BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this "**BAA**"), made effective as of the ____ day of _____, 202__ (the "**Effective Date**"), is entered into by and between _____, with offices located at _____ and its affiliated entities ("**Business Associate**") and **Children's Hospital and Health System, Inc.**, with offices located at 999 N. 92nd St., Milwaukee, Wisconsin 53226 ("**CHHS**"), on behalf of itself and each of its affiliated covered entities ("**Covered Entity**"). CHHS and Business Associate are each a "**Party**" and collectively the "**Parties**".

RECITALS

A. Pursuant to one or more agreements (collectively, the "**Underlying Agreement**"), Business Associate performs or will perform services for or on behalf of Covered Entity (the "**Services**") whereby Business Associate will Use, Disclose, access, create, receive, maintain, or transmit Protected Health Information ("**PHI**"). The term Underlying Agreement includes any and all written and oral agreements between Covered Entity and Business Associate and purchase orders issued by Covered Entity, whether in existence as of the Effective Date or entered into at some future date.

B. Covered Entity and Business Associate are required to protect the privacy and security of PHI in accordance with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as such laws and regulations may be amended from time to time (collectively, "**HIPAA**"), and other applicable laws and regulations. For purposes of this BAA, "**Privacy Rule**" shall mean the Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164, Subparts A and E), "**Security Rule**" shall mean the Security Standards for the Protection of Electronic Protected Health Information (45 C.F.R. Parts 160 and 164, Subparts A and C), and "**Breach Notification Rule**" shall mean the rule regarding notification obligations in the event of a Breach of Unsecured Protected Health Information (45 C.F.R. Parts 160 and 164, Subpart D) (the Privacy Rule, Security Rule, and Breach Notification Rule are collectively, the "**HIPAA Rules**").

C. This BAA, in conjunction with the Privacy and Security Rules, sets forth the terms and conditions pursuant to which Business Associate will access, Use, and Disclose PHI. Each Covered Entity is designated as part of a single affiliated covered entity as set forth in 45 C.F.R. § 164.105(b). This BAA is intended to supersede any business associate agreement previously in place between the Parties.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. PERMITTED USES AND DISCLOSURES OF PHI.

1.1 Services. In compliance with the HIPAA Rules, Business Associate may Use and Disclose PHI to perform the Services for or on behalf of Covered Entity pursuant to the Underlying Agreement.

1.2 Business Activities of Business Associate. Except to the extent permitted in Sections 1.2.1, 1.2.2 and 1.2.3 of this BAA, Business Associate may not Use or Disclose PHI in a manner that would violate the requirements of the Privacy Rule or Security Rule if done by Covered Entity. Except to the extent otherwise limited herein, Business Associate may:

1.2.1 Use the PHI in its possession for its proper management and administration and to carry out the legal responsibilities of Business Associate, provided that such Uses are permitted under state and federal confidentiality laws.

1.2.2 Disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to carry out the legal responsibilities of Business Associate, provided

that: (i) the Disclosures are Required by Law; or (ii) Business Associate has received written assurances from the recipient that the PHI will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient, and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

1.2.3 If the Underlying Agreement expressly permits Data Aggregation services, provide Data Aggregation services relating to the health care operations of Covered Entity.

1.2.4 If the Underlying Agreement expressly permits de-identification of PHI, de-identify the PHI in its possession, provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b)(2).

2. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI.

2.1 Responsibilities of Business Associate. Business Associate shall:

2.1.1 Use or Disclose PHI only as expressly authorized by this BAA or as Required by Law.

2.1.2 Use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent Use or Disclosure of PHI other than as provided for by this BAA.

2.1.3 Report, in writing, to Covered Entity within five (5) business days of (i) any Security Incident of which it becomes aware, (ii) any Breach of Unsecured PHI as required by 45 C.F.R. § 164.410(c), and (iii) all other Uses or Disclosures of PHI not permitted by this BAA of which it becomes aware. Business Associate shall mitigate, to the extent reasonably possible, any harmful effects that are known to Business Associate of any Security Incident, Breach, or other unauthorized Use or Disclosure of PHI, and cooperate with Covered Entity in any mitigation or Breach reporting efforts. The Parties agree that this Section 2.1.3 constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of Unsuccessful Security Incidents (as defined below) for which no other additional notice to Covered Entity shall be required. "**Unsuccessful Security Incidents**" are pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service attacks that do not result in a server being taken offline, and any combination of the above, so long as no such incident results in any of the following: (i) unauthorized access, Use, Disclosure, modification, or destruction of PHI; (ii) modifications to Business Associate's security policies or procedures; (iii) modifications to Business Associate's safeguarding measures; (iv) interference with Business Associate's operations; or (v) interference with Business Associate's information systems.

2.1.4 Ensure that any Subcontractors that create, receive, maintain or transmit PHI on behalf of Business Associate agree, in writing, to substantially the same restrictions, conditions, and requirements that apply to Business Associate with respect to PHI, in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2).

2.1.5 Not maintain, transmit, or export PHI beyond the borders of the United States of America for any purpose or permit anyone located outside the borders of the United States of America access to PHI.

2.1.6 Make available PHI in a designated record set to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524, within ten (10) business days of a request by Covered Entity.

2.1.7 Make any amendment(s) to PHI in a designated record set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.526, within ten (10) business days of a request by Covered Entity.

2.1.8 Document Disclosures of PHI and maintain information related to such Disclosures as required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

2.1.9 Make available to Covered Entity the information required for Covered Entity to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528, within ten (10) business days of a request by Covered Entity.

2.1.10 Notify Covered Entity in writing within five (5) business days of its receipt of a request directly from an Individual for access to or amendment of PHI or an accounting of disclosures.

2.1.11 Comply with the requirements of Subpart E of 45 C.F.R. Part 164 that apply to Covered Entity to the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E.

2.1.12 Make its internal practices, books, and records relating to the Use and Disclosure of PHI available to the Secretary and to Covered Entity upon request for purposes of determining Covered Entity's compliance with the HIPAA Rules.

2.1.13 Comply with the minimum necessary requirements under the HIPAA Rules.

2.2 Responsibilities of Covered Entity. Covered Entity shall:

2.2.1 Inform Business Associate of any limitations in the form of notice of privacy practices that Covered Entity provides to Individuals pursuant to 45 C.F.R. § 164.520, by posting on Covered Entity's website, to the extent such limitation may affect Business Associate's Use or Disclosure of PHI.

2.2.2 Inform Business Associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose PHI, to the extent such limitation may affect Business Associate's Use or Disclosure of PHI.

2.2.3 Notify Business Associate, in writing and in a timely manner, of any restriction on the Use or Disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may impact in any manner the Use and/or Disclosure of PHI by Business Associate under this BAA.

2.2.4 Not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity, except to the extent permitted by Sections 1.2.1, 1.2.2, and 1.2.3 of this BAA.

2.3 No Sale or Marketing of PHI. Business Associate shall not sell PHI or otherwise directly or indirectly receive remuneration in exchange for PHI. Business Associate shall not Use or Disclose

PHI for any marketing activities. The foregoing provision shall not apply to Covered Entity's payment to Business Associate for the Services.

3. TERM AND TERMINATION.

3.1 Term. The term of this BAA shall commence on the Effective Date, and shall terminate on the termination date of the Underlying Agreement or on the date Covered Entity terminates this BAA for cause as authorized in Section 3.2 of this BAA, whichever is sooner.

3.2 Termination for Cause. Covered Entity may immediately terminate this BAA upon written notice to Business Associate if Covered Entity determines Business Associate has violated a material term of this BAA, and:

3.2.1 Business Associate has not cured the breach within the time specified by Covered Entity; or

3.2.2 Covered Entity determines, in its reasonable discretion, that cure is not possible.

3.3 Obligations of Business Associate upon Termination. Within fifteen (15) business days of termination of this BAA, Business Associate agrees to return or destroy all PHI in its possession pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) and retain no copies. Prior to doing so, Business Associate shall recover any PHI in the possession of its Subcontractors or agents. In the event that Business Associate reasonably determines that returning or destroying PHI is infeasible, Business Associate shall notify Covered Entity of the conditions that make the return or destruction infeasible, and limit any further Uses and/or Disclosures to the purposes that make the return or destruction of the PHI infeasible. The Parties acknowledge and agree that it would be infeasible for Business Associate to return or destroy PHI to the extent required to comply with its internal backup data retention policies or applicable law, and no notification to Covered Entity for such retention is required.

4. MISCELLANEOUS.

4.1 Indemnification. Business Associate shall indemnify, defend, and hold Covered Entity and its affiliates, and its and their officers, directors, employees, and agents harmless from and against any and all claims, costs (including, without limitation, Breach notification costs), demands, damages, losses, penalties, and expenses (including reasonable attorneys' fees) to the extent arising from or related to Business Associate's breach of this BAA or any Breach of Unsecured PHI.

4.2 Definitions. All capitalized terms not defined herein shall have the meaning given in the HIPAA Rules. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as subsequently updated, amended, or revised.

4.3 Survival. All provisions of this BAA shall survive termination of this BAA for as long as Business Associate or any of its Subcontractors maintain or otherwise have access to PHI.

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

4.5 **Notices.** Any notices required to be given hereunder shall be in writing and made by personal delivery, registered or certified mail, postage prepaid, or sent by nationally recognized express courier to such Party's address given below:

If to CHHS:	If to Business Associate:
Children's Hospital and Health System, Inc.	_____
999 N. 92nd St., Suite C760	_____
Milwaukee, WI 53226	_____
Attn: Privacy Officer	Attn: _____

With a copy to:	With a copy to:
Children's Hospital and Health System, Inc.	_____
999 N. 92nd St., Suite C760	_____
Milwaukee, WI 53226	_____
Attn: Office of the General Counsel	Attn: _____

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

4.6 **Counterparts.** This BAA may be executed in any number of counterparts, each of which shall be deemed an original.

4.7 **Waiver of Limitation of Liability and Disclaimer of Warranty.** Notwithstanding any term, condition, or provision of the Underlying Agreement, any limitations of liability and/or disclaimers of warranty in the Underlying Agreement shall not apply to Business Associate's liability arising under this BAA or any obligations arising under HIPAA.

4.8 **Conflict; Interpretation.** To the extent any provision of this BAA conflicts with a provision of the Underlying Agreement, this BAA shall control. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.

4.9 **Ownership of Information.** As between the Parties, Covered Entity shall retain all ownership and other rights to PHI.

4.10 **Governing Law.** This BAA shall be governed by the laws of the State of Wisconsin, notwithstanding its conflict of laws principles.

IN WITNESS WHEREOF, the Parties have executed this BAA to be effective as of the date first written above.

_____	**CHILDREN'S HOSPITAL AND HEALTH SYSTEM, INC.**
By: _____	By: _____
Print Name: _____	Print Name: Mary Anderson
Title: _____	Title: VP and Chief Compliance Officer