

MRN MANAGER, LLC
BUSINESS ASSOCIATE AGREEMENT

The following Business Associate Agreement (the “Agreement”), is entered into by and between MRN Manager, LLC (“Associate”), having an address at 3593 S.W. Corporate Parkway, Suite Palm City, Florida 34990, and the “Provider” identified in the signature page to this Agreement, effective as of the date set forth in such signature page:

RECITALS:

A. Provider is a provider or supplier of care, services, equipment and/or supplies related to the health of individuals (the “Patients”) whose privacy rights are protected under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);

B. Provider has acquired Associate’s MRN Manager™ software (the “Software”) to assist Provider in tracking, processing and managing third party reimbursement claims arising out of the services or goods furnished to Patients, which Software has been leased and licensed to Provider under the terms of a separate agreement (the “Lease Agreement”) confirmed electronically as part of the installation of the Software;

C. The Software is designed to function by creating and utilizing, on computer server equipment within the custody and control of Associate, a database (the “Server Database”) of electronic Patient claim information transmitted to Associate for the sole purpose of providing electronic data processing and support services for Provider;

D. Provider is a “covered person” required to comply with the certain standards and procedures for protection of the privacy of “individually identifiable health information” pursuant to regulations adopted by the Department of Health and Human Services under HIPAA, which are found in Part 160 and Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations (the “HIPAA Regulations”);

E. The parties have determined that the proper operation of the Software will require the Associate to communicate individually identifiable health information of the Patients and to store and manipulate such information as part of the Server Database, which activities are covered by HIPAA and the HIPAA regulations, and that the parties are required to document their service arrangements under Sections 164.502(e)(2) and 164.504(e) of the HIPAA Regulations;

IN CONSIDERATION OF THE FOREGOING, and the mutual covenants and conditions contained in this Agreement, the parties agree as follows:

1. Definitions. Any terms used in this Agreement, but not otherwise defined above or in this Section shall have the meanings given to them in the HIPAA Regulations. The following additional specific definitions shall apply to this Agreement:

(a) “Customer System” shall have the same meaning as defined in Section 1 of the Lease Agreement.

(b) “Patient” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative of a Patient in accordance with 45 CFR § 164.502(g).

(b) “Protected Health Information” shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, but shall be limited to the actual Patient information created or received by Associate from or on behalf of Provider.

(c) “Required By Law” shall have the same meaning as the term "required by law" in 45 CFR § 164.501.

(d) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

2. Services to be Furnished by Associate. In consideration of the lease payments made by Provider as lessee of the Software under the Lease Agreement, Associate hereby agrees to perform the following services during the term of the Lease Agreement and subject to the further terms and limitations of this Agreement: (a) to establish the Server Database on secure servers controlled by Associate as a dynamic database file of Provider’s Patient billing information linked to Provider’s Customer System using the Software, (b) to permit Provider to use the Software to access, update and manipulate the data in the Server Database, to synchronize such data with related data maintained on the Customer System, and to communicate and generate reports from such data, (c) to assist Provider’s data processing staff to perform any of the foregoing, and to test and troubleshoot the performance of the Software and the integrity of data on the Customer System and the Server Database, as required to provide technical support for the Software as required under the Lease Agreement. It is further understood that Provider may from time to time obtain other optional software support, database management, or communications services from Associate by written orders generated with reference to this Agreement or to the Lease Agreement, in consideration of such additional payments as may be made be required in connection with such orders. Any such optional services shall be subject to all applicable terms and limitations of this Agreement, to the extent that they may require Associate to utilize or otherwise have access to any Protected Health Information. Except as otherwise limited by this Agreement, Associate may use or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity in order to provide any of the services required under this Section, if such use or disclosure of Protected Health Information would not violate the HIPAA Regulations if done by Provider or otherwise violate the minimum necessary policies and procedures established by Provider under the HIPAA Regulations and communicated in writing to Associate.

3. Authority to Make Additional Uses or Disclosures. Except as otherwise specifically limited by this Agreement or prohibited under HIPAA or the HIPAA Regulations:

(a) Associate may use any Protected Health Information furnished by or on behalf of Provider, whether stored in the Server Database or Customer System, for the proper management and administration of Associate’s business, to carry out the legal responsibilities of the Associate, or to provide Data Aggregation services to Provider or any authorized person designated by Provider as permitted by 45 CFR § 164.504(e)(2)(i)(B); and

(b) Associate may disclose Protected Health Information for the proper management and administration of the Associate, provided that disclosures are Required By Law, or if Associate obtains reasonable assurances from the person to whom any such information is disclosed that it 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 the person receiving such confidential disclosures notifies the Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

Provider acknowledges that 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. Representations and Warranties of Provider. In order to minimize the risk of inadvertent violation by Associate of any limitations imposed by Patients upon the use or disclosure of Protected Health Information furnished by Provider under this Agreement, Provider makes the following representations and warranties with the intention that Associate be entitled to rely upon them in conducting its activities under this Agreement and the Lease Agreement:

(a) Provider has not adopted or accepted any limitations in its notice of privacy practices of Provider as a covered entity in accordance with 45 CFR § 164.520 which would limit or restrict any use or disclosure of Protected Health Information which Associate may be reasonably expected to make in connection with its performance of the services contemplated under Section 2 of this Agreement;

(b) Provider shall promptly notify Associate of any changes in its privacy practices or notices during the term of this Agreement which would violate or conflict with the representation made in subsection (a) of this Section, or otherwise impose additional limitations, restrictions or obligations upon Associate in connection with its use of data maintained by the parties under this Agreement;

(c) Provider has not agreed to any restriction or limitation upon the use or disclosure of Protected Health Information pursuant to 45 CFR § 164.522 which would limit or restrict any use or disclosure of Protected Health Information which Associate may be reasonably expected to make in connection with its performance of the services contemplated under Section 2 of this Agreement;

(d) Provider shall promptly notify Associate of its acceptance during the term of this Agreement of any restriction or limitation requested by a Patient which would violate or conflict with the representation made in subsection (b) of this Section, or otherwise impose additional limitations, restrictions or obligations upon Associate in connection with its use of data maintained by the parties under this Agreement;

(e) Provider shall promptly notify Associate of the revocation by any Patient of permission to use or disclose such Patient's Protected Health Information, or of the imposition of any additional conditions upon the use of such information, to the extent that such changes may affect Associate's use or disclosure of Protected Health Information as contemplated by this Agreement, and if requested by Associate, Provider will assist Associate in deleting any such Protected Health Information from any electronic files made available to Associate in connection with this Agreement; and

(f) Provider shall not request Associate to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Regulations if done by Provider.

5. Obligations of Associate. Associate will be bound by and comply with the following obligations in connection with its use of Protected Health Information received from Provider, or created or received by Associate on behalf of Provider, under this Agreement:

(a) Associate agrees to not use or disclose such Protected Health Information other than as permitted or required by the Agreement or as Required By Law, and agrees to use appropriate safeguards to prevent any other use or disclosure of such Protected Health Information;

(b) If Associate becomes aware of any use or disclosure of such Protected Health Information not contemplated by this Agreement, Associate agrees to report such use or disclosure promptly to Provider and to assist Provider in mitigating any adverse consequences from such use or disclosure;

(c) Associate agrees to ensure that any agent or subcontractor to whom it provides such Protected Health Information agrees to the same restrictions and conditions applicable to Associate under this Agreement with respect to its handling and use of such information;

(d) Associate agrees to permit Provider to access to any such Protected Health Information in the Designated Record Set maintained on the Server Database in order to meet requirements for providing Patient access to records pursuant to 45 CFR § 164.524 or to meet requirements to make amendments to such records pursuant to 45 CFR § 164.526, and if requested in writing by Provider, to assist Provider in providing any required information to a Patient from or making any required amendments to records in the Designated Record Set;

(e) Associate agrees to make such Protected Health Information and its internal practices, books, and records, including policies and procedures relating to the use and disclosure of such Protected Health Information available to Provider and/or the Secretary, in such time and manner as may be designated by the Secretary or otherwise required under the HIPAA Regulations, for purposes of the Secretary determining Provider's compliance with the HIPAA Regulations; and

(f) Associate agrees to document any disclosures of such Protected Health Information to persons other than Provider and collect such information related to any such disclosures as would be required for Provider to respond to a request by an Patient for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528, and Associate agrees to provide information collected in accordance with this subsection to Provider and/or any Patient affected by such disclosure as necessary to permit Provider to respond to a request by a Patient for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

6. Term and Termination. The term of this Agreement shall become effective upon installation of the Software by Provider on its Customer System, and shall continue until the expiration or earlier termination of the Lease Agreement, unless otherwise terminated as provided in subsection (a), below.

(a) If Provider has knowledge or receives notice of a material breach by Associate, Provider shall have the right to: (i) give written notice of its intention to terminate, and provide an opportunity for Associate to cure the breach or end the violation within a reasonable time, in which case Provider may terminate this Agreement if Associate does not cure the breach or end the violation within the time specified by Provider; or (ii) immediately terminate this Agreement by written notice if Associate has breached a material term of this Agreement and cure is not possible. If neither termination nor cure are feasible, Provider shall report the violation to the Secretary and the parties shall continue to perform this Agreement pending further action by the Secretary with respect to such report.

(b) Upon termination of the term of this Agreement, for any reason, Associate shall return or destroy all Protected Health Information received from Provider, or created or received by Associate on behalf of Provider, and Associate shall retain no copies of such Protected Health Information, except as otherwise provided in this subsection. This subsection shall also apply to any such Protected Health Information that is in the possession of subcontractors or agents of Associate. In the event that Associate determines that returning or destroying such Protected Health Information is infeasible, Associate shall provide to Covered Entity written notification of the circumstances or conditions that make return or destruction infeasible. In such event, Associate shall continue to extend the protections afforded by 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 Associate maintains such Protected Health Information.

7. Miscellaneous.

(a) *Regulatory References; Amendments.* A reference in this Agreement to a section in the HIPAA Regulations means the section as in effect or as amended. In the event of the subsequent adoption of any material amendment to HIPAA or the HIPAA Regulations, or of any other statute or regulations applicable to the subject matter of this Agreement, which would affect the continued validity or enforcement of this Agreement, the parties agree to amend this Agreement in such manner as may be deemed necessary or prudent by their legal counsel to conform with any subsequent requirements or procedures imposed by such amendment or by such other statute or regulations.

(b) *Choice of Law; Interpretation.* This Agreement shall be governed by and construed in accordance with the internal contract laws of the State of Florida and provisions of federal law applicable to the subject matter hereof, regardless of conflicts of laws provisions which might otherwise be applied. Any ambiguity in this Agreement shall be resolved in such manner as may best permit the parties to comply with their respective obligations under HIPAA and the HIPAA Regulations.

(c) *Exclusive Forum for Resolution of Disputes; Attorney's Fees.* The parties agree that the exclusive forum for all disputes involving the construction, termination or enforcement of the Agreement shall be the State or Federal Court having subject matter jurisdiction over the cause which is located in Martin County, Florida, and all parties agree to submit to the personal jurisdiction and venue of such courts with respect to any action arising out the transactions contemplated by the Agreement. In the event that either party retains the services of an attorney to enforce its rights in any such action, the prevailing party in such action shall be entitled to


recover reasonable attorney's fees, legal costs, and other collection fees and costs incurred by that party in connection with such action, including fees and costs incurred in the preparation of demands and pleadings, discovery, trial and appeals.

(d) *Counterpart Execution.* This Agreement may be executed separately by each party in identical counterparts, including counterparts transmitted by facsimile or electronic mail, and shall be effective when Associate has received an original or facsimile of the signature page of this Agreement signed by the authorized representative of Provider.

The undersigned authorized representatives of the parties have executed and delivered this agreement, effective as of the date set forth below, as evidence of their acceptance of the foregoing covenants, terms and conditions.

MRN MANAGER, LLC

PROVIDER:

By: 

Ronn Schuman, CEO

[Full Legal Name]

[Signature of Representative]

[Printed Name and Title]

Provider's Business Address:

