

LAB TESTING AGREEMENT FOR COVID-19 TESTING SERVICES
NORTHWEST LABORATORY

THIS LABORATORY TESTING AGREEMENT (“**Agreement**”) is made and entered into as of October 5, 2020 (“**Effective Date**”) by and between **Northwest Pathology, P.S., a Washington state professional services corporation, dba Northwest Laboratory** (hereinafter “**NWL**”), located in Bellingham, WA, and **Kitsap Public Health District** (hereinafter “**CLIENT**”) located in Bremerton, WA. (NWL and CLIENT are collectively referred to as the “**Parties**” and separately as a “**Party.**”)

WHEREAS, on February 29, 2020, the Governor of Washington State executed a Proclamation of Emergency relating to the COVID-19 outbreak, which proclamation was amended by the Governor on March 23, 2020 and again on March 24, 2020; and

WHEREAS, on March 8, 2020, the Director of the Kitsap County Department of Emergency Management issued a proclamation of emergency in response to the cases of COVID-19 identified in Kitsap County, which was adopted by resolution of the Kitsap County Board of Commissioners on March 9, 2020.

WHEREAS, consistent with the Governor’s proclamation 20-25, the Kitsap Public Health District is working cooperatively with Kitsap County to increase testing capacity and availability for everyone with COVID-19 symptoms and those with high-risk exposures consistent with the Governor’s safe start plan.

WHEREAS, CLIENT desires to obtain the services of a qualified laboratory capable of performing COVID-19 diagnostic testing services;

WHEREAS, NWL owns and operates a clinical laboratory and is engaged in the business of providing diagnostic pathology testing services, including COVID-19 testing, pursuant to the terms set forth herein, and desires to provide such laboratory services to CLIENT;

AGREEMENT

1. **Term.** Unless sooner terminated pursuant to other terms provided in Section 5.1, the term of this Agreement shall commence on the Effective Date set forth above and end one (1) year from the Effective Date (“**Initial Term**”). At the end of the Initial Term, this agreement will automatically renew for an additional one (1) year term unless terminated by either party by giving written notice to the other party at least ninety (90) days prior to the end of the term.

2. **Terms of Services.** NWL shall perform the following diagnostic laboratory testing services (“**Services**”) for CLIENT at the fees and subject to the terms and conditions set forth herein:

- **SARS-CoV-2 (COVID-19) testing by RT-PCR**

2.1 NWL shall put forth its best good-faith effort to provide test results within forty-eight (48) hours of receipt of test kits from CLIENT. NWL shall be responsible for all costs and expenses associated with NWL’s Services provided pursuant to its obligations under this Agreement.

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2.2 NWL will be responsible for payment of all shipping costs to transport specimens to the lab located in Bellingham, Washington. Shipping will be provided by FedEx overnight shipping unless prior arrangements are made with NWL for shipping.

2.3 NWL will be responsible for providing and paying for all supplies for collecting, storing, and shipping specimens to the lab. Supply orders will be made by CLIENT and be limited to the quantity of tests sent to NWL. Supplies will be shipped by FedEx Ground. A minimum of 48 hours notice is required to ship supplies. NWL will not ship supplies overnight. If CLIENT requires overnight shipping of supplies, CLIENT will provide their FedEx account information to cover the expedited shipping charges.

3. **Pricing.** CLIENT agrees to provide information as requested by NWL for the purpose of billing and will not unreasonably withhold information needed to bill patients or insurance as authorized by law. Please initial next to the appropriate billing option(s) below.

 X 3.1 Client Bill. NWL shall invoice CLIENT directly for services provided pursuant to this Agreement when NWL deems necessary or as requested by CLIENT. NWL will not pursue nor accept insurance payments for services billed to CLIENT. The service fees paid to NWL, as set forth in the Fee Schedule attached hereto as Exhibit A, shall be effective throughout the Initial Term.

 X 3.2 Insurance / Third Party Billing. NWL will make a good faith effort to bill insurance when indicated on the requisition. CLIENT agrees to provide to NWL all necessary information in order for NWL to submit claims and appeals to third party payers. If complete insurance information is not received within fourteen (14) days of the test order, NWL will bill CLIENT. NWL reserves the right to bill CLIENT for claims where information is incomplete, inaccurate or unreadable or where claims are denied due to regulations and/or payer specific policies. NWL will attempt to collect claims reimbursement from insurance, and will bill CLIENT only after all reasonable efforts have been exhausted and after 90 days of attempts to collect without resolution. NWL will not bill Medicaid or Managed Medicaid programs outside of the states of Washington, Alaska and Oregon.

In order to bill insurance, NWL requires the following at the time of the test order:

- Ordering physician signature on the requisition
- Ordering physician must be enrolled as an ordering provider with PECOS if billing to federally funded payers (Medicare, VA, etc.)
- Complete patient demographic information including name, date of birth, SSN (if available), gender, address, phone number
- Complete insurance information including the name of the insurance and subscriber ID number
- Valid ICD-10 codes must be provided on the requisition
- Point of contact for billing related questions (Name, phone number, email)

 X 3.3 CARES Act / HRSA COVID-19 Uninsured Program. In order to bill the COVID 19 HRSA Uninsured Testing and Treatment Fund, NWL requires the following at the time of the test order:

- The requisition must clearly state HRSA Uninsured patient as the payment type

- CLIENT will attest that they made a good faith effort to verify that the patient does not have any other form of insurance that would pay for the test (Medicare, Medicaid, employer sponsored coverage, etc.). NWL will rely on the attestation of the ordering healthcare provider that the patient's status is uninsured. If a patient is later found to have insurance coverage and is therefore ineligible for HRSA, NWL will attempt to bill insurance. If insurance is denied, NWL will bill CLIENT.
- In order to submit uninsured patients for coverage, the following demographic information is required. The required information will be provided in a spreadsheet to NWL no more than 10 days after the date of service for upload to the HRSA portal. If any required information is not provided, the patient will not be registered under the HRSA portal and the claim will be billed to CLIENT.
 - o Name (First, Last)
 - o Date of Birth
 - o Gender
 - o United States street address
 - o Social Security Number or valid State ID or Driver's license number (no other form of ID is acceptable)
 - If SSN or State ID is not available, the CLIENT will attest to the receiving laboratory that they attempted to get an acceptable form of ID and none was provided. NWL will rely on the attestation of CLIENT that this information is true and correct for purposes of billing claims to HRSA.
- A valid diagnosis code must be provided on the requisition. For purposes of billing HRSA, each requisition must contain at least one of the following diagnosis codes. Additional diagnosis codes may be added as applicable.
 - o Z03.818
 - o Z11.59
 - o Z20.828
 - o If one of these 3 primary diagnosis codes is not included on the requisition, the claim will be denied, and NWL will bill CLIENT for the cost of the test.

3.4. *Service Fee Adjustments.* Any changes to the fee schedule require mutual agreement of the parties.

4. Invoicing.

4.1. *Generally.* NWL shall send weekly billing invoicing of fees for services performed during the previous week ("**Invoices**"). All Invoices shall be in a secure PDF format and will be emailed to: Jessica Guidry, Manager, Public Health Emergency Preparedness and Response Program, at jessica.guidry@kitsappublichealth.org

4.2. *Payment Terms.* Invoices shall be paid within fifteen (15) days of the Invoice date.

4.3. *Invoice Format.* Invoices are emailed weekly as a password protected PDF.

4.4. *Manner of Payment.* All payments shall be sent to the address below and shall be deemed paid as of the date of receipt:

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Northwest Laboratory
Attn: Accounts Receivable
P.O. Box 2837
Bellingham, WA 98227

5. Term And Termination.

5.1. *Termination Without Cause.* Either Party may terminate this Agreement at any time without cause or penalty upon thirty (30) days prior written notice to the other Party.

5.2. *Termination For Cause.* Either Party may terminate this Agreement for cause. Written notice of termination for cause shall be given to the other Party at least five (5) business days prior to the proposed date of termination. The notice shall state in detail the reason(s) for termination. If the reasons for termination are cured prior to the proposed date of termination, then the Agreement shall not terminate and continue in full force and effect.

5.3. *Mutual Termination.* This Agreement may be terminated at any time by a written agreement signed by both Parties effective as of the date specified in such writing.

5.4. *Effect of Termination and Survival.* Termination shall have no effect upon the rights and obligations of the Parties arising out of any transactions occurring prior to the effective date of termination. In the event this Agreement is terminated the following terms and provisions of this Agreement shall survive: (a) the indemnification provisions; (b) the governing law provisions ; (c) the compliance with laws and regulations; and (d) the confidentiality provisions.

5.5. *Return of Supplies.* If either Party terminates this Agreement, with or without cause, CLIENT shall return all supplies which are provided for the purpose of submitting specimens to NWL.

6. Information Systems. CLIENT shall cooperate and coordinate, in good faith, a mutually acceptable process and procedure with NWL to permit the transmission and sharing of all necessary patient demographic data, including insurance information if applicable. NWL is required to report all COVID-19 results to the patient's state of residence via Electronic Lab Reporting (ELR). Reporting includes the city, state and zip code for each patient. Testing location should not be used as the patient address.

7. Indemnification. CLIENT hereby agrees to indemnify, defend, and hold harmless NWL and its respective directors, officers, employees, agents, and insurers from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs (including, without limitation, interest, penalties and reasonable attorneys' fees) and judgments for any bodily injury, property damage or any other damage or injury to the extent caused by CLIENT, including its employee's, and agent's, negligence or willful misconduct in performing the Services and/or other obligations pursuant to this Agreement.

NWL hereby agrees to indemnify, defend, and hold harmless CLIENT and its respective directors, officers, employees, agents, and insurers from and against any and all claims, demands, actions, losses, expenses, damages, liabilities, costs (including, without limitation, interest, penalties and reasonable attorneys' fees) and judgments for any bodily injury, property damage or any other damage or injury to

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the extent caused by NWL, including its employee's, and agent's, negligence or willful misconduct in performing its obligations pursuant to this Agreement.

Insurance Provisions:

A) CLIENT, at its sole cost and expense, will obtain and maintain in full force during the Term of this Agreement the following types of insurance:

1) Commercial General Liability "occurrence" coverage in the minimum amount of \$1,000,000 combined single limit (CSL) bodily injury & property damage each occurrence and \$2,000,000 aggregate.

8. No Third Party Beneficiaries. Nothing contained in this Agreement will be construed to create third party beneficiary rights with any person, or client, customer, account, or patient of NWL or third party benefits to any person or entity other than NWL and CLIENT.

9. Applicable Law. This Agreement shall be construed, and the rights and liabilities of the parties hereto determined, in accordance with the internal laws of the State of Washington. Any action arising out of or in connection with the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, WA, or as provided by RCW 36.01.050.

10. Successors or Assigns. Neither Party shall assign or delegate any or all of its rights or obligations hereunder without the express prior written consent of the other Party. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the heirs, executors, administrators, legal representatives, successors and assigns of the Parties, and upon any person, firm, or organization succeeding to the affairs of the Parties hereof.

11. Notice. All notices and other communication required or permitted to be given hereunder shall be in writing and shall be considered given and delivered when personally delivered to the Party or delivered by courier or deposited in the United States mail, postage prepaid, return receipt requested, properly addressed to a party at the address set forth below, or at such other address as such Party shall have specified by notice given in accordance herewith:

If to CLIENT:
Kitsap Public Health District
Attn: Jessica Guidry
345 6th Street, Suite 300
Bremerton, WA 98337

If to NWL:
Northwest Pathology, P.S.
Attn: Jenny Bull, COO
3614 Meridian Street
Bellingham, WA 98225

12. Health Information Portability and Accountability Act of 1996, as Amended (“HIPAA”). Each Party represents and warrants that with respect to all protected health information (as that term is defined in the Privacy Regulations of HIPAA), it is a covered entity (and not a business associate of the other Party) under the Privacy Regulations and that it shall protect the privacy, integrity, security, confidentiality and availability of the protected health information disclosed to, used by, or exchanged by the Parties by implementing and maintaining privacy and security policies, procedures, and practices, and administrative, physical and technological safeguards and security mechanisms that reasonably and adequately protect the confidentiality, integrity and availability of the protected health information created, received, maintained or transmitted under this Agreement, all as required by, and set forth more specifically in, the Privacy Regulations and the Security Regulations, as each may be amended from time to time. In the event HIPAA or the Privacy Regulations or Security Regulations require any addition to or modification of this Agreement, the Parties shall use commercially reasonable efforts to agree upon such additions or modifications in a timely manner. If such agreement cannot be reached in a timely manner, either Party may terminate this Agreement by written notice to the other Party. The Parties shall sign a Business Associate Agreement which is incorporated into this Agreement as ATTACHMENT B.

13. Compliance with Laws. The parties, including its owners, shareholders, members, managers, employees, contractors, and personnel shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, and other similar requirements pertaining to the profession(s) of their employees and to the Services provided under this Agreement. In this regard and not by way of limitation, the parties shall comply with all legal reporting requirements. All Services provided by NWL under this Agreement shall be performed in compliance with all applicable federal, state, and local licensing, certification, regulatory, and accreditation standards and requirements including any applicable standards for laboratories participating in any federal, state, or local governmental programs and/or payment or insurance reimbursements.

14. Regulatory Compliance. The parties represent and warrant that they are not now, nor have they ever been, sanctioned, debarred, suspended, de-licensed, de-accredited, or excluded from participation in any federally or state funded health care program, including Medicare or Medicaid. Each party shall promptly advise the other of any adverse action relating to its license, permit, certification, accreditation, or right to receive payment for Services (reimbursement from any federally funded health care program including Medicare or Medicaid) and the lawful right to provide the Services to NWL as set forth herein.

15. Confidential Information.

15.1. *Generally.* CLIENT and NWL will be providing to the other certain confidential information in connection with this Agreement including all information, knowledge or data of an intellectual, technical, scientific, commercial, financial, or industrial nature disclosed by either Party to the other, either in a written document received from or belonging to the disclosing Party, or either oral or visual information, whether by inspection of parts or equipment or otherwise, identified as confidential at the time of disclosure (“**Confidential Information**”).

15.2. *Uses.* Each of the Parties agree to use the Confidential Information only as such Party is required to use the Confidential Information in connection with the matters referred to in this Agreement, to safeguard such information to the same extent as it does its own confidential information, to limit and control the copies, extracts or reproductions made of the Confidential Information and to not use the Confidential Information after termination of this Agreement for any reason as required by law.

15.3. *Disclosures.* Each of the Parties agree not to disclose the Confidential Information to any person other than to such of its employees, agents, consultants, representatives, and/or advisors who have a need to know and who agree to be bound by the confidentiality provisions hereof. Each of the Parties agree that it will be responsible for any breach of this Agreement by its agents, employees, consultants, representatives or advisors.

15.4. *Exceptions.* The provisions of this Agreement relating to Confidential Information will not apply to any part of such information where: (a) such information has been, or at any time is, made available to the public through no fault of the receiving Party; (b) such information is known by the receiving Party at the time of disclosure, as shown by prior written evidence; (c) such information is developed by or for the receiving Party independently of disclosure hereunder, as shown by prior written evidence; (d) such information is disclosed by a third-party who is not under a duty of confidentiality; (e) the receiving Party has been authorized by the disclosing Party to disclose such information; or (f) the disclosure is required by law.

15.5. *Public Records.* Notwithstanding the foregoing, if CLIENT determines that records in the custody of NWL are needed to respond to a request under the Public Records Act, NWL shall make all such records promptly available to CLIENT at no cost to CLIENT. If CLIENT receives a request under the Act to inspect or copy Confidential Information not otherwise exempt under HIPAA or as medical information, CLIENT'S sole obligation will be to make a reasonable effort to notify NWL of the request and the date that the information will be released unless NWL obtains a court order to enjoin disclosure pursuant to RCW 42.56.540. If NWL fails to timely obtain a court order enjoining disclosure, CLIENT will release the requested information on the date specified. CLIENT has no obligation on behalf of NWL to claim any exemption from disclosure under the Act. CLIENT will not be liable to NWL for releasing records pursuant to the Act.

16. General Provisions.

16.1. *Headings.* The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provision hereof.

16.2. *Waiver.* Any waiver of or delay in enforcing any term or condition hereof must be in writing and signed by both Parties. A waiver of any of the terms and conditions of this Agreement shall not be construed as a continuing waiver of the same term or condition or a waiver of any other term or condition hereof.

16.3. *Counterparts; Facsimile Signature.* This Agreement may be executed in one or more counterparts, any or both of which shall constitute one and the same instrument. It is understood that the signature of either Party to this Agreement transmitted via electronic facsimile shall be deemed, and may be relied upon, as the actual, authentic, and binding signature of such Party, and that any copy of this Agreement

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bearing such a facsimile signature shall be deemed to have been properly executed by such Party. However, without in any way impairing the authenticity of an electronically transmitted signature, each Party agrees, upon request by the other Party at any time and for the purpose of further evidencing execution of this Agreement, to deliver to the requesting Party a copy of this Agreement bearing the original, hand-entered, inked signature of the Party whose signature is requested.

16.4. *Non-Exclusive Agreement.* CLIENT may at its discretion enter into multiple agreements to obtain the same or similar services that are the subject of this Agreement or may have its own employees perform the same or similar services contemplated by the Agreement.

16.5. *Enforceability.* In the event any provision of this Agreement is deemed void or unenforceable for any reason, it shall be deemed severable and the remaining provisions shall remain in full force and effect.

16.6. *Amendment.* Any amendment to this Agreement must be in writing and signed by both Parties.

16.7. *Severability.* If any part of this Agreement shall be determined to be invalid, illegal, or unenforceable by any valid Act of Congress or act of any legislature or by any regulation duly promulgated by the United States or a state acting in accordance with the law, or declared null and void by any court of competent jurisdiction, then such part shall be reformed, if possible, to conform to the law and, in any event, the remaining parts of this Agreement shall be fully effective and operative insofar as reasonably possible.

16.8. *Authorization; Enforceability.* Each of the Parties represents and warrants that the execution and delivery of this Agreement has been duly authorized by all necessary corporate actions and no other corporate actions are necessary. Further, each Party individually represents and warrants that this Agreement has been duly executed and delivered and constitutes the valid and binding obligation by its respective company and constitutes the valid and binding obligation of said respective company, enforceable in its terms.

16.9. *Independent Contractor.* The relationship of the parties is that of Independent Contractors and nothing in the agreement shall be construed to mean that either party is an agent or employee of the other. Each party shall be solely responsible for accurately and timely reporting, filing, and paying all federal, state, and local taxes.

17. Authority to Sign. Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth above.

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CLIENT:

KITSAP PUBLIC HEALTH DISTRICT

Keith Grellner

By: Keith Grellner

Its: Administrator

10/12/2020

DATE

NWL:

NORTHWEST PATHOLOGY, P.S.

Jennifer Bull

By: Jennifer Bull

Its: Chief Operating Officer

10/12/2020

DATE

ATTACHMENT A*Fee Schedule and Volume Commitment*

Fee Schedule		
SARS-CoV-2 (COVID-19) by RT-PCR	U0003 / U0004	\$125.00 / test

In consideration of this agreement, CLIENT agrees to send the minimum number of tests to NWL.

Test Volume Commitment		
SARS-CoV-2 (COVID-19) by RT-PCR	U0003 / U0004	No minimum

APPENDIX B HIPAA BUSINESS ASSOCIATE AGREEMENT

This Agreement (“Agreement”) is entered into by and between the Kitsap Public Health District (“Covered Entity”) and Northwest Laboratory (“Business Associate”).

Section I: Purpose

The purpose of this Agreement is to set forth the obligations of the Parties with regard to the way in which protected health information is created, used, disclosed, maintained, provided or received on behalf of Covered entity by the Business Associate.

Section II. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Health Information, and Use.

Specific Definitions:

1. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to this Agreement shall mean Northwest Laboratory.
2. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” in 45 CFR 160.103, and in reference to the party in this Agreement shall mean the Kitsap Public Health District.
3. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and 164.

Section III. Obligations and Activities of Business Associate

Business Associate agrees to:

1. Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law.
2. Use appropriate safeguards, and comply with Subpart C of 45 CFR, Part 164 with respect to protected electronic health information and to prevent use or disclosure of protected health information other than as provided for by this Agreement.
3. Report to Covered Entity any use or disclosure of protected health information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information as required by 45 CFR 164.410, and any security incident of which it becomes aware.

Business Associate agrees to promptly notify Covered Entity following the discovery of a Breach of unsecured PHI. A Breach is considered “discovered” as of the first day on which the Breach is known, or reasonably should have been known, to Business Associate or any employee, officer or agent of Business Associate, other than the individual committing the Breach. Any notice of a Security Incident or Breach of Unsecured PHI shall include the identification of each Individual whose PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Security Incident or Breach as well as any other relevant information regarding the Security Incident or Breach.

4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
5. Business Associate agrees to mitigate, to the extent possible, any harmful resulting from use or disclosure of PHI by Business Associate or its agents or subcontractors, in violation of the requirements of this Agreement.
6. Maintain and make available protected health information in a designated record set to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.524.

If an Individual makes a request for access to the protected health information directly to Business Associate, business associate shall notify covered entity within three (3) business days of such request and shall cooperate with the Covered Entity to send the response to the Individual.

7. Make any amendment(s) to protected health information 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.

If an Individual makes a request for amendment to the protected health information directly to Business Associate, Business Associate shall notify Covered Entity within three (3) business days of such request and shall cooperate with the Covered Entity to send the response to the Individual.

8. Maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 CFR 164.528.

If an Individual makes a request for accounting of disclosures directly to Business Associate, Business Associate shall notify Covered Entity within three (3) business days of such request and shall cooperate with the Covered Entity to send the response to the Individual.

9. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligations(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

10. Make its internal practices, books, and records available to the Secretary of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

Section IV. Permitted Uses and Disclosures by Business Associate

1. Business Associate may only use or disclose protected health information as necessary to perform the services as outlined in the underlying agreement.
2. Business Associate is not authorized to use protected health information to de-identify the information in accordance with 45 CFR 164.514(a)-(c).
3. Business Associate may use or disclose protected health information as required by law.
4. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures.

Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity except for the specific used and disclosures set forth below:

- a) Business Associate may disclose protected health information for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- b) Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity.

Section V. Termination

1. Termination for Cause. Business Associate authorizes termination of the Agreement if Covered Entity determines Business Associate has violated a material term of the Agreement and has not cured the breach or ended the violation within the time specified by Covered Entity.
2. Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason Business Associate shall return or destroy all protected health information received from Covered Entity, or created or received by Business Associate on behalf of Covered entity. This provision shall apply to protected health information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the protected health information.

In the event that Business Associate determines that returning or destroying the protected health information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of protected health information is infeasible, Business Associate shall extend the protections of this Agreement to such protected health information and limit further uses and disclosures of such protected health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such protected health information.

3. The obligations of Business Associate under this section shall survive the termination of this Agreement.

Section VI. Miscellaneous

1. A reference in this agreement to a section in the HIPAA Rules means the section as in effect or amended.
2. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the HIPAA Rules and any other applicable law.
3. Any ambiguity in this Agreement shall be resolved to permit compliance with the HIPAA Rules.