

Here are the instructions to the provider for properly filling out the contract.

Page 1: Fill in legal name of practice and the date signing

Page 7: Under Licensee Name sign, on By line, and write in name, title and date

Page 8: Fill in the date signing the contract in number 1

Note: First year license fee for How's Your Health PatientPlanner™ for providers participating in the IMPs project will be paid by the IMPs project. After first year the fees will be paid by the Licensee.

Page 11: Fill in the legal practice name

Page 15: Fill in the information under <Covered Entity> and to the right of <Covered Entity> for Address for Notices

Do not cross out or modify any sections of the contract or we will not be able to accept the contract and your use of the system will be delayed.

Thanks

SOFTWARE LICENSE AGREEMENT

This software license is an agreement (the "Agreement") made and entered into this First day of _____, 200____, by and between DocSite LLC, a Delaware limited liability company (hereinafter referred to as "DocSite") and _____, a participant in Ideal Micro Practice (hereinafter referred to as ("Licensee")). This Agreement includes the attached License and Other Fees, Maintenance and Service Terms and HIPAA Compliance Addendum.

1. DEFINITIONS

(a) "Documentation" means, collectively, the operation instructions, user manuals, help files and all technical information and materials, in written or electronic form, provided by DocSite to Licensee and that are intended for use in connection with the Software.

(b) "Software" means each DocSite Software program Patient Planner in object code format set forth in a Product Schedule, including any updates, modifications, or new releases of such software program that DocSite provides to Licensee from time to time.

(c) "Authorized User" means a Provider who is member of Licensee's network and for whom license fees have been paid, and their staff who performs clinical and/or administrative services.

(d) "Provider" means a physician, nurse practitioner, physician assistant or other licensed individual with an independent license to provide healthcare services.

2. GRANT OF LICENSE

(a) DocSite grants to Licensee a non-exclusive right to install and use the Software in accordance with this Agreement for the sole business purposes of the Licensee. Use of Software or derived data from use of Software are for use by the Licensee for its business purposes only, and not to be shared with any other party without the expressed written permission of DocSite. The Software is licensed by DocSite, not sold and is subject to the terms and conditions contained in this Agreement. The Software Product is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

(b) The Software is provided as a browser base version on a web platform. The Licensee and it's Authorized Users hereunder may use, access, display, operate or otherwise interact with the Software, or any prior version for the same operating system, on any number of computers, workstations, terminals or other digital electronic devices in a clinic or office location.

(c) DocSite will host the Software on its own server for use by Licensee.

(d) Any rights to the use of the Software Product not expressly granted Licensee hereunder are reserved by DocSite.

(e) Notwithstanding anything herein to the contrary, Licensee shall communicate all of the restrictions, limitations and obligations on it contained in this Agreement, with respect to the Software Product, to its Authorized Users, who shall also be subject to the same, and Licensee shall be responsible and liable

for any and all breaches by any and all of the Authorized Users. All such restrictions, limitations and obligations shall survive the termination of this Agreement.

3. COPY AND USE RESTRICTIONS

(a) Licensee's use of the Software is defined and subject to the terms defined in this agreement and attachments.

(b) Licensee may not copy the Software or supporting documentation.

(c) Licensee may not, nor allow any third party to: (i) decompile, disassemble, or reverse engineer the Software without DocSite's consent; (ii) remove any product identification or proprietary rights notices; (iii) lease, lend, use the Software for timesharing or service bureau purposes; (iv) except with DocSite's prior written permission, publish any performance or benchmark tests or analysis relating to the Software; or (v) otherwise use or copy the Software except as expressly provided herein.

(d) This Agreement does not grant Licensee any rights in connection with any trademarks or service marks of DocSite.

(e) Licensee shall not, directly or indirectly, sell, license, provide, disclose, distribute, display, or otherwise make available the Software Product, or any part thereof, or any copy, modification, alteration or enhancement to the Software Product, or DocSite's proprietary ideas and/or concepts embodied therein, to any person, firm, corporation, partnership, association, trust or other entity, except to the Authorized Providers in accordance with the terms and conditions of this Agreement, and Licensee shall take all reasonable actions necessary to maintain and preserve the confidentiality of the Software Product.

(f) All hardware and third party software costs with respect to the Software, other than that provided by DocSite as needed to provide hosting services to the Licensee, shall be borne solely by Licensee.

(g) Licensee acknowledges that DocSite has, shall have, and shall retain, title, exclusive ownership rights and all intellectual property and other rights and interests in the Software and the accompanying Documentation, in the content thereof and in DocSite's proprietary ideas and concepts embodied therein, and in any and all copies, modifications, alterations and enhancements to the Software Product, including any derivative works resulting there from. The license granted hereunder does not include the right to modify, change or otherwise alter the Software Product.

4. LICENSE FEES

(a) DocSite will mail invoices for all license and maintenance fees and other charges covered by this Agreement to the billing address(es) furnished by Licensee. Licensee fees on Invoice do not include taxes which are the responsibility of Licensee. Upon receipt, Licensee will process all invoices for payment from receipt of DocSite's correct invoice at Licensee's offices. Late payments will bear interest at the rate of 1.5% per month, or, if lower, the maximum rate allowed by law. Licensee is responsible for all taxes, charges or duties including, without limitation, sales, use, value added, royalty or withholding taxes imposed by a federal, state, provincial, local or other government entity on software or services provided under this Agreement. If

DocSite is obligated to collect taxes, then the appropriate amount will be added to Licensee's invoice.

5. LICENSE FEES AND MAINTENANCE SERVICES

(a) License and maintenance fees and service terms governing any Software fees, maintenance and support services purchased by Licensee are set out in the attached License and Other Fees and Maintenance and Service Terms Exhibits.

6. DATA SHARING AND ACCESS AND CONFIDENTIALITY OF MEDICAL INFORMATION.

(a) DocSite shall have the right under this Agreement to certain use of Licensee's and its Authorized Providers' data to verify compliance with Authorized User requirements. It is agreed by the parties that data from Licensee and its Authorized Users remains the property of Licensee.

(b) The parties agree that personally identifiable medical information is strictly confidential and shall not be reported to any other party, except as required by law or legal process. The parties agree to comply with any and all applicable laws and regulations on patient medical information and medical records, including without limitation the Health Insurance Portability and Accountability Act commonly known as HIPAA.

(c) Licensee hereby grants to DocSite a non-exclusive, perpetual, irrevocable, royalty-free right and license to use patient and administrative data ("De-Identified Use Data" as defined by HIPAA regulations and guidelines) collected or provided under this Agreement for any lawful business purpose, provided that such data is not personally identifiable. DocSite shall have the right to utilize the De-Identified Use Data for the purpose of creating statistical norms and reports provided however that the data shall not include member identities and claims information that is unprotected. Specific patient, physician and customer information shall remain confidential and shall not be released. Further, should DocSite choose to place the De-Identified Use Data in its national database or in any way incorporate such data in studies and/or analyses conducted by DocSite, no such data shall be identified as originating from Licensee, or the patients, members, or physicians of Licensee and its Authorized Providers. The De-Identified Use Data shall also not be utilized in any study, report or publication without first being integrated with a significant body of other data such that neither Licensee, its Authorized Providers, or their patients or physicians can be identified, unless appropriate, advance and written consents to such identification are obtained.

(d) The confidentiality obligations with regard to medical information set forth in this Agreement shall survive the termination of this Agreement.

7. TRANSFER OF RIGHTS

(a) Licensee may not transfer, assign or delegate its rights or duties under this Agreement without the prior written consent of DocSite.

8. TERMINATION

(a) Either party may terminate this Agreement if the other party fails to cure any material breach of this Agreement within thirty (30) days of receiving

notice of such breach. Upon any such termination, all of Licensee's right to use the Software shall immediately cease and Licensee will destroy all copies of the Documentation.

(b) Any obligations to pay fees incurred under Sections 4 and 5 prior to termination and the provisions of Sections 8, 9, 10, 12 and 13 shall survive termination of the Agreement for any reason. Termination is not an exclusive remedy and all other remedies will be available whether or not the Agreement is terminated.

9. LIMITED WARRANTY AND DISCLAIMER

(a) DocSite warrants that, when delivered and for a period of three (3) years thereafter, the Software licensed hereunder will materially conform to DocSite's then current Documentation for such Software.

(b) DocSite warrants that the Software Product will perform substantially in accordance with the accompanying Documentation from the date of installation by DocSite at Licensee's and its Authorized Users, for so long as DocSite remains obligated to provide the Support Services as provided herein, and (b) any Support Services provided by DocSite shall be subject to the terms and conditions of this Agreement and substantially as described in applicable written materials provided to Licensee by DocSite, and DocSite engineers will make commercially reasonable efforts to solve any problem issues through Secure Electronic Access.

(c) The preceding warranty will not apply if: (i) the Software is not used in accordance with the Documentation; (ii) the Software or any part thereof has been modified without the prior written consent of DocSite; or (iii) a defect in the Software has been caused by any of Licensee's action or malfunctioning equipment.

(d) Except as expressly provided herein, Docsite makes no warranty, either express or implied, including, without limitation, warranties of merchantability or fitness for a particular purpose. Regardless of the cause of action, in no event shall DocSite's liability hereunder exceed the license fees paid by the licensee for the license. In no event shall Docsite be liable to licensee regardless of the basis of recovery claimed, whether under any contract, negligence, strict liability or other theory for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of anticipated profits, business goodwill, reputation, medical malpractice, loss of or damage to records or data, cost of procurement of substitute goods; services or technology; or any special, indirect, incidental or consequential damages; or economic loss, whether suffered directly or indirectly, even if Docsite has been advised of the possibility of such damages, or for any claim against Licensee by any third party.

(e) The software product is licensed for use by an experienced, trained and duly licensed healthcare user, solely for purposes of data compilation and analysis. All patient care decisions are the sole responsibility of the licensee and its authorized providers. Docsite does not warrant, nor does Docsite advocate or advise the Licensee, its employees, authorized providers, agents, independent contractors or affiliates regarding, any methods or means of patient care or any results in connection therewith.

(f) DocSite agrees to indemnify, defend and hold harmless Licensee and its Authorized Providers against any claims that the Software Product infringes or

misappropriates the intellectual property rights of any third party, including without limitation, reasonable legal fees and expenses. DocSite's obligations under the preceding sentence shall not apply to a claim of infringement or misappropriation based upon any changes, modifications or alterations made by Licensee, its employees, Authorized Providers, agents, affiliates, independent contractors or any of their respective employees or agents to any component of the Software Product or the combination, operation or use of the Software Product or related documentation with any software, hardware or data not supplied by DocSite if such infringement would not have arisen but for such change, modification, alteration, combination, operation or use ("Licensee Modification"). Licensee agrees to indemnify, defend and hold harmless DocSite against any and all liabilities, costs, expenses and fees, including without limitation, reasonable legal fees and expenses, from any causes of action, claims (threatened or asserted) or judgments arising out of or in any way connected to the care of any patient, including without limitation as a result of any data or information provided or developed in connection with the Software Product, or any Licensee Modification. These indemnification obligations survive the termination of this Agreement.

(g) Notwithstanding anything to the contrary contained herein, DocSite shall not be liable in damages to the Licensee nor shall the Licensee have the right to terminate this Agreement for any delay or default by DocSite in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to, Acts of God, government restrictions, wars, terrorism, insurrections and/or any other cause beyond the control of DOCSITE.

10. INTELLECTUAL PROPERTY INDEMNITY

(a) DocSite shall defend and hold Licensee harmless from any claim by a third party that the Software infringes any United States patent, trade secret or copyright of that third party, provided: (i) DocSite is promptly notified of the claim; (ii) DocSite receives reasonable cooperation from Licensee in protecting its rights related thereto; and (iii) DocSite has the opportunity to assume sole control over the defense and all negotiations for a settlement or compromise. DocSite will not be responsible for any settlement it does not approve in writing. The foregoing obligation of DocSite does not apply with respect to Software or portions or components thereof: (i) not supplied by DocSite; (ii) made in whole or in part in accordance with Licensee's specifications; (iii) which are modified by Licensee, if the alleged infringement relates to such modification; (iv) combined with other products (hardware or software), processes or materials where the alleged infringement relates to such combination; or (v) where Licensee continues the allegedly infringing activity after being notified thereof and provided modifications that would have avoided the alleged infringement.

(b) In the event the Software is held by a court of competent jurisdiction to constitute an infringement and its use is enjoined, DocSite shall, at its sole option, either: (i) procure for Licensee the right to continue use of the Software; (ii) provide a modification to the Software so that its use becomes non-infringing, or (iii) replace the Software with software which is substantially similar in functionality and performance. If none of the foregoing alternatives is reasonably available to DocSite, DocSite shall refund the residual value of the License fees paid by Licensee for the infringing Software, depreciated over a three (3) year period from the date of delivery of the Software to Licensee. This Section states DocSite's sole liability and Licensee's exclusive remedy for infringement claims.

11. NON-DISCLOSURE

The parties agree that software supplied by DocSite and all technical and business information received from either party will be maintained in strict confidence with the exception of that which is (a) already known to the public, (b) supplied to another party on a non-confidential basis, or (c) the same in substance as that rightfully obtained from a third party. Without the prior written consent of Licensee, which shall not be unreasonably withheld, Licensee's name will not be used as a reference, on a client list, in advertising, or in any way that might disclose the nature of the work.

12. GENERAL

(a) Licensee is responsible for the cost of shipping, for payment of all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on Licensor's net income) arising from the payment of license or maintenance fees or the delivery or license of, the Software or maintenance services. Licensee will make all payments without reduction for any withholding taxes, which taxes shall be Licensee's sole responsibility, and Licensee will provide DocSite with such evidence as DocSite may reasonably request to establish that such taxes have been paid.

(b) Any dispute arising out of or relating to this Agreement or the breach thereof shall be governed by the laws of the State of Delaware without regard to or application of choice of laws, rules or principles. Both parties hereby consent to the exclusive jurisdiction of such courts, and expressly waive any objections or defense based upon lack of personal jurisdiction or venue. The prevailing party shall be entitled to recover its reasonable attorney's fees and cost incurred in connection with any action or proceeding between DocSite and Licensee arising out of or related to this Agreement.

(c) All notices delivered under the Agreement shall be in writing and deemed given upon receipt when delivered personally or upon confirmation of receipt following delivery of (i) overnight courier service or (ii) registered or certified mail, return receipt requested, postage prepaid, in each case addressed to the Legal Department at the address indicated in the last executed Product Schedule, or at such other address of which one party is notified by the other in writing.

(e) The provisions of the Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

(g) The headings and titles used in this Agreement are for convenience only and will not limit, expand or otherwise affect any of its terms.

(h) The invalidity or illegality of any provisions within this Agreement shall not affect the validity of any other provisions of this Agreement, it being the intent of the parties to construe the unaffected provisions as closely as possible to their original meanings.

(i) This Agreement, the Schedules hereto, and any written amendments made pursuant to it constitute the entire agreement between DocSite and Licensee and the complete and exclusive expression of the terms of the agreement between the parties, and supersede all prior or contemporaneous proposals, oral or written, negotiations, representations, conditions, warranties, covenants, and all other communications between the parties relating to the subject matter of this

Agreement. This Agreement will not be amended, altered, or changed except by a written agreement signed by the parties hereto.

(j) No waiver of a breach, failure of a condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the waiving party. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

(k) Each party represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate, partnership, or limited liability company action, and that this Agreement, when duly executed by all parties hereto, will be binding and enforceable against such party in accordance with its terms.

Agreed by the authorized representatives of the parties:

Licensee Name

By: _____

Name: _____

Title: _____

Date: _____

DocSite, LLC

By: _____

Name: Denise Runde

Title: President

Date: _____

License and Other Fees

1. Term of License(s): One year contract beginning on _____, 20____. License will be automatically renewed at the end of the contract unless there is a minimum 30 days written notice of a desire not to renew the contract.
2. Product(s)Licensed: Initial license for How's Your Health interfaced PatientPlanner™ with the option to upgrade to PatientPlanner™ 3.0 at any time.
3. The following License Fees payable hereunder are as follows (License Fees include Hosting, Customer Support and Application Maintenance and Upgrades):
 - How's Your Health PatientPlanner™ - \$350 per Provider per year
 - o First year license fee for How's Your Health PatientPlanner™ for providers participating in the IMPs project will be paid by the IMPs project. After first year the fees will be paid by the Licensee.
 - PatientPlanner™ 3.0 - \$350 per Provider per year for the upgrade to the full PatientPlanner™ 3.0 application plus license fee for the How's Your Health PatientPlanner™.

Licensee agrees to a quarterly reconciliation of the license fee billing.

4. Location of Browser Based Server:

DocSite Hosted: _____X_____

5. Billing is annual, on the initial contract signing and on each renewal date thereafter. License Fees for the upgrade to the full PatientPlanner 3.0 shall be prorated based on the month during which they are added during a contract year.
6. Other fees:
 - a. Optional training of new Authorized Users can be done via web based training at \$160 per hour.

Maintenance and Service Terms

Maintenance

A. Classification of Defects. Support Services consist of DocSite's investigation and correction of any defects or deficiencies in the Software Product (problems with the Software Product that cause it not to perform all functions substantially as described in the Documentation) that Licensee reports to DocSite (a "Defect"). Classification of Defects and their associated Support Service schedule follows:

	Acknowledgement*	Patch**	Fix***
Level One: Anything that renders inoperative the then current release version of the Software	Within 2 hours	48 hours	12 business days
Level Two: Anything that has a negative impact upon Licensee's ability to perform its normal business functions and for which there is no alternative procedure available.	Close of business day	3 business days	Release of next version of the PatientPlanner
Level Three: Anything that has a negative impact upon Licensee's ability to perform its normal business functions but for which there is an alternative procedure available.	Close of business day	10 business days	Release of next version of the PatientPlanner
Level Four: Anything that does not fit into any of the above Classifications.	Within 2 business days	To be scheduled with Licensee	To be determined by DocSite

* If Licensee reports the Defect by voicemail or email, DocSite will place a return call to Licensee to acknowledge receipt of the message and to begin investigation and correction of the Defect.

** A patch is a work around, circumvented procedure, bug fix or updated release.

*** Official fix, update fix or enhancement.

B. Response Times. Licensee will report Defects by telephone, voicemail or email to DocSite. If DocSite is unable to resolve the Defect immediately on the phone, DocSite will assign a tracking number and one of the above classifications. On a twenty-four hour, seven day a week basis, DocSite will respond to, and use commercially reasonable efforts to correct the Defect by Secure Electronic Access within the time frames set forth above. Support between the hours of 6:00 pm EST and 9:00 am EST will be for support issues related to the user's inability to use PatientPlanner™. Non-emergent after-hours support, such as helping set up user sites, non-VisitPlanner™ reporting issues, training on data entry, etc, will be provided on a mutually agreed time and materials basis.

HIPAA COMPLIANCE AGREEMENT:

BUSINESS ASSOCIATE, TRADING PARTNER AND CHAIN OF TRUST

THIS AGREEMENT is made and entered into by and between DOCSITE, LLC, a Delaware limited liability company ("**BUSINESS ASSOCIATE**") and _____ ("**<COVERED ENTITY>**"). The purpose of this Agreement is to satisfy certain obligations of <COVERED ENTITY> under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64) ("**HIPAA**") to ensure the integrity and confidentiality of Protected Health Information.

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Business Associate and <COVERED ENTITY> agree as follows:

1. DEFINITIONS

Capitalized terms used, but not otherwise defined, in this Agreement shall have the meanings given them in HIPAA. For convenience of reference, the definitions of "Individually Identifiable Health Information" and "Protected Health Information" as of the Effective Date are as follows:

(a) "**Individually Identifiable Health Information**" means information that is a subset of health information, including demographic information collected from an individual, and (i) is created or received by a healthcare provider, health plan, employer, or health care clearinghouse; and (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of health care to an individual; and (a) that identifies the individual, or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

(b) "**Protected Health Information**" means Individually Identifiable Health Information that Business Associate receives from <COVERED ENTITY> or from another business associate of <COVERED ENTITY> or which Business Associate creates for <COVERED ENTITY> which is transmitted or maintained in any form or medium. "Protected Health Information" shall not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. §1232g, or records described in 20 U.S.C. §1232g (a)(4)(B)(iv), or employment records held by <COVERED ENTITY> in its role as employer.

2. APPLICABILITY OF TERMS; CONFLICTS

This Agreement amends any attached contract or license (the "License/Contract") as of the effective date of the Agreement. In the event of any conflict or inconsistency between a provision of this Agreement and a provision of the License/Contract or any other agreement between Business Associate and <COVERED ENTITY>, the provision of this Agreement shall control unless: (i) <COVERED ENTITY> specifically agrees to the contrary in writing, or (ii) the provision in the License/Contract or such other agreement establishes additional rights for <COVERED ENTITY> or additional duties for or restrictions on Business Associate with respect to Protected Health Information, in which case the provision of the License/Contract or such other agreement will control.

3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

3.1 Non-disclosure: Business Associate will not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law or as otherwise authorized by <COVERED ENTITY>.

3.2 Safeguards: Business Associate will use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement. Business Associate will develop, implement, maintain and use appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of and to prevent non-permitted or violating use or disclosure of Protected Health Information which is transmitted electronically. Business Associate will document and keep these safeguards current.

3.3 Mitigation: Business Associate will 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.

3.4 Reporting: Business Associate will report to the Privacy Official of <COVERED ENTITY>, in writing, any use and/or disclosure of Protected Health Information that is not permitted or required by this Agreement of which Business Associate becomes aware. Such report shall be made as soon as reasonably possible but in no event more than five (5) business days after discovery by Business Associate of such unauthorized use or disclosure. This reporting obligation shall include breaches by Business Associate, its employees, subcontractors and/or agents. Each such report of a breach will: (i) identify the nature of the non-permitted or violating use or disclosure; (ii) identify the Protected Health Information used or disclosed; (iii) identify who made the non-permitted or violating use or disclosure; (iv) identify who received the non-permitted or violating use or disclosure; (v) identify what corrective action Business Associate took or will take to prevent further non-permitted or violating uses or disclosures; (vi) identify what Business Associate did or will do to mitigate any deleterious effect of the non-permitted or violating use or disclosure; and (vii) provide such other information as <COVERED ENTITY> may reasonably request.

3.5 Agents and Subcontractors: Business Associate will ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of, <COVERED ENTITY> agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

3.6 Access: Business Associate will provide access, within five (5) business days of receiving a written request from <COVERED ENTITY>, to Protected Health Information from a Designated Record Set of <COVERED ENTITY>, to <COVERED ENTITY> (or, as directed by <COVERED ENTITY>, to an Individual) in order to meet the requirements under 45 C.F.R. § 164.524. This provision does not apply if Business Associate and its employees, subcontractors and agents have no Protected Health Information from a Designated Record Set of <COVERED ENTITY>.

3.7 Amendments: Business Associate will make, upon written request from <COVERED ENTITY>, any amendment(s) to Protected Health Information in a Designated Record Set of <COVERED ENTITY> that <COVERED ENTITY> directs or agrees to pursuant to 45 C.F.R. § 164.526. This provision does not apply if Business Associate and its employees, subcontractors and agents have no Protected Health Information from a Designated Record Set of <COVERED ENTITY>.

3.8 Records: Business Associate will make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, <COVERED ENTITY> available to the Secretary during regular business hours within five (5) business days of receiving a written request from <COVERED ENTITY>, or sooner if requested by the Secretary, for purposes of the Secretary determining <COVERED ENTITY>'s compliance with HIPAA.

3.9 Accounting for Disclosure: Business Associate will document such disclosures by Business Associate and its employees, subcontractors and agents 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 C.F.R § 164.528. Business Associate agrees to provide to <COVERED ENTITY> (or an Individual, at <COVERED ENTITY>'s request), within five (5) business days of receiving a written request from <COVERED ENTITY>, information collected in accordance with the preceding sentence, to permit <COVERED ENTITY> to respond to a request by an Individual for such an accounting of disclosures.

3.10 Alternative Communication: At <COVERED ENTITY>'s request, Business Associate will implement reasonable alternative means or locations of communication with an Individual, as necessary to honor a request granted by <COVERED ENTITY> pursuant to 45 C.F.R. §§ 164.522 or 164.526, respectively. Except as the Agreement or any other agreement between <COVERED ENTITY> and Business Associate may provide otherwise, in the event Business Associate receives an access, amendment, disclosure accounting or confidential communications or other similar request directly from an Individual, Business Associate will redirect the Individual to appropriate <COVERED ENTITY> personnel. Business Associate will maintain records related to disclosures of Protected Health Information for at least six (6) years after the date of the disclosure.

4.0 PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

4.1 Functions and Activities on <COVERED ENTITY>'s Behalf. Except as otherwise limited in this Agreement, the License/Contract or any other agreement between Business Associate and <COVERED ENTITY>, Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to, <COVERED ENTITY> only for purposes authorized by <COVERED ENTITY> in the License/Contract or through specific oral instruction, if such use or disclosure of Protected Health Information would not violate HIPAA if done by <COVERED ENTITY> itself.

4.2 Business Associate's Operations. Except as otherwise limited in this Agreement, the License/Contract or any other agreement between Business Associate and <COVERED ENTITY>: (a) Business Associate may use Protected Health Information for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities; (b) Business Associate may disclose Protected Health Information for Business Associate's proper management and administration, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed that (i) it will remain confidential and will be 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 will notify Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

5.0 "TRADING PARTNER" PROVISIONS: USE AND DISCLOSURE IN CONNECTION WITH STANDARD TRANSACTIONS

If Business Associate conducts Standard Transactions (as defined in 45 C.F.R. Part 162) for or on behalf of <COVERED ENTITY>, Business Associate will comply, and will require each subcontractor or agent involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 C.F.R. Part 162. Business Associate will not enter into, or permit its subcontractors or agents to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of <COVERED ENTITY> that: (i)

changes the definition, data condition, or use of a data element or segment in a Standard Transaction; (ii) adds any data elements or segments to the maximum defined data set; (iii) uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or (iv) changes the meaning or intent of the Standard Transaction's implementation specification.

6.0 TERMS AND TERMINATION

6.1 Term. The term of this Agreement shall commence as of the effective date of the Agreement, 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>, for purposes of the Agreement is destroyed or returned to <COVERED ENTITY>, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such Protected Health Information in accordance with the provisions of this Section 6.

6.2 Termination for Cause. As provided in HIPAA, including 45 C.F.R. §164.504(e)(2)(iii), upon <COVERED ENTITY>'s reasonable determination that Business Associate has breached a material term of this Agreement, <COVERED ENTITY> shall be entitled to do any one or more of the following:

(a) Give Business Associate written notice of the existence of such breach and give Business Associate an opportunity to cure upon mutually agreeable terms. If Business Associate does not cure the breach or end the violation according to such terms, or if <COVERED ENTITY> and Business Associate are unable to agree upon such terms, <COVERED ENTITY> may immediately terminate the Agreement.

(b) Immediately terminate the Agreement.

(c) Immediately stop all further disclosures of Protected Health Information to Business Associate pursuant to the Agreement.

6.3 Effect of Termination. Upon receipt of written demand from <COVERED ENTITY>, Business Associate agrees to immediately return or destroy, except to the extent infeasible, all Protected Health Information demanded by <COVERED ENTITY>, including all such Protected Health Information which Business Associate has disclosed to its employees, subcontractors and/or agents. Destruction shall include destruction of all copies including backup tapes and other electronic backup medium. In the event the return or destruction of some or all such Protected Health Information is infeasible, Protected Health Information not returned or destroyed pursuant to this paragraph shall be used or disclosed only for those purposes that make return or destruction infeasible.

6.4 Continuing Privacy Obligation. Business Associate's obligation to protect the privacy of Protected Health Information is continuous and survives any termination, cancellation, expiration, or other conclusion of this Agreement, the License/Contract or any other agreement between Business Associate and <COVERED ENTITY>.

7.0 NOTICES

All notices pursuant to this Agreement must be given in writing and shall be effective when received if hand-delivered or upon dispatch if sent by reputable overnight delivery service, facsimile or U.S. Mail to the appropriate address or facsimile number as set forth at the end of this Agreement.

8.0 MISCELLANEOUS

- A) Business Associate and <COVERED ENTITY> agree that Individuals who are the subject of Protected Health Information are not third-party beneficiaries of this Agreement.
- B) In the event that any provision of this Agreement violates any applicable statute, ordinance or rule of law in any jurisdiction that governs this Agreement, such provision shall be ineffective to the extent of such violation without invalidating any other provision of this Agreement.
- C) This Agreement may not be amended, altered or modified except by written agreement signed by Business Associate and <COVERED ENTITY>.
- D) No provision of this Agreement may be waived except by an agreement in writing signed by the waiving party.
- E) A waiver of any term or provision shall not be construed as a waiver of any other term or provision.
- F) Nothing in Section 3 of this Agreement shall be deemed a waiver of any legally-recognized claim of privilege available to Business Associate.
- G) This BA Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
- H) All references herein to specific statutes, codes or regulations shall be deemed to be references to those statutes, codes or regulations as may be amended from time to time.

BUSINESS ASSOCIATE:

Address for notices:

DocSite, LLC

By: _____

Attn: Denise Runde
DocSite, LLC
4917 Waters Edge Drive # 125
Raleigh, NC 27606

Title: _____

Phone: (919) 256-9500

Name: _____

Fax: (781) 240-2406

<COVERED ENTITY>:

Address for notices:

Privacy Official

By: _____

Title: _____

Name: _____
