

ACA Employer Reporting Plan Application

Internal Use Only: Large Client Qualifier

Please submit completed Application with required fees to:	Email	Fax	Mail
	newbusiness@tasconline.com	(608) 661-9638	TASC, c/o New Business Department 2302 International Lane, P.O. Box 14140 Madison, Wisconsin 53704-3140

PART 1: EMPLOYER/ADMINISTRATOR/PLAN SPONSOR

Contact Name:		Email (required):	
Title:		Telephone:	
Company Name:		Business Federal ID# (EIN):	
Physical Address: <i>(no PO Box)</i>		City:	State: Zip:
Mailing Address: <i>(no PO Box)</i>		City:	State: Zip:
NAICS/SIC Code:		Total # Employees:	
Nature of Business:		Total # Benefit Eligible Employees:	
Tax Filing Status:	<input type="checkbox"/> C-Corp <input type="checkbox"/> S-Corp <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Non-Profit <input type="checkbox"/> LLC <input type="checkbox"/> Other:		
Health Insurance Carrier:	Carrier Group ID#:	Renewal Date:	
Carrier AM/Rep Name:	AM/Rep Email:		

PART 2: TASC SERVICES AND FEES

Are you a current TASC Client?	<input type="checkbox"/> No <input type="checkbox"/> Yes	If Yes , please provide your 12-Digit TASC ID#:			
Fees	Set Up	Monthly	Minimum	Total	
ACA Employer Reporting ¹	\$ _____	\$ _____ PEPM	\$50.00	\$ _____	Fees due with Application
ACA Employer Reporting Start Date: _____					

PART 3: BILLING AND PAYMENT INFORMATION

Select a payment method for your Set-Up Fees (due now) and Administration Fees. Complete information for selected methods below.

Payment Methods	ACH (E-Pay)	Credit Card	Invoiced
Set-Up Fees (due now):	<input type="checkbox"/>	<input type="checkbox"/>	N/A
Administration Fees:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Information for Payment Methods

ACH (E-Pay) Information:	Financial Institution Name:		State:		
	Bank Routing # (9 digits):		Checking Acct #:		
	<i>Routing and account numbers are typically located at the bottom left corner of a blank check from your bank (varies). The routing number is always nine (9) digits long and enclosed by colons.</i>				
Credit Card Information:	<input type="checkbox"/> MasterCard <input type="checkbox"/> Visa <input type="checkbox"/> American Express <input type="checkbox"/> Discover				
	Card #:		Exp. Date:		
	Name on Card:				
	<input checked="" type="checkbox"/> Signature:				
Monthly Invoice Information:	Mail to:	<input type="checkbox"/> Same address from Section 1 <input type="checkbox"/> Different address:			
		Billing Contact Name:			
		Email:			
		Street Address:			
		City:	State:	Zip:	

E-Pay is TASC's standard method for submission of *administration fees*. With E-Pay, TASC conveniently deducts your fees from your checking account. Simply complete the following, signing where indicated. All written debit authorizations must agree that the Payer may revoke the authorization only by first notifying the Originator in the manner specified in the authorization. The language in the authorization represents the disclosure requirement associated with the clarification of OFAC economic sanction policies upon ACH Network Participants.

PART 4: AUTHORIZATION

This Group Plan Application is a binding agreement between Total Administrative Services Corporation (“TASC”) and you and, if applicable, the company or other legal entity you represent (collectively, “you”). By signing this Group Plan Application below, you accept the terms of the Service Level Agreement. You acknowledge receipt of the attached HIPAA Business Associate Agreement signed by TASC that assures compliance for your records.

Further, you, as Plan Sponsor and Plan Administrator, and on behalf of, the plan set forth in this Group Application, hereby appoint TASC and/or its subcontractors or agents to act as an authorized agent for purposes of receiving and/or retrieving electronic reports/responses from your payroll provider or other entity identified by you on your behalf.

I have read, understand and agree to the terms and conditions stated in this Group Plan Application, the Service Level Agreement, and the Business Associate Agreement (if applicable), as attested by the signature below, effective on the date of the signature.

Employer Signature: _____ **Date:** _____

Title: _____

Distributor/Agent Name:		Distributor/Agent ID #:		Retail Code:	
Primary Account Rep Name:		Email:			

INTERNAL USE ONLY: Assist MyTASC ID:	
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PART 5: ACA EMPLOYER REPORTING

IT Employer Contact Name: _____

IT Employer Contact Phone: _____

IT Employer Contact Email: _____

Monthly File **Per Payroll File**

Are you a Designated Government Entity? Yes No

Designated Government Entity Name: _____

Designated Government Entity Address: _____

Designated Government Entity EIN: _____

Designated Government Entity Contact Name: _____

Designated Government Entity Contact Phone: _____

ALE Status: ALE with insured medical plan
 ALE with Self-insured medical plan
 Non ALE with Self-insured medical plan (1094B and 1095B Filing)

IF YOU ARE NON-ALE WITH SELF INSURED MEDICAL PLAN YOU DO NOT NEED TO PROVIDE THE INFORMATION BELOW.

Total Number of Employees: _____
Include all employees, full-time, part-time, and seasonal.

Variable Hour Tracking Option: Yes No

Minimum Essential Coverage offer indicator: Yes No

PLAN INFORMATION – TASC will provide you with the ACA Employer Reporting Manual that will assist you in answering any of the following items that you have not already determined, they can be left blank if unsure.

- Qualifying Offer Method
- Qualifying Offer Method Transition Relief
- Section 4980H Transition Relief
- 98% Offer Method

If Section 4980 Transition Relief is checked above please indicate whether your Plan is eligible for the:
 50 to 99 FTE Transition Relief, OR,
 Transition Relief available for employers with 100 or more FTEs



Are you a member of a control group of entities under section 414(b) or (c), an affiliated service group under section 414(m), or an entity in an arrangement described under section 414(o) of the IRS Code. Yes No

If you answered YES then you will need to complete the following two items for each member entity making up the Control Group, or Affiliated Service Group, placing the entity with the most employees on top descending down to the entity with the fewest employees.

Entity's Legal Name	Entity's EIN Number

If there are more than 15 entities to report please provide the remainder on an additional document.

Special Application Instructions and Clarifications:

Retain the remainder of this Application for your records

Service Level Agreement

SECTION I

THIS SERVICE LEVEL AGREEMENT (“Agreement”), is entered into by and between Total Administrative Services Corporation (“TASC”) and the Employer identified on the Group Services Plan Application (“Plan Application”) as the Plan Sponsor. This Agreement is effective on the date of the Plan Sponsor’s signature on the Plan Application. The Plan Sponsor is duly organized, validly existing, and fully authorized to enter into this Agreement. The individual executing the Plan Application on behalf of the Plan Sponsor is fully authorized to do so.

This Product is written for single employers sponsoring a group health plan. It is not designed or intended for complex plans such as Multiple Employer Welfare Plans, or Voluntary Employee Benefit Associations.

Scope of Relationship

As used in this Agreement, the terms Administrator (commonly referred to as the Plan Administrator), Plan Sponsor, Named Fiduciary and Plan Assets shall have the meaning given to such terms by the Employee Retirement Income Security Act of 1974 (ERISA), as amended. TASC is not the Plan Administrator, the Plan Sponsor, or a Named Fiduciary for any Plan identified on the Plan Application. TASC does not accept a fiduciary role or status for any Plan. TASC is and will remain an independent contractor with respect to all services provided. TASC and the Plan Sponsor are not partners or engaged in a joint venture. TASC does not collect or hold employee contributions or plan assets. All fees paid to TASC by the Plan Sponsor, regardless of the payment options selected, are paid from the general assets of the Plan Sponsor.

TASC is not a law firm and is not providing legal or tax advice. All written or verbal communication provided under the terms of this Agreement are general in nature and not intended to constitute legal or tax advice. The products and services provided pursuant to this Agreement may have legal and tax consequences. Any questions regarding Plan Sponsor’s particular needs, requirements, circumstances, or the tax consequence of any product or service offered under this Agreement must be directed to Plan Sponsor’s own advisor(s) at the Plan Sponsor’s expense.

Services Provided by TASC

TASC shall use ordinary care and due diligence in the performance of its duties under this Agreement and provide timely administration and management of the services identified in the Plan Application as outlined in the applicable product administration manual and/or materials incorporated by express reference to this Agreement. Services provided by TASC are subject to change upon written notice to the Plan Sponsor or as required by law. TASC stands behind its services with an Audit Guarantee that is defined and limited in the ACA Employer Reporting Manual. TASC may change any feature, function, brand, third party provider, or attributes of a Service, or any element of its systems or processes, from time to time, provided that such changes do not have a material adverse impact on the performance or cost of the Service.

Responsibility of the Plan Sponsor

The Plan Sponsor has final and complete discretion over the Plans. The Plan Sponsor is the Plan Administrator under ERISA. The Plan Sponsor shall have the sole and final discretionary authority in respect to all legal and administrative functions of the Plan.

The Plan Sponsor must present to TASC, in an accurate, complete and timely manner, all relevant and requested information necessary or desired for administrative functions to be performed by TASC in a standard TASC format or an alternative format agreed upon by the parties. TASC shall rely on the accuracy and timeliness of information provided to it by the Plan Sponsor. TASC has no responsibility to review or verify data provided by the Plan Sponsor. TASC is not responsible for detecting illegal acts by, and/or misrepresentations of, the Plan Sponsor’s employees or representatives. TASC shall have no responsibility or liability for failure to provide any service for which the Plan Sponsor has not provided complete data to TASC in an agreed upon format.

Failure to meet deliverable expectations, including but not limited to those noted above and elsewhere in this Agreement, in an accurate, complete and timely manner will result in a status of delinquency. Delinquency status will result in service interruptions and/or delays. TASC will have no liability for any losses due to the failure to perform during the time the Plan Sponsor is in delinquency status.

It is the Plan Sponsor’s responsibility to educate and inform Plan participants on the services being provided, including the delivery of administration materials (where needed) as well as compliance documents (e.g., Summary Plan Description). The Plan Sponsor is responsible for executing and retaining the Business Associate Agreement (where applicable) provided in the administration materials.

Financial Responsibility of the Plan Sponsor

The Plan Sponsor understands and agrees Plan Sponsor shall be liable for and hold TASC harmless from any and all fees or penalties assessed by the Internal Revenue Service, the Department of Labor or any other federal, state and/or local government agency arising from the Plan; except in the case where it is shown that a loss is a direct result of a negligent act or omission on the part of TASC. Any request for refunds or adjustments by Plan Sponsor will be processed only after verification is made that sufficient funds were received by TASC from the Plan Sponsor’s bank account to cover all payments made by, and fees and other amounts due to, TASC. No refunds or adjustments will be made while the Plan Sponsor is in default under this Agreement.

Terms of Payment

The Plan Sponsor agrees to pay TASC for services provided under this Agreement in accordance with the fees determined on the Plan Application. Payment for services will occur via E-pay or invoices will generate prior to the applicable service period and are due according to the terms on the invoice. In addition to the fees determined on the Plan Application, all interest on Plan fees shall be retained by TASC as a supplemental fee and such fees shall be considered earned at such time as any interest accrues.

Any Plan funding ACH debits that are rejected or which, for any reason, are not processed through the Plan Sponsor’s bank will result in the Plan being placed in delinquency status until such ACH debit is properly processed or otherwise resolved.

TASC may adjust administrative fees on an annual basis at renewal with thirty (30) days written notice of the fee change.

Default

Either party shall be in default under this Agreement upon the occurrence of one or more of the following events: (i) the failure of that party to perform any material term, condition or covenant of this Agreement; (ii) the ceasing of the conduct of active business by the party; (iii) the institution of proceedings under bankruptcy or insolvency laws by, for or against the party, or the appointment of the receiver for that party or for that party’s assets or properties, (iv) an assignment by that party for the benefit of creditors, (v) and an admission by that party of its inability to pay its debts as they become due, or (vi) noncompliance with law governing the transactions under this Agreement.

Upon Default by either party that is non-compliant with applicable law governing the transactions under this Agreement, when the non compliance could reasonably result in an excise tax, penalty, or claims liability, all obligations of the non defaulting party shall cease. No term of this Agreement can be read to extend the term of this Agreement beyond the day that a Party discovers such non compliance. At the non defaulting party’s discretion, this Agreement can be continued upon satisfaction that the non compliance has been rectified and the effected persons made financially whole by the non compliant defaulting Party.

TASC shall have no additional duties under this Agreement related to a Plan Sponsor who institutes proceedings under Chapter 7 of the Bankruptcy Code, or makes an appointment of a trustee or receiver for the disposition of their assets or properties, or an assignment of assets for the benefit of creditors, or an admission of its inability to pay its debts as they become due. TASC will continue to administer services for such a Plan Sponsor through the earlier of the date on which the Plan Sponsors Plans terminate entirely, the date the Plan Sponsor is no longer able to continue their business, or the last period that TASC has been paid for its services.

For all other incidents of default, the non-defaulting party may, at its option and by written notice to the other party, terminate this Agreement if the default remains uncured for thirty (30) days after the non-defaulting party provides written notice to the defaulting party of such default. If such default remains uncured, the termination is effective as explained below.



Any termination shall be without prejudice to any other rights and remedies, which the non-defaulting party may have against the defaulting party with respect to such default. TASC's obligations are subject to the Plan Sponsor's timely performance of its obligations and responsibilities under this Agreement including but not limited to providing TASC with correct, complete and timely data or other information, or notices required under this Agreement; and to timely pay fees. TASC will not be responsible for any damages or losses due to a default by the Plan Sponsor. In the event of a default by the Plan Sponsor:

- a. This Agreement may be terminated and all amounts due and to become due to TASC shall become immediately due and payable, at TASC's sole option; and,
- b. TASC reserves the right to suspend all or any services to the Plan Sponsor and the Plan, including the reporting or processing of Plan data and payments, and TASC will not be responsible for the timeliness or accuracy of any reporting, participant payments, tax deposits or payroll payments until the default(s) has been cured and all outstanding obligations the Plan Sponsor have been paid to TASC.

Termination and Renewal of Agreement

This Agreement will renew automatically. Either party may terminate this Agreement with sixty (60) days written notice. If services are terminated under this Agreement, the Plan Sponsor will be responsible for providing any outstanding services required under the Plan.

Either party may terminate this Agreement due to a default by giving the defaulting party ten (10) day written notice of the termination. If the non-defaulting party allowed a thirty (30) day cure period the ten (10) day written notice will be at the end of the cure period.

Upon and after the expiration or termination of this Agreement, the rights granted to the Plan Sponsor pursuant to this Agreement shall revert back to TASC. TASC may provide the Plan Sponsor with sample forms, procedures, scripts, marketing materials or other similar information (collectively, "Materials"). Plan Sponsor shall have a license to use Materials, if any, solely in connection with its use of the Services, Software, or Deliverables during the term of this Agreement and solely in a manner that is consistent with the Agreement. Plan Sponsor's license to use the Materials shall expire immediately upon termination of the Agreement. Plan Sponsor is responsible for its use of Materials and bears sole liability for any such use. The Plan Sponsor shall refrain from any further direct or indirect use of or reference to TASC marks, systems, publications, manuals, brochures, documents and computer databases in connection with the marketing, use, implementation, license, sale or distribution of any program, system or Plan offered by TASC. Finally, the termination of this Agreement shall not affect the duty of the Plan Sponsor not to infringe on TASC's trademarks and copyrights and not to disclose and keep confidential all said confidential information supplied to the Plan Sponsor by TASC.

Indemnification

TASC shall indemnify the Plan Sponsor, its directors and officers, and hold it harmless from and against any and all actions, claims, lawsuits, settlements, judgments, costs, taxes or similar assessments, penalties and expenses, including reasonable attorney's fees, resulting from a direct result of TASC's negligence or willful misconduct.

The Plan Sponsor shall indemnify and hold TASC, its directors, officers, employees, agents and assigns harmless from and against any and all actions, claims, lawsuits, settlements, judgments, costs (including, but not limited to, costs of insurance premiums paid with respect to the Plan), taxes or similar assessments, penalties and expenses, including reasonable attorney's fees, or other obligations resulting from, arising out of or in any way connected with the Plan, including any prior administration of the Plan or a similar arrangement, or claims or demands by Plan Participants and/or beneficiaries ("Losses"), unless the Losses are directly attributable to TASC negligence or willful misconduct.

Each party's indemnification obligations are conditioned on the following: (i) if process is served, the indemnified party providing written notice within five (5) business days of receiving service of process regarding an indemnifiable event, (ii) if the party receiving indemnification is required to make any admission or pay any consideration as part of a settlement, no settlement shall be made without such party's consent, and (iii) the indemnified party cooperating in the defense and/or settlement of the indemnifiable event. Subject to the limitations set forth in the immediately preceding section of this Agreement, the parties' indemnification obligations hereunder shall survive the termination of this Agreement.

Defense of Legal Actions

TASC shall notify the Plan Sponsor of any legal action arising with respect to the Plan of which TASC becomes aware. The defense of any legal actions shall be the responsibility of and be undertaken at the expense of the Plan Sponsor, it being understood and agreed that TASC shall cooperate with and assist the Plan Sponsor in said defense, at Plan Sponsor's expenses, to the extent that the Plan Sponsor reasonably may require.

Limitations of Warranties and Liabilities

Except as expressly set forth in this Agreement, TASC disclaims any and all express warranties, warranties of fitness for a particular purpose and implied warranties of merchantability. TASC will not be liable in contract or in tort for any loss of business or profits, or for any consequential, incidental, punitive, or similar damages, or, other than set forth in this Agreement, for any claims of damages made by any third party for any reason whatsoever, even if TASC has been advised of, had other reason to know, or in fact knew of the possibility of such damages. TASC shall not be liable to the Plan Sponsor or any other person for any mistake of judgment or other action taken in good faith in the performance of the services provided hereunder, or for any loss or damage occasioned thereby, unless the loss or damage is due to TASC's negligence or willful misconduct. Notwithstanding any other provision of this Agreement, and for any reason, including breach of any duty imposed by this Agreement, including but not limited to the indemnification obligations set forth above, or independent of this Agreement, and regardless of any claim in contract, tort (including negligence) or otherwise, TASC's total, aggregate liability under this Agreement shall in no circumstance exceed \$1,000,000.00. No action, regardless of form, arising out of the services provided under this Agreement, may be brought by the Plan Sponsor more than two years after the date the last services are provided under this Agreement. Each party acknowledges that these limitations of liability reflect an informed, voluntary allocation between the parties of the risks (known and unknown) that may exist in connection with this Agreement.

Money Back Guarantee

If you are not entirely pleased with the Plan, simply return all Plan materials within thirty (30) days of the date received to obtain a refund of the related fee, less the \$100 nonrefundable minimum fee.

SECTION II

In addition to the preceding paragraphs of Section I, the following terms and conditions shall be applicable depending on the Plan elected by the Plan Sponsor.

ACA Reporting

ACA Reporting requires the Plan Sponsor to make initial and annual determinations, referred to in the ACA Reporting Manual as "Determining Your Status under the ACA". TASC recommends these ACA determinations made by the Plan Sponsor and reported to TASC be reviewed by the Plan Sponsor's Benefit Advisor, Broker, or Benefits Counsel. Any 4980H Penalties due to the failure to make accurate determinations are not covered under the TASC Audit Guarantee. TASC is not responsible for any 4980H penalties due to activities that occurred, or the failure to act, prior to the beginning of the Agreement with TASC. Complete information on the Group Business Plan Application and complete monthly data has to be provided to TASC prior to the fifteenth day of December in order for TASC to meet the federal timing limits. If this data is provided after the fifteenth day of December then TASC will not be responsible for any late filing penalties.

SECTION III

The following terms and conditions shall apply to all Plans.

Execution and Delivery

The Plan Application is incorporated herein by reference and may be executed and delivered (including by facsimile or Portable Document Format (PDF) transmission) in one or more counterparts, all of which will be considered one and the same agreement, and this Agreement will become effective when the Plan Application is signed by a representative of the Plan Sponsor. Any such facsimile or PDF documents and signatures shall have the same force and effect as manually-signed originals and shall be binding on the Plan Sponsor/Plan Sponsor and TASC.

Governing Law

This Agreement shall be construed, governed by, and enforced in accordance with the internal laws of the State of Wisconsin without giving effect to the principles of comity or conflicts of laws thereof.

Entire Agreement

This Agreement represents the entire agreement of the parties and supersedes any prior written or oral agreements. This Agreement shall not be altered or amended, except by written agreement of duly authorized representatives of TASC and the Plan Sponsor.

Attorneys' Fees

In any action at law or in equity to enforce any of the provisions or rights under this Agreement, the non-prevailing party in such litigation, as determined by the court in a final judgment or decree, shall pay to the prevailing party or parties all costs, expenses and reasonable attorneys' and accountants' fees incurred therein by such party or parties (including without limitation such costs, expenses and fees on any appeals), and if such prevailing party shall recover judgment in any such action or proceeding, such costs, expenses and fees shall be included as part of such judgment.

Notices

Any notice, demand or other communication required or permitted to be given to either party to this Agreement shall be in writing and shall be either personally delivered by hand or delivered by prepaid courier or sent by electronic means such as facsimile, telex or electronic mail. Any notice personally delivered or delivered by courier shall be deemed received upon delivery. Any notice sent by electronic means shall be deemed received upon the date the sending terminal confirms that the notice was received. The address to which communications shall be sent to the Plan Sponsor is identified in Section 1 of the Plan Application. Either party may change its address by giving written notice to the other party as provided in this subsection.

Assignment

This Agreement may be assigned, delegated, or transferred without the prior written consent of either party unless a party makes a reasonable claim that the performance of obligations under the Agreement will not be honored. The assigning party will provide a notice of assignment including information identifying the assignee within thirty (30) days of the assignment. A reasonable claim that the performance of obligations under the Agreement will not be honored must be received within fourteen (14) days of the date of the assignment notice described in this paragraph. Notwithstanding, such consent shall not be necessary in the context of an acquisition by asset sale, merger, change of control or operation of law. This Agreement shall be binding on any successors, assigns and subcontractors of the parties authorized under this Agreement.

Waiver

The failure of either party at any time to require performance or observance by the other party of any term or condition of this Agreement shall not affect the full right to require such performance or observance at any subsequent time. Further, no single or partial waiver of any right, power or privilege will preclude any other or further exercise of any other right, power or privilege.

Severability

If any term or condition of this Agreement is held to be invalid or unenforceable by reason of any statute, rule of law or public policy, all other terms and conditions of this Agreement shall remain in full force and effect as if this Agreement had been executed with the invalid or unenforceable portion eliminated.



BUSINESS ASSOCIATE AGREEMENT
(Retain for your records)

RECITALS

WHEREAS, Covered Entity is a group health plan ("Plan") and wishes to engage the services of Business Associate with respect to certain administrative aspects of the Plan as more specifically set forth in a Service Level Agreement ("SLA");

WHEREAS, Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the SLA, some of which may constitute Protected Health Information ("PHI") (defined below).

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the SLA in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the "HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

WHEREAS, as part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

The general terms and conditions attached hereto are incorporated herein and deemed part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

BUSINESS ASSOCIATE:

TOTAL ADMINISTRATIVE SERVICES CORPORATION (TASC)

By: 

Print Name: Richard Jones, Esq.

Title: Staff Attorney



Definitions

Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean TASC.
- b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the Plan Sponsor identified on the attached Group Application and Service Level Agreement.
- c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

Obligations and Activities of Business Associate

Business Associate agrees to:

- a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- c) Report to covered entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- e) Make available protected health information in a designated record set to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the covered entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
- g) Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
- i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate

- a) Business associate may only use or disclose protected health information as required and limited by the Service Level Agreement between the parties.
- b) Business associate may use or disclose protected health information as required by law.
- c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
- d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity.
- e) Business associate may use protected health information for the proper management and administration of the business associate or to carry out the legal responsibilities of the business associate.

- f) Business associate may disclose protected health information for the proper management and administration of business associate or to carry out the legal responsibilities of the business associate, provided the disclosures are required by law, or business associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies business associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- g) Business associate may provide data aggregation services relating to the health care operations of the covered entity.

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

- a) Covered entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate’s use or disclosure of protected health information.
- b) Covered entity shall notify business associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect business associate’s use or disclosure of protected health information.
- c) Covered entity shall notify business associate of any restriction on the use or disclosure of protected health information that covered entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect business associate’s use or disclosure of protected health information.

Permissible Requests by Covered Entity

Covered entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.

Term and Termination

- a) Term. The Term of this Agreement shall be effective with the Service Level Agreement, and shall terminate on the date the covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement.
- c) Obligations of Business Associate Upon Termination.
- d) Upon termination of this Agreement for any reason, business associate, with respect to protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, shall:
 - i. Retain only that protected health information which is necessary for business associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. Return to covered entity or, destroy the remaining protected health information that the business associate still maintains in any form;
 - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as business associate retains the protected health information;
 - iv. Not use or disclose the protected health information retained by business associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at above which applied prior to termination; and
 - v. Return to covered entity or, destroy the protected health information retained by business associate when it is no longer needed by business associate for its proper management and administration or to carry out its legal responsibilities.
- e) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

Miscellaneous

- a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

