



Date: \_\_\_\_\_

Dear Business Associate:

As you may already be aware, you and/or your organization and the Jordan Hospital are required to comply with the new Privacy Regulations from the U.S. Department of Health and Human Services, as outlined under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

The Privacy Regulations guarantee patient Protected Health Information (“PHI”) be protected against improper use and/or disclosure. One of the requirements in these regulations is that an agreement exists between a “covered entity” (THE COVERED ENTITY) and a “non-covered entity” (Business Associate”), if that Business Associate performs certain functions or activities that involves the use and/or disclosure of PHI on behalf of, or provides services to, THE COVERED ENTITY.

Please be advised that our relationship requires a “Business Associate Agreement” as either you or your organization sends and/or receives or has access to, our patient PHI. Attached is our Business Associate Agreement, which must be signed and returned, as noted below.

Jordan Hospital  
Attn: Compliance Department  
275 Plymouth Street  
Plymouth, MA 02360

You will receive a copy of the executed agreement for your record keeping, as soon as it has been processed by our Compliance Department. Please contact our Director of Corporate Compliance, Joan Doran, at (508) 830-2007, if you have any questions or concerns regarding the enclosed Business Associate Agreement.

Thank you.

## HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (“Agreement”) is entered into on this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2005, by and between \_\_\_\_\_ with its principal place of business located at \_\_\_\_\_, \_\_\_\_\_ city/town, \_\_\_\_\_ state, (the “Business Associate”) and Jordan Hospital, Inc., with its principal place of business located at 275 Sandwich Street, Plymouth, Massachusetts (the “Covered Entity”), in order to establish the parameters of the parties’ business arrangement by which the Covered Entity may disclose to the Business Associate certain Protected Health Information (as that term is defined in 45 CFR Part 160.301) in the custody and control of the Covered Entity, and the Business Associate may use, disclose, or create Protected Health Information on behalf of the Covered Entity.

### WITNESSETH

WHEREAS, the Business Associate provides certain services to and on behalf of the Covered Entity (the “Services”);

WHEREAS, in the course of providing such Services, the Covered Entity may disclose to the Business Associate certain Protected Health Information (“PHI”) in the custody and control of the Covered Entity, and the Business Associate may use and further disclose such PHI, or created additional PHI, in the performance of its Services on behalf of the Covered Entity; and,

WHEREAS, the Business Associate and the Covered Entity desire to set forth their respective rights and obligations with respect to the use and disclosure of PHI in order to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and its regulations, regarding Business Associate contracts.

NOW, THEREFORE, Business Associate and Covered Entity agree as follows:

1. **Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA regulations. Unless specifically indicated, all provisions herein are pursuant to the HIPAA regulations regarding Business Associate agreements only.

1.1 **Individual:** “Individual” shall have the same meaning as the term “individual” in 45 CFR 160.301 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

1.2 **Privacy Rule:** “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

1.3 **Security Rule:** “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

1.4 **Protected Health Information:** “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 CFR 160.301, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

1.5 **Required by Law:** “Required by Law” shall have the same meaning as the term “required by law” in 45 CFR 164.103.

### **2. Obligations and Activities of Business Associate.**

2.1 Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required in connection with the provision of the Services, or as otherwise Required by Law.

2.2 Business Associate agrees to use appropriate privacy safeguards to prevent use or disclosure of the Protected Health Information other than as permitted or required in connection with the provision of the

Services, to maintain the integrity and confidentiality of any Protected Health Information transmitted by Covered Entity to Business Associate for the purpose of obtaining services or system support from Business Associate.

- 2.3 Business Associate agrees to use all commercially reasonable efforts to maintain the security of the protected health information and to prevent unauthorized use and/or disclosure of such protected health information. Such security measures shall, at a minimum:
  - 2.3.1 Implement HIPAA-compliant administrative, physical and technical safeguards, as defined by 45 CFR 164.304, that reasonably and appropriately protect the confidentiality, integrity and availability of the covered entity's electronic protected health information that the business associate creates, receives, maintains, or transmits on behalf of the covered entity; and
  - 2.3.2 Ensure that any agent, including a subcontractor, to whom the Business Associate provides such information or access thereto agrees in writing to implement reasonable and appropriate safeguards to protect it.
- 2.4 Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- 2.5 Business Associate agrees to report to Covered Entity any use or disclosure, or, as required in the HIPAA regulations, improper or unauthorized access, of the Protected Health Information not permitted or required in connection with the provision of the Services, as well as any Security Incident of which the Business Associate becomes aware.
- 2.6 Business Associate agrees to make all reasonable efforts to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions and conditions, including the implementation of reasonable and appropriate security safeguards, that apply through this Agreement to Business Associate with respect to such information.
- 2.7 Business Associate agrees to provide access, at the reasonable request of Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- 2.8 Business Associate agrees to, at the request of, and in a reasonable time and manner designated by the Covered Entity, make any amendment(s) to the Protected Health Information that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of the Covered Entity or an individual and confirm such change in writing in a timely manner.
- 2.9 Business Associate agrees to make available to the Secretary of Health and Human Services, or his designee, or to Covered Entity, during Business Associate's normal business hours, the internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the HIPAA Privacy Rule. Business Associate also agrees to make available to the Secretary of Health and Human Services, or his designee, its policies, procedures, and documentation relating to its reasonable and appropriate security safeguards of the Protected Health Information, for purposes of the Secretary determining Hospital's compliance with the HIPAA Security Rule.
- 2.10 Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

2.11 Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner designated by Covered Entity, information collected in accordance with the provision of the Services, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

**3. Permitted Uses and Disclosures by Business Associate.** Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information on behalf of, or to provide the Services to Covered Entity, as permitted or required in connection with the provision of the Services provided that such use or disclosure would not violate the HIPAA Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity. In addition:

3.1 Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of Business Associate, and to fulfill any present or future legal responsibilities of Business Associate.

3.2 Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate, and to fulfill any present or future legal responsibilities of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that (i) the information will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and (ii) the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3.3 Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504 (e)(2)(i)(B).

3.4 Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

#### **4. Obligations of Covered Entity.**

4.1 Covered Entity shall notify Business Associate of any limitations in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

4.2 Covered Entity shall notify Business Associate of any changes in, or revocation of permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

4.3 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

4.4 Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity (except data aggregation or management and administrative activities of Business Associate).

#### **5. Term and Termination.**

5.1 Term. This Agreement shall become effective as of the date first set forth above, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

5.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide a reasonable time for Business Associate to cure the breach. If Business Associate does not cure the breach or end the violation within such reasonable time, or if cure is not feasible, Covered Entity may terminate this Agreement immediately. If neither cure nor termination is feasible, the Covered Entity may report the problem to the Secretary of Health and Human Services.

**6. Effect of Termination.**

6.1 Except as provided in paragraph 6.2 of this section, 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 not retain any copies of the Protected Health Information.

6.2 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. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit any further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible.

**7. Miscellaneous.**

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

7.2 Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the parties to comply with the requirements of the HIPAA Privacy and Security Rules and the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as it relates to Business Associate's performance thereunder.

7.3 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Privacy and Security Rules.

7.4 Survival. The respective rights and obligations of Business Associate under sections 2, 3, and 6 of this Agreement shall survive the termination of this Agreement.

7.5 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 their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

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

JORDAN HOSPITAL, INC.

BUSINESS ASSOCIATE

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Authorized Representative

By: \_\_\_\_\_  
Authorized Representative

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

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