



# AIUM Ultrasound Practice Accreditation Master Services Agreement & Business Associate Agreement (MSA/BAA)



Proposed amendments to this MSA/BAA may be submitted for consideration by paying a non-refundable \$300 administrative fee (see [payment form](#)) and emailing a "redlined" version (using the [Word document linked here](#)) to Therese Cooper, Director of Accreditation, at [tcooper@aium.org](mailto:tcooper@aium.org). **The BAA cannot be outright replaced with the covered entity's BAA and review of your Accreditation application cannot begin without a completed MSA/BAA.**

Application # \_\_\_\_\_

WHEREAS,

\_\_\_\_\_ ("the Practice"),  
Name of Practice

with its principal place of business at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address

is a medical practice in good standing specializing in the provision of ultrasound services, and

WHEREAS, the American Institute of Ultrasound in Medicine ("AIUM") provides accreditation to medical practices for the performance of ultrasound services in connection with the provision of medical services, and

WHEREAS, the AIUM has adopted standards, which may be modified from time to time, for the accreditation of medical practices for the performance of ultrasound services in connection with the provision of medical services of the type performed by the Practice, and

WHEREAS, the Practice by its undersigned representative and in accordance with the following covenants and understandings, requests accreditation by the AIUM for the performance of such ultrasound services,

NOW THEREFORE, the Practice requests that the AIUM accredit it and, as condition thereto, agrees and commits as follows:

## Fee for Service

The Practice shall pay a nonrefundable fee in accordance with the attached schedule. The fee in the amount of \$\_\_\_\_\_ (Accreditation Application Fee) will be paid to the AIUM in consideration for which the AIUM shall evaluate and assess the Practice to determine whether the Practice meets the AIUM's most recent standards of accreditation for the performance of ultrasound services, which may be revised from time to time.

If one or more of the case studies and/or reports is judged unacceptable and the Practice is required to submit additional studies and/or reports, the Practice will be charged a fee in the amount of \$50 for each additional submission.

## Publication of Status

The Practice grants the AIUM the right to publish, and to otherwise inform others, that the Practice has received accreditation and the date of such accreditation.

## On-site Visit

- A. If the AIUM, in its sole discretion, determines that an investigation is appropriate, the Practice shall allow the AIUM to make an on-site visit to the Practice and each of its facilities where ultrasound services are performed. The time and date of the inspection shall be mutually agreed upon by the Practice and the AIUM. Such an on-site inspection shall become a condition precedent of accreditation.
- B. In the event the AIUM determines that an investigation is appropriate, the Practice shall pay a \$500 administrative fee. In the event the AIUM conducts an on-site inspection, the Practice shall reimburse all reasonable expenses incurred by the AIUM in conducting the on-site inspection, including, but not limited to transportation, lodging, and meals.
- C. During the Accreditation Period, the Practice may be randomly selected for on-site inspection for quality assurance. The time and date of the inspection shall be mutually agreed upon by the Practice and the AIUM. In the event the Practice is randomly selected for inspection, the Practice will not be responsible for the AIUM's expenses and will not be charged an administrative fee.
- D. Protected Health Information ("PHI"), as that term is defined in the Business Associate Agreement attached hereto, that may be disclosed by the Practice to the AIUM during a site investigation include ultrasound examination images and reports, lists of patients who have undergone certain ultrasound-guided invasive procedures, pathology reports and other correlative data, and/or patient schedule logs.

## Provision of Documents

- A. The Practice shall provide to the AIUM documentation to support the Practice's request for accreditation. Protected health information that may be disclosed in the requested documentation includes ultrasound examination images and reports, lists of patients who have undergone certain ultrasound-guided invasive procedures, pathology reports and other correlative data, and/or patient schedule logs.
- B. The Practice shall provide the AIUM any additional documentation requested by the AIUM, which may assist it in making the necessary determinations for accreditation.
- C. The Practice agrees that all information provided to the AIUM shall be accurate and understands that falsification (including deletion or fabrication of data or misrepresentation of any fact) shall result in the refusal and/or revocation of accreditation and referral to appropriate state and federal government agencies.
- D. The Practice understands and agrees that a request for accreditation cannot be acted upon unless and until the application is complete. If the Practice fails to complete its application, accreditation will not be granted and the fee for processing the application will not be refunded.

## Confidentiality Agreement

All information provided by the Practice to the Contractor or otherwise accessed by the Contractor for the purpose of this Agreement, including, but not necessarily limited to PHI, whether written, electronic, oral, or communicated during the application process and/or the on-site inspection, shall be maintained in a confidential

manner by the AIUM and shall be used solely for the purpose of assessing compliance with AIUM accreditation standards to determine whether the Practice shall be accredited in accordance with the terms of this Accreditation Agreement and the Business Associate Agreement attached hereto.

The AIUM agrees to preserve the confidential nature of all data and documents submitted related to the Practice's application for accreditation including, but not limited to, records that contain patient confidential and/or privileged information and quality review information, to the extent required by state and/or federal law, and as provided in the Business Associate Agreement, which is attached hereto and incorporated by reference.

## **Term**

**The Term of this Agreement shall be three (3) years.**

## **Prudent Use**

The Practice agrees to abide by the AIUM official statements on the prudent use of ultrasound, which read as follows:

### **Prudent Use and Clinical Safety**

*Approved April 1, 2012*

Diagnostic ultrasound has been in use since the late 1950s. Given its known benefits and recognized efficacy for medical diagnosis, including use during human pregnancy, the American Institute of Ultrasound in Medicine herein addresses the clinical safety of such use:

No independently confirmed adverse effects caused by exposure from present diagnostic ultrasound instruments have been reported in human patients in the absence of contrast agents. Biological effects (such as localized pulmonary bleeding) have been reported in mammalian systems at diagnostically relevant exposures but the clinical significance of such effects is not yet known. Ultrasound should be used by qualified health professionals to provide medical benefit to the patient. Ultrasound exposures during examinations should be as low as reasonably achievable (ALARA).

### **Prudent Use in Pregnancy**

*Approved April 1, 2012*

The AIUM advocates the responsible use of diagnostic ultrasound and strongly discourages the non-medical use of ultrasound for entertainment purposes. The use of ultrasound without a medical indication to view the fetus, obtain images of the fetus, or determine the fetal gender is inappropriate and contrary to responsible medical practice. Ultrasound should be used by qualified health professionals to provide medical benefit to the patient.

## **Accreditation Period**

The Practice understands that any accreditation granted by the AIUM shall be valid only for a period of 3 years and that the Practice may apply for renewal of its accreditation to avoid a lapse in accredited status. During any period of accreditation, the Practice shall observe all standards for accredited Practices, including such rules as the AIUM may from time to time establish. Failure to observe the standards or rules may result in the suspension or revocation of accreditation in the sole and absolute discretion of the AIUM.

## Notification of Change

In the event that the Practice shall make any significant changes in its location, personnel, or procedures, the Practice shall inform the AIUM of the same within five (5) business days. A change of address, addition of a location, or addition or elimination of a partner or principal who performs or interprets ultrasound examinations shall qualify as a significant change under this paragraph. Information shall be directed in writing to the AIUM. The AIUM may require additional documentation, within its sole discretion, which additional documentation shall be provided to Contractor within fifteen (15) days of the request.

## Ownership

In the event accreditation is granted, the entity that owns the right to this accreditation is the corporation, partnership or business that owns and operates the Practice.

\_\_\_\_\_ (Organization) operates this Practice and its principal place of business is at the address set forth in the first paragraph of this Agreement.

## Hold Harmless and Indemnification

The Practice acknowledges that accreditation by the AIUM does not constitute a representation or warranty by the AIUM of any kind with respect to the delivery of services by the Practice to any specific individual or patient. The Practice shall hold the AIUM and its officers, directors, agent representatives, and employees harmless from, and shall indemnify them for, any and all damages, claims, judgments, losses, costs and expenses arising directly or indirectly from the delivery of services by the Practice, its physicians, employees, independent contractors or agents to any individual or patient.

## Conflict Resolution

Any controversies arising under any portion of this Accreditation Agreement other than the HIPAA Addendum shall be submitted to arbitration in accordance with the rules of the American Arbitration Association and judgment upon the award may be entered in any court having jurisdiction thereof. Such arbitration shall be conducted in Maryland. The arbitrator's decision shall be final and binding on the parties. The cost of arbitration shall be borne by the party against whom the arbitrator decides.

## Non-Discrimination

Each party agrees to comply with all applicable laws and regulations, including without limitation equal employment opportunity laws, immigration laws including the completion of I-9 forms, and laws relating to affirmative action, and shall not discriminate in employment practices nor otherwise in the provision of the services contemplated herein based on race, creed, color, gender, age, national origin, disability, religion, veteran status, marital status, sexual orientation, and in the case of patients, if applicable, based on ability to pay or other nonmedical factor, and shall not with respect to any person engage in any other discriminatory practice prohibited by law.

## Institutions in the Application Process

The Practice shall not advertise or publicize their AIUM accreditation or application for accreditation through announcements, brochures, or other media unless and until accreditation has been granted in writing.

The undersigned represents that he/she is authorized by the Practice to enter into this Accreditation Agreement and this Accreditation Agreement is made on behalf of the Practice.

Entered this \_\_\_\_\_ (day) of \_\_\_\_\_ (month) in \_\_\_\_\_ (year) by and between

\_\_\_\_\_ (Practice)

\_\_\_\_\_  
**(Signature of Physician Director of Ultrasound or Officer of the Corporation)**

**Printed Name:** \_\_\_\_\_

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

**Date Signed:** \_\_\_\_\_

## AIUM Business Associate Agreement

This Business Associate Agreement (“Agreement”) is entered into by and between \_\_\_\_\_ (“Covered Entity”), and American Institute of Ultrasound in Medicine (“Business Associate” or “Contractor”).

The Covered Entity and Contractor have entered into or will enter into an Accreditation Master Services Agreement (“MSA(s)”), under which Contractor has agreed to or will agree to provide certain services to or on behalf of the Covered Entity.

In the performance of services pursuant to the MSA, and in order for Contractor to use, disclose or create certain information pursuant to the terms of the MSA, some of which may constitute Protected Health Information (“PHI”) (defined below), Contractor is a Business Associate of the Covered Entity as that term is defined by the Administrative Simplification regulations (45 C.F.R. Parts 160-164) of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), which include, the Standards for the Privacy of Individually Identifiable Health Information (“the Privacy Rule”), the Standards for Electronic Transactions, and the Security Rule (collectively the “HIPAA Rules”). Accordingly, Contractor and the Covered Entity mutually agree to modify the MSA to incorporate the terms of this Agreement to comply with the requirements of HIPAA Rules, and to include additional provisions that Covered Entity and Contractor desire to have as part of the MSA.

Therefore, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the parties agree as follows:

### I. DEFINITIONS

**A. Covered Entity.** “Covered Entity” shall have the meaning given to such term in 45 C.F.R. § 160.103, and in reference to the party to this agreement, shall mean \_\_\_\_\_.

**B. Individual.** “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

**C. Required By Law.** “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR § 164.501.

**D. Secretary.** “Secretary” shall mean the Secretary of the Department of Health and Human Services or designee.

**E. Protected Health Information.** “Protected Health Information” or “PHI” shall mean individually identifiable information created or received by a health care provider, health plan, employer or health care clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to the individual, or the past, present or future payment for the provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. “Protected Health Information” shall be limited to the information created or received by Contractor from or on behalf of Covered Entity.

**F. Standard Transactions.** “Standard Transaction(s)” shall mean a transaction that complies with the standards set forth at 45 C.F.R. Part 162.

**G. Designated Record Set.** “Designated Record Set” shall mean: A group of records maintained by or for a covered entity that is:

1. The medical records and billing records about individuals maintained by or for a covered health care provider;
2. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

**H. Electronic Protected Health Information.** “Electronic Protected Health Information” (hereinafter, “E PHI”) means individually identifiable health information that is transmitted by electronic media or maintained in electronic media and has the same meaning as the term “electronic protected health information” as defined in 45 C.F.R. § 160.103.

**I. Security Incident.** “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system and has the same meaning as the term “security incident” as defined in 45 C.F.R. § 164.304.

**J.** All other capitalized terms used in this Agreement shall have the meanings set forth in the applicable definitions under the HIPAA Rules.

## **II. PRIVACY OF PROTECTED HEALTH INFORMATION (PHI)**

### **A. Permitted Uses and Disclosures by Contractor**

1. **Permitted Use Case.** During the continuance of the MSA, Contractor will perform the usual and customary services necessary and as outlined in the MSA. These services may include Payment activities, Health Care Operations, and Data Aggregation as these terms are defined in 45 C.F.R. § 164.501.
2. **Functions and Activities on the Covered Entity’s Behalf.** Unless otherwise limited in this Agreement, Contractor may use or disclose PHI to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the MSA. Contractor may decide in its own reasonable discretion what uses and disclosures of PHI are required for it to perform services for the Covered Entity as outlined in this Agreement and in the MSA.
  - a. **Use for Contractor’s Operations.** Contractor may use PHI it creates or receives for or from the Covered Entity for Contractor’s proper management and administration or to carry out Contractor’s legal responsibilities in connection with services to be provided under the MSA.
  - b. **Disclosures for Contractor’s Operations.** Contractor may disclose the minimum necessary of such PHI to a third party for Contractor’s proper management and administration or to carry out Contractor’s legal responsibilities, but only if the following conditions are met:
    - 1) The disclosure is required by law; or
    - 2) Contractor obtains reasonable assurance, evidenced by written contract, from any person or organization to which Contractor will disclose such PHI that the person or organization will:
      - a) Hold such PHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person or organization or as required by law; and

b) Promptly notify Contractor (who will in turn promptly notify the Covered Entity) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.

- c. **Minimum Necessary Standard.** In performing functions and activities in connection with the MSA, Contractor agrees to make reasonable efforts to use, disclose or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure or request.

### 3. Prohibition on Unauthorized Use or Disclosure

- a. **Non-permitted Use and Disclosure of PHI.** Contractor will neither use nor disclose PHI it creates or receives for or from the Covered Entity or from another Business Associate of the Covered Entity, except as permitted or required by the MSA, this Agreement, or as required by law, as otherwise permitted in writing by the Covered Entity.
- b. **Disclosure to the Covered Entity and the Covered Entity's Business Associates.** To the extent permitted or required by the MSA and this Agreement, Contractor will disclose PHI to other Business Associates of the Covered Entity which the Covered Entity has identified in a writing provided to Contractor. Contractor shall only disclose such PHI to such Business Associates, in their capacity as Business Associates of the Covered Entity. Other than disclosures permitted by this Section II.A or as otherwise specifically identified in the MSA, Contractor will not disclose PHI to a Business Associate except as directed by the Covered Entity in writing.

## B. Obligations of Contractor

### 1. General

- a. Contractor will develop, document, implement, maintain and use appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of, and to prevent non-permitted use or disclosure of, PHI created or received for or from the Covered Entity.
- b. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement.
- c. Contractor will require that any agent, including a subcontractor, to whom it provides PHI as permitted by this Agreement (or as otherwise permitted with the Covered Entity's prior written approval), agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- d. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, Covered Entity available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

### 2. Reporting to Covered Entity

- a. Contractor shall report to the Covered Entity any use or disclosure of PHI of which it becomes aware that is not permitted by this Agreement as required by 45 C.F.R. §164.504(e)(2)(ii)(C).
- b. Contractor shall report to Covered Entity breaches of unsecured PHI as required by 45 C.F.R. §164.410 and §164.504(e)(2)(ii)(C).



## **C. Individual Rights Obligations**

**1. Access.** Contractor agrees that, wherever feasible, and to the extent that responsive information is in the possession of Contractor, Contractor will provide access to PHI as required by 45 C.F.R. §164.524. Contractor will provide such access according to its own procedures for such access. Contractor represents that its procedures for such access comply with the requirements of 45 C.F.R. §164.524. Such provision of access will not relieve the Covered Entity of any additional and independent obligations to provide access where requested by an individual.

**2. Amendment.** Contractor and the Covered Entity agree that, wherever feasible, and to the extent that responsive information is in the possession of Contractor, Contractor will amend PHI as required by 45 C.F.R. §164.526. Contractor will amend such PHI according to its own procedures for such amendment. Contractor represents that its procedures for such amendment comply with the requirements of 45 C.F.R. §164.526. Such amendment will not relieve the Covered Entity of any additional and independent obligations to amend PHI where requested by an individual. Upon receipt of written or electronic notice from the Covered Entity, Contractor will amend or permit the Covered Entity access to amend any portion of the PHI created or received for or from the Covered Entity in Contractor's custody or control, so that the Covered Entity may meet its amendment obligations under 45 C.F.R. §164.526.

**3. Disclosure Accounting.** So that the Covered Entity may meet its disclosure accounting obligations under 45 C.F.R. §164.528, Contractor and the Covered Entity agree that, wherever feasible and to the extent that disclosures have been made by Contractor, Contractor will provide the accounting that is required under 45 C.F.R. §164.528 on the Covered Entity's behalf. Contractor will provide such accounting according to its own procedures for such accounting. Contractor represents that its procedures for such accounting comply with the requirements of 45 C.F.R. §164.528. Such provision of disclosure accounting will not relieve the Covered Entity of any additional and independent obligations to provide disclosure accounting where requested by an individual.

## **D. Obligations of the Covered Entity**

1. Covered Entity shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Contractor's permitted or required uses and disclosures.
2. Covered Entity shall notify Contractor of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.
3. Covered Entity shall provide Contractor with a copy of notice of privacy practices, along with any changes to its notice of privacy practices within thirty (30) days of such changes in accordance with 45 CFR § 164.520.
4. Covered Entity shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity except as provided in this Agreement. In no event shall Covered Entity request Contractor to disclose to Covered Entity or agents of Covered Entity any PHI unless such disclosure is the minimum necessary disclosure that satisfies the request.
5. Covered Entity shall not request that Contractor disclose PHI/EPHI to other business associates of Covered Entity in accordance with Paragraph II.A.3.b above unless Covered Entity has a duly executed valid business associate agreement in place with that business associate.

## **III. SAFEGUARDS FOR SECURING ELECTRONIC PROTECTED HEALTH INFORMATION (EPHI)**

**A. Information Safeguards.** Contractor shall implement administrative, physical, and technical safeguards consistent with (and as required by) the Security Rule that reasonably protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits.

**B. Second-Tier Business Associates.** Contractor shall ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect it.

**C. Reporting Security Incidents to Covered Entity.** Contractor agrees to the following reporting procedures for Security Incidents that result in unauthorized access, use, disclosure, modification or destruction of EPHI or interference with system operations (“Successful Security Incidents”) and for Security Incidents that do not result in unauthorized access, use, disclosure, modification or destruction of EPHI or interference with system operations (“Unsuccessful Security Incidents”).

**1. Successful Security Incidents.** Contractor shall report to the Covered Entity any Successful Security Incident of which it becomes aware of within five (5) business days. Contractor shall provide the report to the Security Official at the Covered Entity, as well as to the individual specified under Section VI.I. (Notice provision) in this Agreement and shall send such report by traceable carrier. At a minimum such report will contain the following information:

- a. Date and time when the Security Incident occurred and/or was discovered;
- b. Names of systems, programs, or networks affected by the Security Incident;
- c. Preliminary impact analysis;
- d. Description of and scope of EPHI used, disclosed, modified, or destroyed by the Security Incident; and,
- e. Description of any mitigation steps taken.

**2. Unsuccessful Security Incidents.** To avoid unnecessary burden on either party, Contractor shall report to the Covered Entity any Unsuccessful Security Incident of which it becomes aware of only upon request of the Covered Entity. The frequency, content and the format of the report of Unsuccessful Security Incidents shall be mutually agreed upon by the parties.

#### **IV. BREACH OF AGREEMENT**

Without limiting the rights of the parties under the MSA, the Covered Entity will have the right to terminate the MSA if Contractor has engaged in a pattern of activity or practice that constitutes a material breach or violation of Contractor’s obligations regarding PHI under this Agreement and, on notice of such material breach or violation from the Covered Entity, fails to take reasonable steps to cure the breach or end the violation.

If Contractor fails to cure the material breach or end the violation after the Covered Entity’s notice, the the Covered Entity may terminate the MSA by providing Contractor written notice of termination, stating the uncured material breach or violation that provides the basis for the termination. Such termination shall be effective sixty (60) days from this termination notice.

#### **V. EFFECT OF TERMINATION.**

**A. Return or Destruction of PHI.** Upon cancellation, termination, expiration or other conclusion of the MSA, Contractor will (if feasible) return to the Covered Entity or destroy all PHI, in whatever form or medium (including in any electronic medium under Contractor’s custody or control), that Contractor created or received for or from the Covered Entity, including all copies of such PHI that allow identification of any Covered Person who is a subject of the PHI. Contractor will complete such return or destruction as promptly as practical after the effective date of the cancellation, termination, expiration or other conclusion of the MSA.

**B. Disposition When Return or Destruction Not Feasible.** The Covered Entity recognizes that in many situations, particularly those involving Data Aggregation services performed by Contractor for the Covered Entity and others, that it will be infeasible for Contractor to return or destroy PHI. Accordingly, where in Contractor's discretion such return or destruction is infeasible, for any such PHI, upon cancellation, termination, expiration or other conclusion of the MSA, Contractor will limit its further use or disclosure of the PHI to those purposes that make their return to the Covered Entity or destruction infeasible.

## **VI. INDEMNIFICATION**

**A. Indemnification, Generally.** Each Party will indemnify and hold harmless the other Party and any officer, director, employee or agent of that Party from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees and court or proceeding costs, arising out of or in connection with any non-permitted or violating use or disclosure of PHI or other breach of this Agreement by the Party or any subcontractor, agent, person or entity under its control.

**B. Right to Tender or Undertake Defense.** If Contractor is named a party in any judicial, administrative or other proceeding arising out of or in connection with any non-permitted or violating use or disclosure of PHI or other breach of this Agreement by the Covered Entity or any subcontractor, agent, person or entity under their control, Contractor will have the option at any time either (i) to tender its defense to the Covered Entity, in which case the Covered Entity will provide qualified attorneys, consultants, and other appropriate professionals to represent Contractor's interests at the Covered Entity's expense, or (ii) undertake its own defense, choosing the attorneys, consultants, and other appropriate professionals to represent its interests, in which case the Covered Entity will be responsible for and pay the reasonable fees and expenses of such attorneys, consultants, and other professionals.

**C. Right to Control Resolution.** Contractor will have the sole right and discretion to settle, compromise or otherwise resolve any and all claims, causes of actions, liabilities or damages against it, notwithstanding that Contractor may have tendered its defense to the Covered Entity. Any such resolution will not relieve the Covered Entity of its obligation to indemnify Contractor under this Agreement.

## **VII. MISCELLANEOUS**

**A. Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.

**B. Survival.** The respective rights and obligations of Contractor under Section II.C. of this Agreement shall survive the termination of this Agreement.

**C. Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Entity to comply with the HIPAA Rules. Except to the extent specified by this Agreement, all of the terms and conditions of the MSA shall be and remain in full force and effect. In the event of any inconsistency or conflict between this Agreement and the MSA, the terms and provisions and conditions of this Agreement shall govern and control. Nothing express or implied in this Agreement and/or in the MSA 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. This Agreement shall be governed by and construed in accordance with the same internal laws that are applicable to the MSA.

**D. Term.** This Agreement will continue in full force and effect for as long as the MSA remains in full force and effect. This Agreement will terminate upon the cancellation, termination, expiration or other conclusion of the MSA.

**E. Amendment.** Upon the compliance date of any final regulation or amendment to final regulations of the HIPAA Rules, this Agreement will automatically amend such that the obligations imposed on Covered Entity and Contractor remain in compliance with such regulations, unless (1) Contractor elects to terminate the MSA by providing Covered Entity notice of termination in accordance with the MSA at least thirty (30) days before the

