

State of _____

HIPAA EMPLOYEE NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

This HIPAA Employee Non-Disclosure and Confidentiality Agreement (this "Agreement") is entered into as of the _____, 20____ (the "Effective Date") by and between:

Covered Entity: _____ located at _____ [Address] ("Covered Entity") and

Employee: _____, an employee of the Covered Entity located at _____ [Address] (the "Employee").

The Covered Entity hired the Employee pursuant to the terms and conditions of that certain Employment Agreement executed between the Parties on the _____ day of _____, 20____ (the "Employment Agreement"). In connection with the Employee's duties under the Employment Agreement, the Covered Entity may disclose to the Employee certain confidential and proprietary information unique and valuable to its ongoing business operations. In consideration of the Employee's employment by the Covered Entity and the covenants and mutual promises contained herein, the parties agree as follows:

1. **Confidential Information.** "Confidential Information" shall mean (i) all information relating to the Covered Entity's healthcare operations, services, and activities including, but not limited to, Protected Health Information ("PHI") as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); financial documents and plans; healthcare service delivery methods; patient records; patient lists; healthcare provider information; technical healthcare data; healthcare product development plans; proprietary healthcare concepts; inventions related to healthcare services; contractual agreements with healthcare partners; privacy and security measures for PHI; and any other non-public patient or healthcare-related information, whether in oral, tangible, electronic, or other form, that may be at any time furnished, communicated, or delivered by the Covered Entity to the Employee; (ii) the terms of any agreement, including this Agreement, and the discussions, negotiations, and proposals related to any agreement involving PHI or the Covered Entity's healthcare practices; (iii) information acquired during any tours of the Covered Entity's healthcare facilities; and (iv) all other non-public information provided by the Covered Entity related to its healthcare operations and compliance with HIPAA.

In addition to the aforementioned, "Confidential Information" also includes (v) all information relating to the Covered Entity's products, business, and non-healthcare operations inclusive of financial documents and plans, marketing strategies, vendors, product development plans, technical product data, sales leads, customer profiles, technical advice or knowledge, price lists, sales estimates, product specifications, trade secrets, distribution methods, inventories, marketing strategies, source code, software, algorithms, data, drawings or schematics, blueprints, computer programs and systems, and know-how or other intellectual property of the Covered Entity and its affiliates.

All Confidential Information, including PHI, shall remain the property of the Covered Entity. The Employee agrees to use and disclose PHI only as permitted by HIPAA and solely for the purpose of performing duties for the Covered Entity, implementing strict safeguards to protect the confidentiality, integrity, and availability of the PHI, and complying with all applicable regulations and the Covered Entity's privacy and security policies.



2. Exclusions from Confidential Information. The obligation of confidentiality with respect to Confidential Information, including Protected Health Information (PHI) as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), will not apply to any information:

a. If the information, excluding PHI, is or becomes publicly known and available other than as a result of prior unauthorized disclosure by the Employee;

b. If the information, excluding PHI, is or was received by the Employee from a third-party source which, to the best knowledge of the Employee, is or was not under a confidentiality obligation to the Covered Entity with regard to such information;

c. If the information is disclosed by the Employee with the Covered Entity's prior written permission and approval;

d. If the information, excluding PHI, is independently developed by the Employee prior to disclosure by the Covered Entity and without the use and benefit of any of the Covered Entity's Confidential Information;

e. If the Employee is legally compelled to disclose PHI or Confidential Information by applicable law, by any court, governmental agency, or regulatory authority or under a subpoena or discovery request in pending litigation, but only if, to the extent lawful and without violating HIPAA regulations, the Employee gives prompt written notice of that fact to the Covered Entity prior to disclosure so that the Covered Entity may seek a protective order or other remedy. In such a case, the Employee may disclose only such portion of the Confidential Information or PHI which they are legally obligated to disclose and must make reasonable efforts to ensure that any disclosed PHI is treated confidentially.

All Confidential Information, including PHI, shall remain the property of the Covered Entity. The Employee agrees to use and disclose PHI only as permitted by HIPAA and solely for the purpose of performing duties for the Covered Entity, implementing strict safeguards to protect the confidentiality, integrity, and availability of the PHI, and complying with all applicable regulations and the Covered Entity's privacy and security policies.

3. Obligation to Maintain Confidentiality. With respect to Confidential Information, including Protected Health Information (PHI) as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"):

a. The Employee agrees to retain the Confidential Information and PHI in strict confidence, to protect the security, integrity, and confidentiality of such information, and to not permit unauthorized access to or unauthorized use, disclosure, publication, or dissemination of Confidential Information and PHI except in conformity with this Agreement and within the guidelines set by HIPAA regulations.

b. Confidential Information, including PHI, is and will remain the sole and exclusive property of the Covered Entity and will not be disclosed or revealed by the Employee, except (i) to other employees of the Covered Entity who have a need to know such information and agree to be bound by the terms of this Agreement and HIPAA regulations.

c. The Employee agrees that, in the event the Employee must download, access, process, transfer, or otherwise communicate Confidential Information or PHI, the Employee will comply with all laws and regulations applicable to the protection of PHI, including HIPAA, and will not, directly or indirectly, violate such laws and regulations.

d. Upon termination of this Agreement or at the request of the Covered Entity, the Employee will ensure that all Confidential Information, including PHI, and all documents, memoranda, notes, and other writings



or electronic records prepared by the Employee that include or reflect any Confidential Information or PHI in the Employee's actual or constructive possession are returned to the Covered Entity or destroyed in a manner compliant with HIPAA.

e. The obligation not to disclose Confidential Information and PHI shall: (Check one)

Survive indefinitely the termination of this Agreement, recognizing the perpetual need to protect PHI under HIPAA regulations. At no time will the Employee be permitted to disclose Confidential Information and PHI, except to the extent that such information is excluded from the obligations of confidentiality under this Agreement pursuant to the exclusions clause or as required by law.

Remain in effect until _____ (Check one) months years from the date hereof, consistent with HIPAA requirements and any state laws providing for a longer period of confidentiality, except to the extent that such Confidential Information and PHI is excluded from the obligations of confidentiality under this Agreement pursuant to the exclusions clause or as required by law.

4. Termination and Return or Destruction of Confidential Information. Upon termination of this Agreement, or at any time upon the request of the Covered Entity, the Employee shall either return or destroy all PHI that the Employee still maintains in any form. The Employee shall not retain any copies of such PHI. In the event the Employee determines that returning or destroying the PHI is infeasible, the terms of this Agreement shall survive termination with respect to such PHI and limit further uses and disclosures of such PHI for so long as the Employee maintains such PHI. In addition, the Employee shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI for as long as the Employee retains the PHI.

5. Disclaimer. There is no representation or warranty, express or implied, made by the Covered Entity as to the accuracy or completeness of any of its Confidential Information.

6. Remedies. The Employee acknowledges that use or disclosure of any Confidential Information in a manner inconsistent with this Agreement will give rise to irreparable injury for which damages would not be an adequate remedy. Accordingly, in addition to any other legal remedies which may be available at law or in equity, the Covered Entity shall be entitled to equitable or injunctive relief against the unauthorized use or disclosure of Confidential Information. The Covered Entity shall be entitled to pursue any other legally permissible remedy available as a result of such breach, including but not limited to damages, both direct and consequential. In any action brought by the Covered Entity under this Section, the Covered Entity shall be entitled to recover its attorney's fees and costs from the Employee.

7. Notices. All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be sent via one of the following methods: delivery in person, overnight courier service, certified or registered mail, postage prepaid, return receipt requested, addressed to the party to be notified at the below address or by facsimile at the below facsimile number or in the case of either party, to such other party, address or facsimile number as such party may designate upon reasonable notice to the other party.

Covered Entity

Name: _____
Representative name: _____ Title: _____
Address: _____
Phone number: _____
Fax number: _____

Employee

Name: _____
Representative name: _____ Title: _____
Address: _____



Phone number: _____

Fax number: _____

8. **Termination.** This Agreement will terminate on the earlier of:

- (a) the written agreement of the parties to terminate this Agreement;
- (b) the cessation of the Employee's employment; or
- (c) _____ (Check one) months years from the date hereof.

9. **Amendment.** This Agreement may be amended or modified only by a written agreement signed by both of the parties.

10. **Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of _____, without regard to the principles of conflict of laws. Each party consents to the exclusive jurisdiction of the courts located in the State of _____ for any legal action, suit or proceeding arising out of or in connection with this Agreement. Each party further waives any objection to the laying of venue for any such suit, action or proceeding in such courts.

11. **Miscellaneous.** No joint venture, partnership or agency relationship exists between the Employee, the Covered Entity or any third-party as a result of this Agreement. This Agreement will inure to the benefit of and be binding on the respective successors and permitted assigns of the parties. Neither party may assign its rights or delegate its duties under this Agreement without the other party's prior written consent. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid, legal and enforceable as though the invalid, illegal or unenforceable parts had not been included in this Agreement. Neither party will be charged with any waiver of any provision of this Agreement, unless such waiver is evidenced by a writing signed by the party and any such waiver will be limited to the terms of such writing.

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

Covered Entity Signature

Covered Entity Full Name

Employee Signature

Employee Full Name

