BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("BAA") is entered into by and between NexHealth, Inc. ("NexHealth") and the organization agreeing to the terms of this BAA ("Customer") as indicated in a service agreement, license agreement, order form, and/or similar document(s) referencing or otherwise incorporating this BAA (each or collectively, the "Underlying Agreement"), which shall be effective as of the Effective Date of the Underlying Agreement (the "BAA Effective Date"). NexHealth and Customer are each a "Party" and the "Parties" to this BAA.

NexHealth and Customer agree to the terms and conditions of this BAA in order to comply with the rules on handling of PHI (defined below) under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, which include the standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E ("Privacy Rule"), the Security Standards for the Protection of Electronic Protected Health Information, 45 C.F.R. Part 160 and Part 164, Subpart C ("Security Rule"), and the standards for Notification in the Case of Breach of Unsecured Protected Health Information, 45 C.F.R. Part 164, Subpart D ("Breach Notification Rule"), all as amended from time to time (collectively, "HIPAA").

I. DEFINITIONS; RELATIONSHIP TO THE UNDERLYING AGREEMENT

Except as may be expressly provided in the Underlying Agreement or this BAA, this BAA is subject to the terms and conditions of the Underlying Agreement. Unless otherwise provided in this BAA, all capitalized terms in this BAA shall have the meaning as provided in the Underlying Agreement or under HIPAA.

"Protected Health Information" or "PHI" means PHI (as defined by HIPAA) that is received from Customer or created, maintained or transmitted on behalf of Customer by NexHealth for Customer's HIPAA covered functions.

"Unsuccessful Security Incident" means activities such as pings and other broadcast attacks on firewalls, port scans, unsuccessful log-on attempts, denials of service, and any combination of the foregoing, so long as no such incident results in unauthorized access, use, disclosure, modification, or destruction of PHI.

II. USE AND DISCLOSURE OF PHI

A. Performance of Services.

NexHealth shall not use or disclose PHI, except for in connection with NexHealth's performance of the services as set forth in the Underlying Agreement or as otherwise permitted under the terms of the Underlying Agreement, this BAA, or as otherwise requested or authorized by Customer; or

as required or permitted by Applicable Law. NexHealth shall not use or further disclose PHI.

B. Subcontractors.

NexHealth agrees that, in accordance with 45 C.F.R. § 164.502(e)(1), if NexHealth's Subcontractor creates, receives, maintains or transmits PHI on behalf of NexHealth, NexHealth will enter into an agreement with such Subcontractor that contains the same or more restrictive terms and conditions on the use and disclosure of PHI as contained in this BAA.

C. NexHealth Management, Administration and Legal Responsibilities.

NexHealth may use PHI to carry out NexHealth's legal responsibilities or for its proper management and administration, including without limitation making and maintaining reasonable business records of transactions in which NexHealth has participated, operating an identity resolution management solution, operating a master patient index, or when NexHealth's technology has been used (including without limitation back-up documentation). NexHealth may disclose PHI to a third party for such purposes only if: (1) the disclosure is required by law; or (2) NexHealth obtains reasonable assurances from the person or entity to whom the PHI is disclosed that: (a) it will remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (b) the person or entity notifies NexHealth of any instances of which it is aware in which the confidentiality of the information has been breached.

D. Data Aggregation and De-Identification Services.

NexHealth may use PHI to perform Data Aggregation services as permitted by 45 C.F.R. §164.504(e)(2)(i)(B). NexHealth may also de-identify PHI in accordance with 45 C.F.R. §164.514(b).

E. Delegation of Responsibilities.

To the extent that NexHealth is to carry out any of Customer's obligations under the Privacy Rule, NexHealth shall comply with the requirements of the Privacy Rule that apply to the Customer in the performance of such obligations.

F. Minimum Necessary Standard.

If applicable, NexHealth shall only request, use or disclose the minimum amount of PHI necessary in accordance with 45 C.F.R. § 164.502(b).

III. SAFEGUARDS FOR PROTECTED HEALTH INFORMATION

A. Adequate Safeguards.

NexHealth shall implement and maintain reasonable and appropriate safeguards to prevent any use or disclosure of PHI for purposes other than those permitted by this BAA, including employing reasonable and appropriate administrative, physical and technical safeguards to protect the

confidentiality, integrity, and availability of any Electronic Protected Health Information that NexHealth creates, receives, maintains, and transmits on behalf of Customer.

B. Compliance with the Security Rule.

NexHealth shall comply with the applicable requirements of the Security Rule.

IV. REPORTING OF IMPROPER USE OR DISCLOSURE, SECURITY INCIDENTS AND BREACHES

A. Use or Disclosure Not Permitted by this BAA.

NexHealth shall report to Customer any known unauthorized use or disclosure of PHI that is in violation of this BAA.

B. Security Incidents.

NexHealth shall report to Customer any known Security Incident with respect to PHI as required by the Security Rule. This Section IV.B constitutes notice by NexHealth to Customer of the ongoing existence, occurrence, or attempts of Unsuccessful Security Incidents, for which no additional notice to Customer is required.

C. Breaches of Unsecured PHI.

NexHealth will report to Customer any Breach of Unsecured Protected Health Information without unreasonable delay following the date of discovery. NexHealth will provide such information to Customer as required in the Breach Notification Rule.

V. INDIVIDUAL RIGHTS

A. No Designated Record Set.

Notwithstanding anything to the contrary in this Section V, and unless otherwise expressly stated in the Underlying Agreement, NexHealth does not maintain any Designated Record Set(s) for Customer that is not duplicative of a Designated Record Set maintained by Customer.

B. Individual Access to PHI.

To the extent NexHealth maintains PHI in a Designated Record Set(s), NexHealth will make available PHI in accordance with 45 C.F.R. § 164.524. To the extent applicable, NexHealth may also make PHI available to an Individual in connection with any of NexHealth's individual access services.

C. Amendment of PHI.

To the extent NexHealth maintains PHI in a Designated Record Set(s), NexHealth will make available PHI for amendment and incorporate any amendments to PHI in accordance with 45

C.F.R. § 164.526.

D. Accounting of PHI.

To the extent NexHealth maintains PHI in a Designated Record Set(s), NexHealth will maintain and make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528.

VI. ACCESS TO BOOKS AND RECORDS

NexHealth shall permit the Secretary of the U.S. Department of Health & Human Services to audit NexHealth's internal practices, books, and records at reasonable times as they pertain to the use and disclosure of PHI to ensure that Customer and/or NexHealth is in compliance with HIPAA requirements. No attorney-client, accountant-client or other legal privilege will be deemed waived by NexHealth or Customer as a result of this Section.

VII. TERM AND TERMINATION; RETURN OR DESTRUCTION OF PHI

A. General Term and Termination.

This BAA shall become effective on the BAA Effective Date set forth above and shall terminate upon the termination or expiration of the Underlying Agreement.

B. Material Breach.

Customer may terminate this BAA upon material breach of this BAA after providing NexHealth with written notice of the breach of this BAA and affording NexHealth the opportunity to cure the breach within thirty (30) calendar days of the date of such notice. If NexHealth fails to timely cure the breach within reasonable satisfaction of Customer, Customer may terminate this BAA and the portion(s) of the Underlying Agreement affected by the breach.

C. Return or Destruction of PHI.

1. <u>General Return or Destruction Obligation.</u>

Upon termination of this BAA and except as provided for in this Section VII.C, NexHealth shall return or destroy all PHI that NexHealth or its Subcontractors maintain in any form or format; provided, however, that NexHealth shall have no obligation to return PHI in a form or format that NexHealth does not support and Company shall pay NexHealth for all reasonable costs associated with any return of PHI or as otherwise provided for in the Underlying Agreement. NexHealth may in its sole discretion choose to destroy all PHI in lieu of return.

2. <u>Retention of PHI if Return or Destruction is Infeasible.</u>

If NexHealth determines that return or destruction of PHI is not feasible, NexHealth will extend the protections of this BAA to such information and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible, in which case NexHealth's

obligations under this Section shall survive the termination of this BAA with respect to the retained PHI. The obligations of this subsection last only for as long as NexHealth maintains or retains any such PHI.

3. Retention of PHI at Consumer Direction.

Customer acknowledges and agrees that NexHealth may, at the direction and with the approval of an Individual consumer (including the consumer's personal representative), continue to retain, use, disclose and/or transfer the consumer's PHI in connection with the consumer's continued use of NexHealth's platform, application(s) or other direct-to-consumer services; provided that, NexHealth's continued retention, use, disclosure and/or transfer of the consumer's PHI is done in accordance with HIPAA.

VIII. OBLIGATIONS OF COMPANY

A. No Violations; No Information Blocking.

Customer shall fully comply with all of its obligation under HIPAA and other Applicable Law, and shall not request NexHealth to use or disclose PHI in any manner that would not be permissible under HIPAA or other Applicable Law if done by Customer; provided, however, that this provision shall not be interpreted to restrict NexHealth from using PHI for Data Aggregation or de-identification, or for NexHealth's own management and administration or legal responsibilities, as permitted by this BAA. Customer shall provide NexHealth only with the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure. Customer shall not engage in practices that are likely to interfere with the access, exchange or use of electronic health information, except as required by law or covered by an exception set forth in 45 C.F.R. Part 171.

B. No Voluntary Restrictions.

Customer does not have and must not permit voluntary limitations or restrictions on its ability to use or disclose PHI (including without limitation in its HIPAA Notice of Privacy Policy) to the extent that such a limitation or restriction would affect NexHealth's permitted uses or disclosure of PHI under this BAA. To the extent Customer is required by Applicable Law to grant such a restriction, Customer shall notify NexHealth of any legally required restriction immediately. Customer shall also immediately notify NexHealth if such a legally required restriction is terminated.

C. Notifications.

In the event that Customer amends any PHI in its possession, a copy of which is also maintained by NexHealth, Customer must promptly notify NexHealth in writing of such amendment. Customer shall further notify NexHealth in writing of any changes in, or revocation of, any permission, authorization or consent by an individual to use or disclose PHI, to the extent that such changes may affect NexHealth's use or disclosure of PHI.

IX. MISCELLANEOUS

A. Interpretation.

Any ambiguity in this BAA shall be resolved to permit the Parties to comply with HIPAA and other Applicable Law.

B. Complete Integration; Conflicting Terms.

Together with the Underlying Agreement and any other documents incorporated therein by reference, this BAA and the Underlying Agreement constitute the sole and entire agreement of the Parties with respect to the subject matter thereof (including without limitation HIPAA) and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. The terms of this BAA will govern in the event of conflict or inconsistency with any provision of the Underlying Agreement.

C. Severability.

The provisions of this BAA shall be severable, and if any provision of this BAA shall be held or declared to be illegal, invalid or unenforceable, the remainder of this BAA shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.