procurement Code (Code), the Government Contract Review Committee (GCRC) of the Kentucky General Assembly may establish policies that govern personal service contracts. Under the Code, a personal service contract is an agreement whereby an individual, firm, partnership or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at an agreed upon price.

**A. Professional Service Rate Schedules:**

The GCRC has established rate schedules for certain professional services and may impact any contract established under the Code. These rate schedules are located on the GCRC website at [www.lrc.ky.gov/statcomm/Contracts/homepage.htm](http://www.lrc.ky.gov/statcomm/Contracts/homepage.htm).

**B. Invoicing of Personal Service Contracts:**

The Kentucky Model Procurement Code was recently amended to establish conditions for invoicing for fees for personal service contracts. It states, “No payment shall be made on any personal service contract unless the individual, firm, partnership, or corporation awarded the personal service contract submits its invoice on a form established by the committee.” The Government Contract Review Committee has adopted a personal service contract invoice form that must be submitted as a condition of payment. A copy of the form is located on the GCRC website at [www.lrc.ky.gov/statcomm/contracts/PSC%20INVOICE%20Form.pdf](http://www.lrc.ky.gov/statcomm/contracts/PSC%20INVOICE%20Form.pdf).
6.27 Copyright Ownership and Title to Designs and Copy

The contractor and University intend this RFP to result in a contract for services, and both consider the products and results of the services to be rendered by the contractor hereunder to be a work made for hire. The contractor acknowledges and agrees that the work and all rights therein, including (without limitation) copyright, belongs to and shall be the sole and exclusive property of the University. For any work that is not considered a work made for hire under applicable law, title and copyright ownership shall be assigned to the University.

Title to all dies, type, cuts, artwork, negatives, positives, color separations, progressive proofs, plates, copy and any other requirement not stated herein required for completion of the finished product for use in connection with any University job shall be the property of and owned by the University. Such items shall be returned to the appropriate department upon completion and/or delivery of work unless otherwise authorized by the University. In the event that time of return is not specified, the contractor shall return all such items to the appropriate University department within one week of delivery.

6.28 University Graphic Standards

The contractor must adhere to all University of Kentucky Graphics Standards. University Graphics Standards are maintained by the University Public Relations Office (UKPR) and can be viewed at www.uky.edu/graphics/. Non-adherence to the standards can have a penalty up to and including contract cancellation. Only the UKPR Director or designee can approve exceptions to the University standards.

6.29 Printing Statutes

The purchase of printing services for all state agencies is governed by Chapter 57 of the Kentucky Revised Statutes. Specifically, all printing must be awarded to the lowest responsive bidder and approved by the Governor of Kentucky. In compliance with these statutes, all printing must be provided by a contract established by the Purchasing Division.
7.0 FINANCIAL OFFER SUMMARY

Offerors are to provide a fixed price for the services offered. Please complete the following financial offer summary form. Make sure to include any additional required costs that may not be listed in this section. There shall be no hidden fees. Costs shall include all travel and living expenses. Attach additional pages if necessary.

1. Number of Day therapy/care will be provided:_______ Rate/Day________  Total:_______

2. List of current contracted third-party payers:

3. Additional cost not listed:

7.1 Alternate Pricing

In addition to the above financial offer, the offeror may submit alternative financial proposals, however the information requested above must be supplied and will be used for proposal evaluation purposes.
HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement"), effective ________________ ("Effective Date") is entered into by and between ____________________ (the “Business Associate”) and the ____________________ ("Covered Entity"), (each a “Party” and collectively the “Parties”).

The Parties have entered into an arrangement by which the Business Associate uses and/or discloses Protected Health Information ("PHI") in performing Services on behalf of the Covered Entity ("Underlying Agreement"). When used in this Agreement, the term Underlying Agreement means all existing or future agreements or arrangements between the Parties in which Business Associate uses and/or discloses PHI in performing Services on behalf of the Covered Entity. The Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), and its implementing regulations, including, without limitation, the Privacy and Security Rules (collectively “HIPAA Rules”). This Agreement, in conjunction with the Privacy and Security Rules, sets forth the terms and conditions pursuant to which PHI (electronic and non-electronic) that is created, received, maintained, or transmitted by, the Business Associate from or on behalf of Covered Entity, will be handled between the Business Associate and Covered Entity and with third Parties during the term of their Underlying Agreement and after its termination. Therefore, in consideration of the mutual promises, covenants, terms and conditions contained herein and intending to be legally bound, the Parties agree as follows:

1. PERMITTED USES AND DISCLOSURES OF PHI

1.1 Services. Pursuant to the Underlying Agreement, Business Associate provides services ("Services") for Covered Entity that involve the use and disclosure of PHI. Except as otherwise specified herein, the Business Associate may make any and all uses and disclosures of PHI in the amount minimally necessary to perform its obligations under the Underlying Agreement provided that such use or disclosure shall not violate the HIPAA Rules if done by the Covered Entity. Moreover, Business Associate may disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents, in accordance with Section 2.1.e of this Agreement, or (ii) as otherwise permitted by or as required by the Privacy or Security Rule. All other uses or disclosures not authorized by this Agreement are prohibited.

1.2 Business Activities of the Business Associate and Other Specific Uses and Disclosures. Unless otherwise limited herein and if permitted under the Privacy and Security Rules, the Business Associate may:

   a. Use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of the Business Associate provided that such uses are permitted under state and Federal confidentiality laws.

   b. Disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that the Business Associate represents to Covered Entity, in writing, that (i) the disclosures are Required by Law or (ii) the Business Associate has received from the third party reasonable assurances that the PHI 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 as required under 45 C.F.R. § 164.504(e)(4) and § 164.314, and the third party notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

   c. Except as otherwise limited in this Agreement, use the PHI to provide data aggregation services relating to the health care operations of the Covered Entity.

   d. Use PHI to report violations of law to appropriate state and Federal authorities, consistent with 45 CFR § 164.502(j)(1).

   e. De-identify any and all PHI in its possession but only if such de-identification is accomplished in accordance with the Privacy Rule.

2. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

2.1 Responsibilities of the Business Associate. With regard to its use and/or disclosure of PHI, the Business Associate hereby agrees to do the following:

   a. Not use or disclose PHI other than as permitted or required by the Agreement or as Required by Law;

   b. Use and maintain appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, including, without limitation, implementing administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI to prevent use or disclosure of PHI other than as provided for by the Agreement. Such safeguards must meet the requirements set forth in 45 CFR §§ 164.308, 164.310, 164.312 and 164.316 and be undertaken in a manner consistent with any guidance issued by the Secretary commencing on the effective date of such guidance. The Business Associate shall document and keep these safeguards current as proscribed by the Security Rule. Upon request by Covered Entity, Business Associate will provide evidence of all such safeguards utilized by Business Associate to safeguard Electronic PHI;

   c. Report to Covered Entity the following occurrences relating to PHI ("PHI Incident"), including those PHI Incidents by the Business Associate’s employees, representatives, agents or subcontractors: (i) any access, acquisition, use or disclosure of PHI not provided for by this Agreement, (ii) any breach of unsecured PHI (actual or suspected), and (iii) any security incident of which it becomes aware. Business Associate shall notify Covered Entity by telephone call within twenty-four (24) hours from which Business Associate knows, discovers or by exercising reasonable diligence would have known of or discovered the
PHI Incident. Within forty-eight (48) hours of verbal notice, the Business Associate shall provide a full written report of the PHI Incident to the Covered Entity, including, without limitation, (i) the names and contact information of each Individual whose PHI has been or is reasonably believed by the Business Associate to have been accessed, acquired, used or disclosed during the PHI Incident, (ii) a brief description of what happened, including the date of the PHI Incident and the date of discovery of the PHI Incident, if known, (iii) a description of the types of unsecured PHI involved in the PHI Incident, (iv) any steps Individuals should take to protect themselves from potential harm resulting from the PHI Incident, (v) a brief description of what Business Associate is doing to investigate the PHI Incident, to mitigate harm to Individuals and to protect against any further PHI Incidents, (vi) any other information requested by Covered Entity or deemed relevant by Business Associate. Business Associate shall promptly supplement such notice with additional information as it becomes available. Notwithstanding the foregoing, the Parties agree that pings and other broadcast scans, unsuccessful log-on attempts, denial of service attacks and any combination of the above shall not be considered a Security Incident, so long as no such incident results in the defeat or circumvention of any security control, or in the unauthorized access, use or disclosure of PHI provided by Covered Entity. Business Associate shall provide specific details on any such unsuccessful security incident upon Covered Entity’s request.

d. Mitigate, to the extent practicable and at Business Associate’s sole cost and expense, any harmful effect that is known to exist as a result of a PHI Incident described in Section 2.1c of this Agreement. Additionally, the Business Associate shall cooperate with the Covered Entity in its mitigation efforts, including without limitation, its efforts to recover its PHI or prevent or curtail such threatened or actual PHI Incident. In the event of a PHI Incident, Business Associate agrees to cooperate with the Covered Entity in complying with all state and Federal public notification requirements arising from such PHI Incident, including, without limitation, providing Covered Entity with any information necessary to comply with such notification requirements upon Covered Entity’s request and, at Covered Entity’s discretion, paying all costs and expenses related to conducting any necessary investigations and notifying the affected Individuals. Such costs, if appropriate and reasonable under the circumstances, may include the actual cost of notification, setting-up and managing a toll-free number, email address, website and postal address and credit monitoring.

e. Ensure that any subcontractors or agents that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to the Business Associate through this Agreement with respect to such information, including, without limitation, using and maintaining safeguards in accordance with Section 2.1b of this Agreement. Business Associate shall comply with the applicable HIPPAA Rules governing its agreements with such subcontractors or agents.

f. Ensure that any agent or subcontractor to whom the Business Associate provides PHI, as well as Business Associate, not transmit, export, download, store or maintain PHI beyond the borders of the United States of America.

g. To the extent Business Associate has PHI in a designated record set and within the time and manner specified by Covered Entity, make available PHI in a designated record set to Covered Entity, or, as directed by Covered Entity, to the Individual entitled to access and copy of that PHI as necessary to satisfy Covered Entity’s obligations under 45 CFR § 164.524. If an Individual makes a request for access to PHI directly to Business Associate, Business Associate shall promptly notify Covered Entity in writing of the request and obtain Covered Entity’s prior written consent before making such disclosure. If the Covered Entity is required to provide access to the Individual in electronic format, the Business Associate shall provide access to the Covered Entity, or, as directed by the Covered Entity, to the Individual in such electronic format if such format is readily producible, or in another readable electronic format as may be agreed to by the Business Associate or Covered Entity and Individual.

h. Within the time and manner specified by Covered Entity, make any amendment(s) or correction(s) to PHI in its possession contained in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR § 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 CFR § 164.526.

i. Document, maintain and, within the time and manner specified by the Covered Entity, make available to the Covered Entity or to the Individual, upon the Covered Entity’s request, the information required to provide an accounting of disclosures as necessary to satisfy Covered Entity’s obligations under 45 CFR § 164.528 and Section 13405(c) of the HITECH Act. Business Associate shall implement a process that allows for an accounting to be collected and maintained for any disclosure of PHI made by Business Associate or its employees, agents, representatives or subcontractors for which Covered Entity is required to maintain. If the Business Associate uses or maintains an electronic health record with respect to PHI, Business Associate agrees to document disclosures made through an electronic health record for treatment, payment or health care operations and information related to such disclosures as would be required for Covered Entity to respond to a request by Individual for an accounting of disclosures in accordance with 45 CFR § 164.528 and Section 13405(c) of the HITECH Act.

j. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under the Privacy Rule, comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligation(s).

k. Upon request, make its internal practices, books, records, agreements, policies and procedures available to the Secretary in a time and manner specified by the Secretary for purposes of determining compliance with the HIPAA Rules and the terms of this Agreement. Unless otherwise prohibited by law, Business Associate shall promptly notify Covered Entity of communications with the Secretary regarding PHI provided by or created by Covered Entity and
shall provide Covered Entity with copies of any information Business Associate has made available to the Secretary under this provision.

1. With respect to uses, disclosures and requests of PHI, comply with the minimum necessary requirements of the HIPAA Rules and any guidance from the Secretary on what constitutes minimum necessary commencing on the effective date of such guidance.

m. To the extent that Business Associate’s Services provided for or on behalf of Covered Entity include regularly extending, renewing, or continuing credit to Individuals, or regularly allowing Individuals to defer payment for Services, including setting up payment plans in connection with one or more covered accounts as the term is defined by the Federal Trade Commission’s Red Flag Rules, comply with the Red Flag Rules and, specifically, have in place and implement a written identity theft prevention program designed to identify, detect, mitigate and respond to suspicious activities that could indicate that identity theft has occurred in Business Associate’s business practices.

n. Not sell any PHI. Further, Business Associate shall not receive any other remuneration, directly or indirectly, in exchange for PHI, unless so allowed by the terms of the Underlying Agreement, with the Covered Entity’s prior approval, and in accordance with the HIPAA Rules.

o. Not engage in any marketing or fundraising activities or communications with any individual unless such marketing or fundraising activities or communications are allowed by the terms of the Underlying Agreement and are made with the Covered Entity’s prior approval and in accordance with the HIPAA Rules. Further, any payment for marketing activities shall be in accordance with the HIPAA Rules.

p. Cooperate in good faith in response to any reasonable requests by Covered Entity to discuss, review and evaluate Business Associate’s compliance with the HIPAA Rules and this Agreement. Should the Covered Entity determine that the Business Associate is not in compliance, the Business Associate shall cooperate with the Covered Entity to develop a mutually agreeable plan for becoming compliant.

q. Secure and protect all Personal Information as defined by and in accordance with Kentucky’s Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, 61.932 and 61.933 (the “Act”) that is created, received, accessed, collected, maintained or transmitted by Business Associate from or on behalf of Covered Entity, by, without limitation, (i) complying with all requirements applicable to non-affiliated third parties set forth in the Act, (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as Covered Entity’s and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation or destruction, (iii) notifying Covered Entity of a security breach relating to Personal Information in the possession of Business Associate or its agents or subcontractors within seventy-two (72) hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 and, in the case of Personal Information which includes PHI, the exception set forth in 45 CFR 164.412 applies and Business Associate abides by the requirements set forth in those exceptions, (iv) cooperating with Covered Entity in complying with the response, mitigation, correction, investigation and notification requirements of the Act, (v) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information suffered by Covered Entity, and (vi) at Covered Entity’s discretion and direction, handling all administrative functions associated with notification, investigation and mitigation. The requirements set forth in this Section 2.1q shall be in addition to the other requirements set forth in this Agreement and the Underlying Agreement and in the event of a conflict between the requirements set forth in this Section 2.1q and any other requirement set forth in this Agreement and/or the Underlying Agreement, the more stringent requirements shall control.

2.2 Responsibilities of Covered Entity. With regard to the use and/or disclosure of PHI by the Business Associate, Covered Entity hereby agrees:

a. to inform the Business Associate of any limitations in the form of notice of privacy practices that Covered Entity provides to Individuals pursuant to 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of PHI.

b. to inform the Business Associate of any changes in, or revocation of, the permission by an Individual to use or disclose PHI, to the extent that such limitation may affect Business Associate’s use or disclosure of PHI.

c. to notify the Business Associate, in writing and in a timely manner, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may impact in any manner the use and/or disclosure of PHI by the Business Associate under this Agreement. If the Business Associate receives a request to restrict the disclosure of PHI directly from an Individual, Business Associate shall notify Covered Entity of such request and Covered Entity shall be responsible for making the determination, in accordance with the Privacy, as to whether Business Associate shall comply with that request.

d. Except if the Business Associate will use or disclose PHI for (and the Underlying Agreement includes provisions for) data aggregation or management, administration and legal activities and responsibilities of the Business Associate, the Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

3. TERMS AND TERMINATION

a. Term. The Term of this Agreement shall commence on the Effective Date, and shall remain in full force and effect unless terminated in accordance with this Agreement.

b. Termination for Cause by Covered Entity. The Covered Entity may terminate immediately this Agreement
and any related agreements covering the services provided by the Business Associate or on behalf of the Covered Entity if Covered Entity determines Business Associate has engaged in an activity or practice that constitutes a material breach or violation of the Agreement. Alternatively, the Covered Entity may elect to provide written notice of the material breach to the Business Associate, after which the Business Associate shall have thirty (30) days to take reasonable steps to cure the breach or end the violation. The Covered Entity may also require Business Associate to submit a plan of monitoring and reporting mutually agreed to by the Parties as Covered Entity may determine necessary to maintain compliance with this Agreement. If the Business Associate does not cure the breach or end the violation within the specified time, the Covered Entity may terminate this Agreement.

c. Obligations of Business Associate upon Termination, Cancellation or Expiration. Immediately upon termination, cancellation or expiration of this Agreement for any reason, Business Associate shall return or remove and destroy all PHI, including any compilations derived from and allowing identification of PHI. Prior to return or destruction, the Business Associate further agrees to recover any PHI in the possession or control of its subcontractors or agents and to notify its subcontractors or agents of the obligations set forth herein. If the Business Associate destroys PHI, it shall be done with the use of technology or methodology that renders PHI unusable, unreadable, or undecipherable to unauthorized individuals as specified by the Secretary’s guidance.

If it is not feasible for the Business Associate to return or destroy the PHI, the Business Associate shall (i) notify Covered Entity in writing of the conditions making return or destruction infeasible, (ii) extend any and all protections, limitations and restrictions contained in this Agreement to such PHI, and (iii) limit any further uses and disclosures to the purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI. If it is infeasible for the Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to Covered Entity and require the subcontractors and agents to agree in writing to extend any and all protections, limitations and restrictions contained in this Agreement to the subcontractors’ and/or agents’ use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible for so long as the subcontractor or agent maintains such PHI.

The Business Associate’s obligations under this Section 3.c shall survive the expiration or termination of this Agreement for any reason.

d. Termination Upon Expiration of the Underlying Agreement. Either party may terminate this Agreement upon the termination or expiration of the Underlying Agreement by providing written notice to the other party.

4. INDEMNIFICATION

4.1 Indemnification. The Business Associate shall indemnify, defend and hold harmless Covered Entity and Covered Entity’s employees, directors, officers, subcontractors, agents or other members of its workforce from any claims, inquiries, costs (including, without limitation, notification, investigation and mitigation costs), damages, expenses, judgments, losses, and attorney’s fees arising from any breach of this Agreement by Business Associate, including, without limitation, any security breach relating to PHI or Personal Information (as defined by KRS 61.931(6)) in possession of Business Associate or its representatives, outsourcers, auditors, subcontractors or agents, or arising from any negligent or wrongful acts or omissions of Business Associate or its representatives, outsourcers, auditors, subcontractors or agents, including failure to perform its obligations under the Privacy and Security Rules and/or this Agreement. The Business Associate’s indemnification obligation shall survive the expiration or termination of this Agreement for any reason.

5. AUDITING

5.1 Auditing. Business Associate represents and warrants that it maintains adequate internal audit functions to annually assess internal controls in its environment, and to protect the security and confidentiality of PHI. Business Associate agrees to provide documentation regarding its internal controls to Covered Entity upon request. Business Associate agrees that it has undertaken, or will undertake, at its sole cost and expense, an independent SSAE 16 Type II audit or comparable independent attestation to confirm Business Associate’s controls over its processes. Business Associate will provide to Covered Entity all internal or external audit reports, certifications, information, documentation, electronic records and data regarding Business Associate’s internal controls, and if requested by Covered Entity, Business Associate will grant Covered Entity and its agents or subcontractors, the right to audit Business Associate’s operations, systems and software to confirm internal controls are present and operating.

If the information presented to Covered Entity regarding Business Associate’s internal controls is not acceptable to Covered Entity in its reasonable discretion, Business Associate shall present an action plan acceptable to Covered Entity, to correct any and all portions of the systems, software, products, documentation, or internal controls. Business Associate shall undertake all activities relating to its preparation of the action plan and to its correction of any inadequate controls or mitigation of risks revealed by deficiencies in its internal controls at Business Associate’s sole cost and expense and within a reasonable time period as agreed upon by Covered Entity. Should Business Associate fail to provide adequate internal controls as described in this Section 5, or to present an action plan acceptable to Covered Entity within the mutually agreed upon time frame, Covered Entity shall be entitled, in its sole discretion, to terminate this Agreement and the Underlying Agreement with no liability whatsoever to Business Associate upon written notice to the Business Associate.
6. MISCELLANEOUS

6.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under this Agreement, shall survive termination of this Agreement indefinitely.

6.2 Amendments; Waiver. This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events. The Parties agree to take such action as is necessary to amend this Agreement from time to time in order for the Parties to comply with the HIPAA Rules and any other applicable law.

6.3 Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

6.4 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

6.5 Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party’s address given below, and/or (other than for the delivery of fees) via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

________________________________________
________________________________________
Attention: ________________________________
Fax: ______________________________

with a copy (which shall not constitute notice) to:

________________________________________________________________________
Attn: ________________________________
Fax: ______________________________

If to Covered Entity, to:

University of Kentucky
Attn: Jennifer Collins
Director of Clinical Contracting
Charles T. Wethington Building
900 Limestone Street, Suite 309G
Lexington, KY 40506-0020
Fax: (859) 257-5123
Phone: (859) 323-0006

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided.

6.6 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. Any such counterpart delivered by facsimile machine or by electronic mail shall have the same binding legal effect of an original executed counterpart.

6.7 Disputes. If any controversy, dispute or claim arises between the Parties with respect to this Agreement, the Parties shall make good faith efforts to resolve such matters informally, it being the intention of the Parties that they reasonably cooperate with each other in the performance of the mutual obligations under this Agreement.

6.8 Contradictory Terms. Any provision of the Underlying Agreement or any other agreement between the Business Associate and the Covered Entity that is directly contradictory to, conflicts with or is inconsistent with one or more terms of this Agreement (“Contradictory Term”) shall be superseded by the terms of this Agreement as of the Effective Date of this Agreement.

6.9 Governing Law. This Agreement and any Underlying Agreement shall be governed by the laws of the Commonwealth of Kentucky notwithstanding any conflicts of law provisions to the contrary. The Parties further agree that any legal action which is brought on the basis of this Agreement and Underlying Agreement shall be filed in Franklin Circuit Court of the Commonwealth of Kentucky.

6.10 Assignment. Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

6.11 Nature of Agreement. Nothing in this Agreement shall be construed to create a partnership, joint venture, or other joint business relationship between the Parties or any of their affiliates, or a relationship of employer and employee between the Parties. Rather, it is the intention of the Parties that their relationship shall be that of independent contractors.

6.12 Entire Agreement. This Agreement constitutes the entire agreement between the Business Associate and the Covered Entity relating to matters specified in this Agreement and supersedes all prior representations or agreements, whether oral or written, with respect to such matters.
7. **DEFINITIONS.**

   a. **Business Associate.** “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean the named Business Associate hereinabove.

   b. **Covered Entity.** “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the named Covered Entity hereinabove, as well as any other entity specifically identified in any joint notice of privacy practices utilized pursuant to the Privacy Rule.

   c. **HIPAA Rules.** “HIPAA Rules” shall mean HIPAA, the HITECH Act, and their implementing regulations, including, without limitation, the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended for which compliance is required.

   d. **Electronic Protected Health Information or Electronic PHI.** Electronic PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media limited to the information created, received, maintained or transmitted by the Business Associate from or on behalf of the Covered Entity. Unless otherwise stated in this Agreement, any provision, restriction or obligation in this Agreement related to the use or disclosure of PHI shall apply equally to Electronic PHI.

   e. **Privacy Officer.** Privacy Officer shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a)(1) as such provision is currently drafted and as it is subsequently updated, amended or revised.

   f. **Privacy Rule.** Privacy Rule shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164 and any other applicable provision of HIPAA and any amendments thereto.

   g. **Security Rule.** Security Rule shall mean the Standards for Security of Electronic Protected Health Information at 45 CFR Parts 160, 162, and 164 and any other applicable provision of HIPAA and any amendments thereto.

   h. **Secretary.** Secretary shall mean the Secretary of the United States Department for Health and Human Services or his designee.

   i. Terms used, but not otherwise defined in this Agreement, shall have the same meaning as those terms in the HIPAA Rules.

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**IN WITNESS WHEREOF,** each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf on the date set forth above.

**Covered Entity**

By: __________________________
Print Name: __________________________
Print Title: __________________________

**Business Associate**

By: __________________________
Print Name: __________________________
Print Title: __________________________