BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into as of this ___ day of _____, 202___ between the University of Houston on behalf of _____ ("Covered Entity") and _____ ("Business Associate") (collectively, the "Parties").

RECITALS

WHEREAS, Business Associate is providing certain services ("Services") to or on behalf of Covered Entity as described in an underlying agreement between Covered Entity and Business Associate (the "Services Agreement") pursuant to which Business Associate will create, obtain, access, transmit, maintain, use, process, store, host, and/or dispose of Individually Identifiable Health Information on behalf of Covered Entity;

WHEREAS, in the course of providing Services to or on behalf of Covered Entity, Business Associate will have access to Covered Entity's Individually Identifiable Health Information protected as confidential under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as set forth at 45 CFR Parts 164 (the "Privacy and Security Standards") and other federal and state health privacy and security laws; and

WHEREAS, Covered Entity is required by HIPAA to enter into this Agreement with Business Associate and keep this Agreement in full force and effect in order for Business Associate to receive and/or have access to the confidential Individually Identifiable Health Information.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I.
DEFINITIONS

Terms not specifically defined in this Agreement have shall have the same meaning as defined by HIPAA.

Specific definitions:

1.1 Health Privacy Laws means federal and state privacy and security laws and regulations, including without limitation, HIPAA, the HITECH ACT, the Privacy, Security, Breach Notification, and Enforcement Rules set forth in 45 CFR Parts 160 and 164 ,the 21st Century Cures Act, 42 CFR Part 2, and Texas laws related to privacy and security of health information, including but not limited to the Texas Medical Records Privacy Act (Chapter 181 of the Texas Health and Safety Code), and the Texas Identity Theft Enforcement and Protection Act (Chapter 521 of the Texas Business and Commerce Code).

1.2 Individual. "Individual" means the person who is the subject of Protected Health Information as defined in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative pursuant to 45 CFR Section 164.502(g).

1.3 Information means any "health information" as defined in 45 CFR. Section 160.103 and "Patient Identifying Information" as defined in 42 CFR Section 2.11.

1.4 Protected Health Information ("PHI") means Individually Identifiable Health Information as defined in 45 CFR. Section 160.103 and below. As used in this Agreement, PHI specifically constitutes PHI created, received, used, maintained or transmitted on behalf of Covered Entity and maintained or transmitted in any form or medium, including, but not limited to, electronic PHI ("EPHI").

1.5 Services Agreement shall mean that certain Agreement between the parties pursuant to which Business Associate provides Services to Covered Entity that involve the use and/or disclosure of PHI.

1.6 Workforce means employees, volunteers, and any other individual performing work for Business Associate who is under the direct control of Business Associate, regardless of whether or not paid.

1.7 Individually Identifiable Health Information. "Individually Identifiable Health Information" is information, including demographic information collected from an individual, whether oral or recorded in any form or medium, that is:

1.7.1 created or received by a health care provider, health plan, employer or health care clearinghouse; and

1.7.2 relates to the past, present, or future health or condition, whether physical or mental, of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and

1.7.3 identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

1.8 Secretary. "Secretary" means the Secretary of the U.S. Department of Health and Human Services or its designee, including without limitation any state or federal authority authorized to investigate any breach or enforce noncompliance with the Health Privacy Laws.

ARTICLE II.
PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

2.1 Performance of Services. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform the functions, activities, or services for or on behalf of Covered Entity as set forth in the Services Agreement, provided that such use or disclosure would not violate the Health Privacy Laws if done by Covered Entity. Business Associate shall not use or disclose any of Covered Entity's PHI except as permitted or required by this Agreement, the Services Agreement, or as otherwise authorized by Covered Entity in writing.

2.2 Management and Administration. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI as necessary for the proper management and administration of Business Associate and/or to carry out the legal responsibilities of Business Associate, provided that such use or disclosure would not violate the privacy standards of the Health Privacy Laws if done by Covered Entity.

2.3 Compliance with Laws. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to report violations of law to appropriate federal and state authorities or for any other purpose Required By Law consistent with 45 CFR Section 164.502(j)(1).

2.4 Ownership of PHI. Business Associate acknowledges that, as between Covered Entity and Business Associate, all PHI shall be and remain the sole property of Covered Entity, and Business Associate has a limited, nonexclusive license to use this data as provided in this Agreement solely for the purpose of performing the Services in accordance with the Services Agreement.

2.5 Restrictions. Notwithstanding the foregoing, under no circumstances may Business Associate sell PHI, use PHI for marketing or fundraising purposes, or attempt to de-identify or re-identify any PHI in violation of the Health Privacy Laws. Nor may PHI be stored outside the United States without prior written consent from the Covered Entity.

2.6. No End User Agreements**.** Any agreements or understandings, whether electronic, click through, verbal or in writing, between Business Associate and Covered Entity or other end users under this Agreement that conflict with the terms of the Services Agreement and/or this Agreement shall not be valid or binding on the Covered Entity or any such end users.

2.7. Conflict. If there is any direct conflict between this Agreement and the Services Agreement, the terms and conditions of this Agreement shall control.

ARTICLE III.
OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

3.1 Appropriate Safeguards. Business Associate shall ensure appropriate privacy and security safeguards are in place and used to prevent the unauthorized use, or disclosure, or unauthorized access to PHI. Appropriate safeguards shall include implementing administrative, physical and technical safeguards in accordance with commercial best practices and that reasonably and appropriately protect the confidentiality, integrity and availability of the PHI that is created, received, maintained or transmitted on behalf of Covered Entity. Such measures will be no less protective than Business Associate uses or would use in good faith to secure its own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Business Associate shall identify such safeguards in writing to Covered Entity upon written request from Covered Entity.

3.2 Affiliates/Agents/Subcontractors. Business Associate shall require that any affiliate, agent, or subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, shall agree in writing to be bound by the same restrictions, conditions, and requirements that apply to Business Associate under this Agreement.

3.3 Minimum Necessary. Business Associate represents and warrants that if it uses or discloses PHI, it shall do so only in the minimum amount and by the minimum number of individuals necessary to perform its obligations to or on behalf of Covered Entity. Business Associate further agrees to train its Workforce and agents who might come in contact with PHI about the Privacy and Security Standards and other relevant health privacy and health security requirements to comply with this Agreement.

3.4 Documentation of Disclosures. Business Associate shall document disclosures of PHI 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 PHI as required by 45 CFR Section164.528 and other Health Privacy Laws.

3.5. Requests for Data, Response to Legal Orders or Demands for Data.
Except as otherwise expressly prohibited by law, Business Associate will:

3.5.1 immediately notify the Covered Entity of any subpoenas, warrants, or other legal orders, demands or requests received by Business Associate seeking confidential information, such as PHI; and

3.5.2 before making any disclosure of such information, cooperate with Covered Entity's requests in connection with efforts by Covered Entity to intervene and quash or modify the legal order, demand or request.

3.6 Amendments. Business Associate shall incorporate any Amendments to PHI maintained in a Designated Record Set that Covered Entity directs or to which it agrees

to enable Covered Entity to fulfill its obligations in accordance with 45 CFR Section 164.526 and other Health Privacy Laws, including but not limited to the Texas Medical Record Privacy Act. Any denial of an amendment of PHI shall be the responsibility of the Covered Entity, including, but not limited to, resolution and/or reporting of all appeals and/or complaints arising therefrom.

3.7 Access to PHI. Business Associate agrees to make PHI available to an Individual in accordance with 45 CFR Section 164.524, the Texas Medical Record Privacy Act and other Health Privacy Laws. Business Associate shall notify Covered Entity of same in writing and within three (3) calendar days of such request.

3.8. Accounting of Disclosures. Business Associate agrees to provide an accounting of disclosures to an Individual in accordance with 45 CFR Section 164.528 and other Health Privacy Laws.

3.9. Covered Entity Review and Audit. Covered Entity may request and obtain access to PHI and related logs at any time for any reason and at no extra cost. Upon Covered Entity's request, Business Associate agrees to provide reasonable documentation to Covered Entity substantiating compliance by Business Associate, its affiliates, subcontractors, and/or agents with applicable law and this Agreement.

3.10. Cooperation. Business Associate will make itself and any employees, affiliates, subcontractors, and/or agents assisting in the performance of its obligations under the Services Agreement and this Agreement, available to Covered Entity at no cost to Covered Entity. This shall include, without limitation, any data preservation or eDiscovery required by Covered Entity or testimony, or otherwise, in the event of litigation or administrative proceedings involving Covered Entity.

ARTICLE IV
BREACH OR IMPROPER DISCLOSURE

4.1 Report of Breach or Improper Disclosure. Business Associate shall immediately notify Covered Entity of any Security Incident, unauthorized or improper use or disclosure of PHI, any Breach of Unsecured PHI, and/or any use or disclosure of PHI not authorized by the Services Agreement or this Agreement (separately or collectively, "Breach"). Such report shall be made within 48 hours after Business Associate becomes aware of such Breach, followed by a written report to Covered Entity within five (5) business days after Business Associate learns of the Breach. The report shall identify: (1) the nature of the unauthorized use or disclosure, (2) the PHI used or disclosed, including a full description of all breached data fields and number of breached records, (3) the identity of the individual(s) or entity that received the unauthorized disclosure, (4) the action(s) that Business Associate has taken or shall take to mitigate any potentially negative effects of the unauthorized use or disclosure, and (5) the corrective action(s) Business Associate has taken or shall take to prevent future similar unauthorized uses or disclosures.

4.2 In the event of any Breach, Business Associate shall in consultation with, and/or at the direction of Covered Entity assist the Covered Entity in conducting a risk

assessment of the incident, and mitigate, to the extent practicable, any harmful effect of such Breach known to Business Associate. Business Associate agrees to cooperate with Covered Entity and provide reasonable information in its possession or in the possession of any of its affiliates, agents, and subcontractors to assist Covered Entity in meeting its obligations to investigate and respond to the incident, including allowing Covered Entity's staff to access log information and other pertinent information related to any investigation related to such Breach.

4.3 Business Associate, in a timely manner, shall make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to Covered Entity to investigate any actual or suspected Breach, and to the Secretary to investigate and/or determine Covered Entity's and/or Business Associate's compliance with the Health Privacy Laws.

4.4. In the event of a Breach of PHI in Business Associate's custody and/or control, including the custody and/or control of Business Associate's affiliates, agents, or subcontractors, Covered Entity, in its sole discretion, will determine whether Covered Entity or Business Associate will bear responsibility and expense for notifying Individuals, the Secretary, the media, and/or others as required by the Health Privacy Laws or as otherwise required by law.

ARTICLE V
OBLIGATIONS OF COVERED ENTITY

5.1 Disclosure. Covered Entity may disclose PHI to enable Business Associate to provide services to or on behalf of Covered Entity, unless Covered Entity otherwise objects to the disclosure, or Business Associate is no longer providing services to Covered Entity.

5.2 Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitations(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

5.3 Notice of Individual Revocations. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

5.4 Notice of Restrictions to Use. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR Section 164.522 and the Health Privacy Laws, including but not limited to the Texas Medical Record Privacy Act, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

ARTICLE VI.
TERM AND TERMINATION

6.1. Term. This Agreement shall commence when the Service Agreement commences and terminate when all of the PHI 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. If it is infeasible to return or destroy PHI, Business Associate shall continue to extend the protections of this Agreement to such information in accordance with Section 7.1.4 of this Agreement.

6.2. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate of this Agreement, Covered Entity shall either:

6.2.1 provide a reasonable opportunity, not to exceed 10 (ten) business days, for Business Associate to cure the breach or end the violation;

6.2.2 immediately terminate the Services Agreement if cure is not possible; or

6.2.3 if neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

ARTICLE VII.
EFFECT OF TERMINATION

7.1 Return/Destruction of Information. Except as otherwise provided in this Agreement and other applicable law, within 30 days upon the termination of the Services Agreement for any reason, Business Associate shall:

7.1.1 Provide Covered Entity's staff with the ability to download /export the PHI for records retention purposes; and

7.1.2 Return all PHI in the possession or control of Business Associate, its affiliates, agents, or subcontractors; or

7.1.3 Destroy all PHI in any format in the possession or control of Business Associate, its affiliates, agents, or subcontractors, and if shredded or destroyed, done in such a way that it may not reconstructed; or

7.1.4 If Business Associate determines that such return or destruction is not feasible, extend the protections of this Agreement 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 Business Associate's obligations under this Agreement shall survive the termination of the Services Agreement for so long as the

PHI is maintained by Business Associate, its affiliates, agents, and subcontractors.

Business Associate shall provide written certification to the Covered Entity that the items set forth in Sections 7.1.2 and/or 7.1.3 have been completed, or that Business Associate is extending the protections of this Agreement in accordance with Section 7.1.4.

ARTICLE VIII
REMEDIES, INSURANCE, INDEMNIFICATION

8.1 Injunctive Relief. The Parties agree that in the event of any breach or violation, or threatened breach or violation, of this Agreement, each Party shall have the right, in addition to any other rights or remedies available, at law or in equity, to seek injunctive relief against the other Party.

8.2. **Indemnification. In addition to any other remedies available to Covered Entity under law or equity, Business Associate shall indemnify (to the extent permitted by applicable law), reimburse, and hold Covered Entity, its affiliates, regents, directors, officers, employees, agents and, if applicable, students (the "Indemnified Parties") harmless from and against all claims, actions, causes of action, demands, liabilities, judgments, fines, assessments, penalties, awards, or other costs and/or expenses, of any kind or nature, including without limitation; those associated with: (i) providing notice to the Individuals whose Individually Identifiable Health Information may be impacted by a Breach; (ii) providing any applicable credit monitoring that Covered Entity may elect in its sole discretion, depending upon the severity of the incident, to provide to the affected Individuals, and (iii) legal fees, audit costs, fines and other fees imposed upon any of the Indemnified Parties by regulatory agencies or contracting partners, relating to or arising out of any Breach or alleged Breach of this Agreement by Business Associate, its affiliates, Agents, or subcontractors. This Indemnity obligation shall survive the expiration or termination of this Agreement for any reason.**

8.3. Insurance. Business Associate agrees to maintain sufficient insurance or financial resources to cover any claims and/or the costs of Indemnification arising from Breach of the PHI.

ARTICLE IX.
MISCELLANEOUS

9.1 Regulatory References. A reference in this Agreement to a section of law means the section as in effect, as amended or as superseded by a subsequent revision. This Agreement shall be deemed amended to conform to any new or revised legislation, rules and regulations to which a Party is subject now or in the future to the extent the new or revised legislation rules and regulations provide more protection to PHI.

9.2 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Health Privacy Laws.

9.3 Survival. Termination of this Agreement will not affect the Parties' rights or obligations that, by their nature and context, are intended to survive termination of the Agreement.

9.4 Severability. The invalidity of any portion of this Agreement shall not invalidate the remainder, and the remainder shall continue in full force and effect.

9.5 Assignment. No party may assign or transfer any or all of its rights or obligations under this Agreement or any part of it, nor any benefit or interest in or under it, to any third party without the prior written consent of the other party. This Agreement shall be binding upon all successors or assigns of the parties hereto, provided that any assignment must be performed as per the requirements of the previous sentence.

9.6 Notices. Any notice which may be or is required to be given under this Agreement shall be written and shall be sent in accordance with the terms of the Service Agreement except as otherwise instructed in writing by the Parties hereto.

9.7 Headings. Headings are for convenience only and form no part of this Agreement and shall not affect its interpretation.

9.8 Counterparts. For the convenience of the parties, this Agreement may be executed in multiple counterparts and by different parties hereto in separate counterparts, each of which for all purposes shall be deemed to be an original, and all such counterparts shall together constitute but one and the same.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above.

BUSINESS ASSOCIATE	**COVERED ENTITY**
By:_____	By:_____
Name:_____	Name:_____
Title:_____	Title:_____
Date:_____	Date:_____