

**ARIZONA TELEMEDICINE PROGRAM
OF THE
ARIZONA HEALTH SCIENCES CENTER
Master Membership Agreement – Multi-Site**

This Agreement is entered into by and between **XXXXXXXXXXXXXXXXXXXXXXXXXXXX** (NAME & ADDRESS), hereinafter called "Telehealth Site Member" or "Member", and the Arizona Board of Regents, acting on behalf of **The University of Arizona Health Sciences Center, Arizona Telemedicine Program, Tucson, Arizona 85724**, hereinafter called "University", pursuant to Arizona Revised Statutes Title 15, Chapter 13, Article 2, Section 1625.B.2. University and Member are each referred to herein as a "**Party**" and collectively as, the "**Parties**."

WITNESSETH:

WHEREAS, University has received funding from the State of Arizona Legislature to establish telehealth/telemedicine communications infrastructure to improve health care in Arizona and to offer a cost-effective alternative to current health care delivery; and

WHEREAS, University is the holder of the required technology and has the knowledge and expertise to establish and manage this communications infrastructure; and

WHEREAS, Member is in the patient care delivery service in multiple locations, and desires to be a member and participate in the Arizona Telemedicine Program (ATP) in accordance with this Master Agreement.

NOW, THEREFORE AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS AS SET FORTH HEREIN, the parties agree as follows:

1. **Agreement Limitation:** Each Party will retain complete control over such programs of its own that are outside of this Agreement. This Agreement for membership in the Arizona Telemedicine Program does not describe any medical, educational or other services between the requesting organization and the University. Professional services agreements between members of the network or for specific clinical specialties require separate agreements. This Agreement shall apply to all sites administered by Member as set out in the attached Special Provisions.
2. **Term and Termination:** The Term of this Agreement shall be from **May 1, 2011 through April 30, 2012**, and thereafter shall be automatically renewed and extended each year, except that either Party may, at any time, with or without cause, cancel this Agreement, in accordance with the applicable provisions of this Agreement, by providing the other Party with sixty (60) days advance notice in writing.
3. **Definitions:**
 - A. Contract and Agreement terms are interchangeable and synonymous.
 - B. Telemedicine means the practice of health care delivery, diagnosis, consultation, treatment and transfer of medical data through interactive or store and forward audio, video or data communications.
 - C. Telehealth is telemedicine plus health education provided through the same delivery mechanisms, including patient access to health information resources and their own health information.

- D. Network Service Hours. The agreed time schedule during which the ATP network should be available to the Telehealth Site. Note that Network Service Hours may be different from Network Support Hours.
- E. Network Support Hours. The time schedule during which ATP provides technical support and is available to the Telehealth site. Note that Network Support Hours may be different from Network Service Hours.
- F. ATP Service Desk. The single point of contact between ATP and the Telehealth site for technical support of the ATP network and any other systems or equipment that ATP has agreed to support by way of this agreement. The most current contact information for the ATP Service Desk is located at the following URL: <http://www.telemedicine.arizona.edu/servicesdesk> .

4. Telehealth Site Member Responsibilities: Each Telehealth Site Member that satisfies a need for connection to the state telehealth/telemedicine network, as set out in the attached Special Provisions, agrees to the following terms and conditions:

- A. Comply with all applicable federal and state laws and regulations, including but not limited to Arizona Revised Statute 36-3602 regarding patient privacy, confidentiality, informed consent and recordkeeping.
- B. Agree to the Acceptable Use Policies established for the telehealth/telemedicine communications infrastructure as defined in **Exhibit A**.
- C. Provide and manage all aspects of all applications equipment, software, and network equipment and communications services including but not limited to configuration, security, vendor support, backup, installation, and troubleshooting, that are needed to enable the Member sites to connect to and utilize the ATP network excepting any items that both parties agree to in writing that the ATP will provide and manage. (Please refer to #5c).
- D. If applicable, designate to Member's Telecommunications vendor of the telecommunications service that is utilized to connect with the ATP network that ATP technical staff are authorized to notify the telecommunications carrier of problems with the telecommunications service and to request repair of the telecommunications service on behalf of the Member as part of ATP's network management duties.
- E. Must inform ATP at least **10 business days prior** to implementation of any configuration changes by the Telehealth Site Member that may disrupt communication with the ATP network or with other ATP Member sites that Telehealth Site Member communicates with via the ATP network. Include ATP Service Desk in notifications of events such as, but not limited to, maintenance and renovations, that will disrupt communication between the Telehealth site and the ATP network.
- F. Notify Telehealth Site's Arizona Telemedicine Network business partners, of any changes that impact or will impact the Member site or sites' capability to provide or receive services via the ATP network.
- G. Designate by title, a senior administrator and a senior administrator backup, that will be responsible for approving Member's staff accounts for telemedicine utilization pursuant to Exhibit A, Acceptable Use Policy. **Insert names of Designated Senior Administrator and backup Administrator in Special Provisions, Paragraph 6.0.**
- H. Require Telehealth site staff that are granted privileges to telehealth and network systems connected to the ATP network to attend ATP information security awareness training and provide ATP with a signed form indicating that the staff member has completed this training.

- I. Designate a Telehealth coordinator to support the delivery of telemedicine services at the Telehealth site. Incumbent must attend the ATP training program pursuant to Paragraph 5.H. prior to initiation of telehealth activities. **Insert name of Designated Telehealth Coordinator in Special Provisions Paragraph 6.0.**
- J. Duties of the Telehealth coordinator include but are not limited to:
1. responsibility for the implementation of policies and protocols for Member's telehealth operations including but not limited to: protocols detailing how to conduct a telehealth session with the specific telehealth system in use at their telehealth site; policies identifying Member organization personnel that are authorized to utilize the telehealth system equipment as well as how system access will be limited to authorized personnel; policies that define the safeguards that the Telehealth Site Member will employ to maintain legally required confidentiality and security of any health information that they transmit, receive or store as part of their telehealth operations;
 2. initiating requests for, coordinating or conducting teleconsultation sessions, or ensuring that an alternate Member employee that has been appropriately authorized and trained in the operation of the telehealth system is available to coordinate or conduct the teleconsultation sessions;
 3. oversight for the collection of necessary transaction data (including patient demographic information and patient record information);
 4. report any suspected or actual unauthorized use of the telehealth system, or any suspected breach of patient confidentiality associated with the telehealth system to the ATP Security Incident Response Team (see **Exhibit B** for contact information) immediately after becoming aware of it.
- K. Appropriately protect telehealth system equipment in a locked and secured area, instituting strong passwords and/or necessary procedures to comply with applicable confidentiality and privacy requirements as well as with any additional secure or restrictive laws or policies that may be applicable to Member such as state laws or organizational policies.
- L. Maintain legally compliant administrative, technical and physical safeguards for all Member owned and operated telehealth applications and network equipment, except any safeguards that ATP has specifically agreed to maintain by way of this agreement.
- M. Follow standard operating procedures for incorporating the results of each teleconsultation into patient records.
- N. Be responsible for the coverage and defense of any claims that arise out of the activities of its staff, including but not limited to, premises liability, general liability, and professional/technical liability.
- O. Pay the required membership fee, at the beginning of each membership year, according to the terms for each contract year as specified in the Special Provisions. Membership Fees are due in full at the beginning of each year of membership and must be paid within 20 days of receipt of invoice. If payment is not received on or before thirty (20) days following the receipt of an invoice (the "Due Date"), then interest on any such uncontested unpaid amounts owed shall accrue at a rate of 10% per annum commencing on the applicable Due Date. Any payment received shall be credited first to any accrued and unpaid interest then owing, and the remainder to the payment of money then owing.
- P. Participate fully in the Arizona Telemedicine Program's project evaluation program, to include but not be limited to:
1. Report numbers and types of all consults involving telemedicine on a monthly basis to ATP Associate Director for Assessment.

2. Collect accurate data on patient or patient relative satisfaction, primary care provider satisfaction, instructor and student satisfaction, and administrative personnel satisfaction as requested.
3. Participate in the collection of data on diagnostic accuracy and clinical outcomes for research and education purposes at the University of Arizona as requested

- Q. Responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor.
- R. Member Site understands and acknowledges that it is only permitted to interact with other ATP member sites, and is **not permitted** to utilize the network to communicate with non-members unless approved in advance by ATP.

5. University Responsibilities:

Pursuant to the attached Special Provisions, the University shall:

- A. Operate the state telehealth/telemedicine wide area network communications infrastructure (Arizona Telemedicine Program Network).
- B. Provide specifications of ATP Network compatible telemedicine applications and network equipment. Members are strongly urged to select ATP Network compatible telemedicine applications equipment. Failure to do so may result in inability to successfully communicate with the ATP and other ATP network members.
- C. Provide consultation to Member personnel in the techniques for conducting successful telemedicine operations, including support for connection of telemedicine equipment. ATP at its discretion may provide consultation or technical support for local systems that are not part of the ATP communications network infrastructure.
- D. Utilizing an appropriate wide area network connection provided by Member, extend the ATP wide area network to a mutually agreed upon demarcation point on the premises of Member's facilities to support the specifications of the Agreement and take responsibility for the operation and management of this wide area network link. The parties agree to work together to develop a diagram showing the network link and the demarcation point. This diagram and any revisions will be kept on file with the ATP Office and the Member Site.
- E. Be responsible for the hardware maintenance and repair of equipment owned by the University; however, University discourages Telehealth Site Member from using such equipment to store the sole copy of any telehealth site data and will not be responsible for maintenance, preservation, or restoration of such data in the event that such data becomes inaccessible via University equipment.
- F. Develop a workplan incorporating, as needed, the networking, telecommunications, end user equipment, and membership requirements for each site to connect to the Arizona Telemedicine Program network. Prepare a cost estimate for the items included in the workplan. Actual costs could vary from estimates due to timing, types of equipment, etc; actual costs will be billed back to the Member on a mutually agreed upon payment schedule, unless specified otherwise in this contract.
- G. Monitor, maintain, troubleshoot and correct problems with all network equipment that comprises the ATP network backbone and the ATP wide area network access linkages for each of the sites, working with equipment vendors, service providers and Member staff, as necessary to resolve any operational issues relating to communications via the Arizona Telemedicine Program network infrastructure.
- H. Provide a two (2) day training seminar to appropriate Member personnel covering a broad range of telemedicine topics including, but not limited to, business and reimbursement, clinical protocols, technical operations and legal/regulatory issues.

- I. Provide access to Continuing Medical Education/Continuing Education content offered by any member of the network. For CME/CE offered by other providers, the University is not responsible for the processing of credits.
- J. Agree that Member is permitted to provide services to or receive services from other sites that have established a membership agreement with the Arizona Telemedicine Program via the Arizona Telemedicine Program Network.
- K. Represent that it has full ownership and all rights associated with the software currently used on University owned equipment.
- L. The ATP Business Office can provide assistance to Members in filing for FCC Universal Services Fund reimbursements for rural telecommunications lines.

6. Responsibilities of Both Parties:

A. Confidentiality

- 1. Confidentiality. Both Parties to this Agreement recognize that in order to accomplish the intended goals of telehealth/telemedicine it will be necessary to transmit information that is proprietary and confidential between collaborating partners who are members of the network. All such proprietary and confidential information to be transmitted by Member to the University shall be identified and described by Member in written documents as "Confidential Information". All such proprietary and confidential information, including without limitation, electronic, written, printed, graphic, video and audio material shall be treated by the receiving Party as "Confidential Information".
- 2. Both Parties agree to implement all necessary precautions to safeguard computer and network equipment and protected health information, protect passwords and adhere to acceptable use policies.
- 3. HIPAA. University acknowledges and agrees to comply, as applicable, with the HIPAA Business Associate Agreement between the parties, attached hereto as **Exhibit C**. The parties agree that Exhibit C will only apply in those circumstances where Affiliate Network is a business associate of a covered entity conducting HIPAA standard transactions as that term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
- 4. Telehealth Site Member understands and agrees that University may use Member's health information (See Section 4.) for research and education purposes at the University of Arizona. Member will be responsible for notifying its patients of that potential use through its Consent for Treatment and Notice of Privacy Practices procedures, as applicable.

7. Equipment

A. Purchasing of Applications Equipment

- 1. Member may use University as a purchasing agent to acquire network equipment, telecommunications circuits and network equipment maintenance agreements required to facilitate connectivity to the Arizona Telemedicine Program network. To acquire such equipment under this Agreement, Member will issue a purchase order in advance to ATP for the specified equipment and pay the resulting invoice within 30 days of receipt. If payment is not received on or before thirty (30) days following the receipt of an invoice (the "Due Date"), then interest on any such uncontested unpaid amounts owed shall accrue at a rate of 10% per annum commencing on the applicable Due Date. Any payment received shall be credited first to any accrued and unpaid interest then owing, and the remainder to the payment of money then owing.
- 2. Member acknowledges that University may, at its discretion, decline to provide this service.

- 8. Use of Each Party's Name:** University and Member will obtain prior written permission from each other before using the Name(s), symbols and/or marks of the other in any form of publicity in connection with the performance of this Agreement. This shall not include legally required disclosure by University or Member that identifies the existence of this Agreement. The Parties will not use, nor authorize others to use the name, symbols, marks of the other Party, or the names of the other Party's employees in any advertising or publication material or make any form of representation or statement in relation to the services provided hereby which would constitute an expressed or implied endorsement by University of any service or product without prior written approval from the University.
- 9. Applicable Law:** This Agreement shall be governed by the laws of the State of Arizona and all applicable federal law.
- 10. Additional Features:** The right is reserved by each Party to request any additional features to be included in the relationship covered by this Agreement which such Party may deem necessary, provided that such additional features are consistent with the policies of both Parties. Both Parties hereby agree to give reasonable consideration to all requests, but no additional features shall be added until mutually approved in writing, by authorized signatories for both Parties. In addition, all understandings, interpretations, decisions and acts resulting from, or in the performance of, this Agreement shall be construed and governed solely by the provisions of this Agreement and the laws of the State of Arizona.
- 11. Independent Contractor:** In the performance of services hereunder, each Party shall be deemed to be and shall be an Independent Contractor and, as such, shall not be entitled to any benefits applicable to employees of the other Party. Neither Party is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other Party enter into any contract, warranty or representation as to any matter. Neither Party shall be bound by the acts or conduct of the other.
- 12. Miscellaneous:** It is agreed that neither Party transfers to the other by operation of this Agreement, any patent right, copyright right, or other proprietary right of either Party. Neither Party hereto may assign, cede or transfer any of its rights, responsibilities, or obligations under this Agreement without the written consent of the other Party. The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other term or provision hereof. No waiver of any term, provision, or obligation of this Agreement whether by conduct or otherwise in any one or more instances shall be deemed to be construed as a further or continuing waiver of any such term, provision or obligation, or of any other term, provision or obligation of this Agreement.
- 13. Indemnification:** Neither Party to this Agreement agrees to indemnify the other Party or hold harmless the other Party from liability hereunder. Each Party shall be responsible for its own negligent acts or omissions.
- 14. Insurance:** Member shall maintain for the duration of this agreement and furnish The University of Arizona, upon execution of this Agreement and separate written request, certification of comprehensive general liability insurance coverage, premises liability coverage, and certification of professional errors and omissions liability (professional liability) coverage in amounts of not less than \$1,000,000. (\$1 million) per occurrence and \$3,000,000. (\$3 million) annual aggregate.
- 15. Non-Discrimination:** The Parties agree to be bound by applicable federal rules governing Equal Employment Opportunity, Non-Discrimination and Immigration.
- 16. Arbitration:** The parties agree that they will make use of arbitration in any disputes arising under this Agreement subject to mandatory arbitration pursuant to rules adopted under A.R.S. 12-133 and A.R.S. 12-1518.

- 17. **Conflict of Interest:** This Contract is subject to cancellation pursuant to the provisions of Arizona Revised Statute 38-511 regarding Conflict of Interest.
- 18. **State Obligation:** The Parties recognize that the performance by the Arizona Board of Regents for and on behalf of The University of Arizona may be dependent upon the appropriation of funds by the Legislature of the State of Arizona. Should this Legislature fail to appropriate the necessary funds or if the University's appropriation is reduced during the term of this Contract, the Arizona Board of Regents may reduce the scope of the Contract, if appropriate, or cancel this Contract without further duty or obligation by delivering written notice to the other Party as soon as reasonably possible after the unavailability of said funds comes to the Board's attention.
- 19. **Special Provisions:**
 - A. The attached Special Provisions, which may set forth additional particular responsibilities of the Parties hereto, are, by this reference, made for all purposes a part of this Agreement. They are not intended to limit the Parties to this Agreement from developing Special Provisions for other programs covered by this Agreement. In cases where the representations of the Special Provisions differ from those in the General Provisions, the representation of the General Provisions shall control.
 - B. Special Provisions shall be added or amended as necessary to reflect changes including, but not limited to, payment or personnel changes, and will be attached to and become a part of this Agreement when such Special Provisions have been mutually agreed to and signed by the appropriate and authorized persons for each Party.
- 20. **Supersedes.** This Agreement supersedes the Agreement and amendments between the Parties effective ~~XXXXXXXXXX~~.
- 21. **Entire Agreement.** This Agreement represents the entire understanding of the Parties with respect to the subject matter hereof. In the event of any inconsistency between this Agreement and oral representations or correspondence related hereto, the terms of this Agreement shall govern. This Agreement shall not be modified, amended, altered, or extended except through a written amendment signed by the authorized signatories for each Party.

Neither Party to this Agreement is obligated to use the other as a source of referrals or patient care services. All remuneration through either monies, equipment or services within this Agreement arise out of the stated purpose of the Agreement and are not to be construed as an inducement for services or referrals from either Party to the other.

The persons executing this Agreement represent and warrant that they have the full power and authority to enter into this Agreement on behalf of the entities they are signing on behalf of. IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in duplicate by proper persons thereunto duly authorized.

APPROVAL:
XXX

By: _____
Name:
Title:

Date: _____

APPROVAL:
**ARIZONA BOARD OF REGENTS on
behalf of THE UNIVERSITY OF ARIZONA**

By: _____
Name: Judy L. McElroy
Title: Director, Health Sciences Contracts

Date: _____

Exhibit A

Acceptable Use Policy

1. This telehealth/telemedicine network infrastructure is intended to deliver access to patient care services using telemedicine techniques; access to health education content using distance learning techniques; access to limited public Internet resources such as AzHIN, MEDLINE, etc.; provision of bandwidth to members of the network to carry member data traffic that is segregated and independent of other member traffic, as specified in the membership agreement. No other uses of the network are supported unless otherwise specifically agreed upon between the Member and the University.
2. Members agree to instruct their employees and/or agents to limit their use to those purposes as set out above. Members agree to post reminders or otherwise appropriately maintain awareness of this Acceptable Use Policy for users that they approve access for.
3. The use of this network to transport illegal content, to send hate speech, to conduct cyber attacks of any type (including but not limited to: denial of service attacks, viruses, bots, or worms) or to send threats of any kind is strictly prohibited.
4. Members will not interconnect the telehealth/telemedicine network infrastructure to any other network (internal or external), or connect any systems enabled to communicate with the ATP network without prior specific written approval by the University through the workplan process specified in Paragraph 4.E.
5. The use of this network to attempt to intercept any data not intended for the member, or to “hack” into other members’ systems is strictly prohibited.
6. Members must obtain University consent prior to relocating network equipment connected to the state telehealth/telemedicine infrastructure or performing any action that could disrupt the operation of the network. Please refer to Paragraph 4.E.
7. Members will provide appropriate safeguards of access to the telehealth/telemedicine network infrastructure so as to prevent unauthorized access from the telehealth site to any systems via the ATP network.
8. It is ATP policy that no one under the age of 18 is permitted to operate any telehealth system that communicates via the ATP network and that only authorized personnel employed by the telehealth site that have been trained in the protocols of operating the telehealth system equipment as well as in the associated policies, protocols and safeguards defining the acceptable and appropriate use of the telehealth system may be permitted to operate the telehealth equipment.
9. Violation of the Acceptable Use Policies originating from a Member may result in immediate disconnection of the Telehealth Site from the network depending on the severity of the violation. ATP will notify Member of violations (actual or suspected). Member must provide written notification to ATP of the actions taken to remedy or mitigate the violation(s) within 15 days and in some cases prior to re-establishment of network connectivity. Failure to take the appropriate actions and provide the required notifications may result in the immediate cancellation of the membership agreement and disconnection from the network.

Exhibit B

ATP Information Security and Service Desk Contact Information

Arizona Telemedicine Program Security Incident Response Team Contact Information

1. Page 1-520-281-6233 any time 24 x 7 x 365 with your callback #.

Arizona Telemedicine Program Service Desk Contact Information

1. For the most up to date ATP Service Desk contact information and schedules, please visit the following URL:

<http://www.telemedicine.arizona.edu/servicedesk>

EXHIBIT C

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this "BAA") supplements and is made a part of the services agreement entered into on [insert effective date] ("the Services Agreement") by and between [redacted] ("Covered Entity") and the Arizona Board of Regents on behalf of the University of Arizona ("Business Associate"). This BAA sets out the responsibilities and obligations of Business Associate as a business associate of Covered Entity under the Health Insurance Portability and Accountability Act ("HIPAA") for services provided by Business Associate under that Services Agreement.

AGREEMENT:

Covered Entity may make available and/or transfer to Business Associate Protected Health Information ("PHI") of individuals in conjunction with Services provided by Business Associate, which Business Associate will use or disclose only in accordance with this BAA.

Business Associate and Covered Entity agree to the terms and conditions of this BAA in order to comply with the use and handling of Protected Health Information ("PHI") under the HIPAA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E ("Privacy Standards") applicable to each party and the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C ("Security Standards"), both as amended from time to time. Unless otherwise provided, all capitalized terms in this BAA will have the same meaning as provided under the Privacy Standards and Security Standards. Business Associate and Covered Entity will comply with the terms of this BAA for the duration of this BAA and for such other continuing periods as provided in this BAA. Upon the compliance date of any final regulation or amendment to final regulation promulgated by the Secretary of the Department of Health & Human Services that affects Business Associate's use or disclosure of PHI, the parties agree to take such reasonable action as is necessary to amend this BAA in order for Covered Entity to comply with such final regulation or amendment to final regulation.

1. USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION:

Business Associate will use or disclose PHI received from Covered Entity only for those purposes necessary to perform Services, or as otherwise expressly permitted in this BAA or required by law, and will not further use or disclose such PHI. Business Associate may use PHI to perform data aggregation services as permitted by 45 CFR § 164.504(e)(2)(i)(B).

Business Associate agrees that anytime it provides PHI received from Covered Entity to a subcontractor or agent to perform Services for Covered Entity, Business Associate first will enter into a contract with such subcontractor or agent that contains the same terms, conditions, and restrictions on the use and disclosure of PHI as contained in this BAA.

2. BUSINESS ASSOCIATE USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR ITS OWN PURPOSES:

Business Associate may use or disclose PHI received from Covered Entity for Business Associate's management and administration, or to carry out Business Associate's legal responsibilities. Business Associate may disclose PHI received from Covered Entity to a third party for such purposes only if:

- (1) The disclosure is required or permitted by law; or
- (2) Business Associate secures written assurance from the receiving party that the receiving party will: (i) hold the PHI confidentially; (ii) use or disclose the PHI only as required by law or for the purposes for which it was disclosed to the recipient; and (iii) notify the Business Associate of any breaches in the confidentiality of the PHI.

3. SAFEGUARDS:

Business Associate will implement and maintain appropriate safeguards to prevent any use or disclosure of PHI received from Covered Entity for purposes other than those permitted by this BAA. Business Associate also will implement administrative, physical and technical safeguards to protect the confidentiality, integrity, and availability of any electronic protected health information (“e-PHI”), if any, that Business Associate creates, receives, maintains, and transmits on behalf of Covered Entity. Upon request of Covered Entity, Business Associate will provide evidence to Covered Entity that these safeguards are in place and are properly managed.

4. REPORTS OF IMPROPER USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION AND OF SECURITY INCIDENTS AND BREACHES:

Business Associate will report in writing to Covered Entity any use or disclosure of PHI received from Covered Entity for purposes other than those permitted by this BAA within 10 business days of Business Associate’s learning of such use or disclosure.

Business Associate will report to Covered Entity any successful unauthorized access, use, disclosure, modification, or destruction of electronic PHI or interference with system operations in an information system containing electronic PHI of which Business Associate becomes aware within 10 business days of Business Associate learning of such event. Where feasible, Business Associate agrees to monitor unsuccessful security incidents and will provide a report on any interventions or corrective action taken in response to such unsuccessful attempts, provided however that such reports will be provided only as frequently as the parties mutually agree, but no more than once per month. If the definition of “Security Incident” under the Security Rule is amended to remove the requirement for reporting “unsuccessful” attempts to use, disclose, modify or destroy electronic PHI, Business Associate will cease reporting unauthorized attempts as of the effective date of such amendment.

5. ACCESS TO PROTECTED HEALTH INFORMATION:

(1) Covered Entity Access. Within 10 business days of a request by Covered Entity for access to PHI received from Covered Entity, Business Associate will make requested PHI available to Covered Entity.

(2) Individual Access. If an individual asks the Business Associate for access to PHI received from Covered Entity, Business Associate will within 10 business days forward such request in writing to Covered Entity. Covered Entity will be responsible for making all determinations regarding the grant or denial of an individual’s request for PHI and Business Associate will make no such determinations. Only Covered Entity will release PHI to an individual pursuant to such a request.

6. AMENDMENT OF PROTECTED HEALTH INFORMATION:

(1) Covered Entity Request. Within 10 business days of receiving a request from Covered Entity to amend an individual’s PHI received from Covered Entity, Business Associate will provide such information to Covered Entity for amendment. Alternatively, if Covered Entity’s request includes specific information to be included in the PHI as an amendment, Business Associate will incorporate such amendment within 10 business days of receipt of the Covered Entity request.

(2) Individual Request. If an individual makes a request for amendment directly to Business Associate, Business Associate will forward within 10 business days such request in writing to Covered Entity. Covered Entity will be responsible for making all determinations regarding amendments to PHI, and Business Associate will make no such determinations.

7. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION:

(1) Disclosure Records. Business Associate will keep a record of any disclosure of PHI received from Covered Entity that Business Associate makes to its agents, subcontractors or other third parties other than:

- (a) Disclosures to health care providers to assist in the treatment of patients;
- (b) Disclosures to others to assist Covered Entity in paying claims;

- (c) Disclosures to others to assist Covered Entity in conducting its health care operations, as defined in 45 C.F.R. § 164.501; or
- (d) Disclosures made pursuant to an individual's Authorization.

Business Associate will maintain this disclosure record for six years from the termination of this BAA.

(2) Data Regarding Disclosures. For each disclosure for which it is required to keep a record under paragraph 7(1), Business Associate will record and maintain the following information:

- (a) The date of disclosure;
- (b) The name of the entity or person who received the PHI, and, the address of such entity or person, if known.
- (c) A description of the PHI disclosed; and
- (d) A brief statement of the purpose of the disclosure.

(3) Provision to Covered Entity. Within 10 business days of receiving a written notice from Covered Entity of an individual's request for an accounting, Business Associate also will provide to Covered Entity its disclosure record.

(4) Request by Individual. If an individual requests an accounting of disclosures directly from Business Associate, Business Associate will forward the request and its disclosure record to Covered Entity within 10 business days of Business Associate's receipt of the individual's request. Covered Entity will be responsible for preparing and delivering the accounting to the individual. Business Associate will not provide an accounting of its disclosures directly to any individual.

8. OBLIGATIONS OF COVERED ENTITY:

(1) Covered Entity Direction Regarding Use of Protected Health Information. Covered Entity will not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity. Covered Entity will notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information. Additionally, Covered Entity will notify Business Associate of any changes in or revocation of permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

(2) Covered Entity Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitations in Covered Entity's notice of privacy practices in accordance with 45 C.F.R. 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

9. ACCESS TO BOOKS AND RECORDS:

(1) Covered Entity Access. Business Associate will, within 10 business days of Covered Entity's written request, make available during normal business hours at Business Associate's offices, all records, books, agreements, policies and procedures relating to the use or disclosure of PHI received from Covered Entity for the purpose of allowing Covered Entity or its agents or auditors to determine Business Associate's compliance with this BAA.

(2) Government Access. Business Associate will make its internal practices, books and records on the use and disclosure of PHI received from Covered Entity available to the Secretary of the Department of Health and Human Services to the extent required for determining compliance with the Privacy Standards. Notwithstanding this provision, no attorney-client, accountant-client or other legal privilege will be deemed waived by Business Associate or Covered Entity as a result of this Section.

10. TERMINATION:

Without limiting the rights of the parties elsewhere set forth in the BAA or applicable Services Agreement or available under applicable law, if either party breaches its material obligations under this BAA, the other party may, at its option: (a) Require breaching party to submit to a plan of monitoring and reporting, as the non-breaching party may determine appropriate to maintain compliance with this BAA and non-

breaching party shall retain the right to report to the Secretary of HHS any failure by the breaching party to comply with such monitoring and reporting; or (b) Provide written notice of termination of the BAA and applicable Services Agreement, without penalty to the non-breaching party or recourse to the breaching party, after affording the breaching party a reasonable opportunity of at least 30 days to cure the breach. The non-breaching party's remedies under this Section and set forth elsewhere in this BAA shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other.

11. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION:

Upon termination, cancellation, expiration or other conclusion of the BAA and subject to Business Associate's records retention policies, Business Associate will identify any PHI that Business Associate created or received for or from Covered Entity and will limit its further Use or Disclosure of that PHI to those purposes that make return or destruction of that PHI infeasible.

12. RESTRICTIONS ON USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION:

Covered Entity agrees to advise Business Associate in writing of any changes in, or restrictions to, the permitted use or disclosure of PHI received from Covered Entity. Business Associate will restrict the use or disclosure of such PHI consistent with the Covered Entity's notification.

13. MITIGATION PROCEDURES:

Business Associate agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the use or disclosure of PHI received from Covered Entity in a manner contrary to this BAA or the Privacy Standards.

14. OBLIGATIONS REGARDING BUSINESS ASSOCIATE PERSONNEL:

Business Associate will inform all of its employees, agents, representatives and members of its workforce ("Business Associate Personnel"), whose services may be used to satisfy Business Associate's obligations under the applicable Services Agreement, if any, or this BAA, of the terms of this BAA. Business Associate will maintain a system of sanctions for any Business Associate Personnel who violates this BAA.

15. COMPLIANCE WITH HITECH ACT

Business Associate will comply with the requirements of Title XII, Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act, codified at 42 U.S.C. §§ 17921-17954, which are applicable to business associates, and will comply with all regulations issued by the Department of Health and Human Services (HHS) to implement these referenced statutes, as of the date by which business associates are required to comply with such referenced statutes and HHS regulations.

Business Associate will comply with Section 13402 of the HITECH Act, codified at 42 U.S.C. § 17932, and will comply with all regulations issued by HHS to implement this statute, as of the date by which business associates are required to comply with such referenced statutes and HHS regulations. Business Associate will make a report to the Covered Entity of any breach of unsecured protected health information, as required by 42 U.S.C. § 17932(b), within 10 business days of Business Associate's discovery of the breach.

The Covered Entity and the Business Associate will make a case by case determination of a reasonable and mutually agreeable allocation of expenses associated with any breach and/or fines that are imposed.

16. MISCELLANEOUS

(1) COMPLIANCE WITH LAWS:

The parties are required to comply with applicable federal and state laws. If this BAA must be amended to secure such compliance, the parties will meet in good faith to agree upon such amendments. If the parties cannot agree upon such amendments, then either party may terminate this BAA upon thirty days' written notice to the other party.

(2) CONSTRUCTION OF TERMS:

The terms of this BAA will be construed in light of any applicable interpretation or guidance on the Privacy Standards and Security Standards issued by the Department of Health and Human Services.

(3) NO THIRD PARTY BENEFICIARIES:

Nothing in this BAA will confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

(4) NOTICES:

Whenever under this BAA one party is required to give notice to the other, such notice will be deemed given if mailed by first class United States mail, postage prepaid:

Business Associate Contact: Director, Health Sciences Contracts
 Address: 1501 N. Campbell Avenue, Room 1104
 P.O. Box 245171
 Tucson, AZ 85724-5171

Covered Entity Contact: _____
 Address: _____

Either party may at any time change its address for notification purposes by mailing a notice stating the change and setting forth the new address.

(5) ENTIRE AGREEMENT:

This BAA constitutes the entire agreement between the parties with regard to the Privacy Standards and Security Standards, there are no understandings or agreements relating to this BAA that are not fully expressed in this BAA and no change, waiver or discharge of obligations arising under this BAA will be valid unless in writing and executed by the party against whom such change, waiver or discharge is sought to be enforced.

(6) PROFESSIONAL SERVICES AGREEMENT:

This BAA will be considered an attachment to the Services Agreement and incorporated as though fully set forth within the Services Agreement. This BAA will govern in the event of conflict or inconsistency with any provision of Services Agreement.

(7) COUNTERPARTS:

This BAA may be executed in two or more counterparts, each of which shall be deemed an original and when taken together shall constitute one agreement.

(8) FACSIMILE AND ELECTRONIC SIGNATURES:

Facsimile and electronic signatures shall be deemed to be original signatures for all purposes of this Agreement.

BUSINESS ASSOCIATE

COVERED ENTITY

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SPECIAL PROVISIONS
For
XXXXXXXXXXXX

1. **Effective Date:**
2. **Connected Site:**
3. **Site Authorized Network Service Types:** Clinical, Educational, Administrative
4. **Site Network Service Hours:**
5. **Site Network Support Hours:**
6. **Site Membership Type:**
7. **Annual Fees:**
 - (i) **Membership:** Membership requires an annual fee which is \$ _____ per site for a multi-site membership. This fee is payable in full at the start of each membership year and is due within 20 days of invoicing by the Arizona Telemedicine Program. Any fee increase will be sent 60 days prior to membership renewal.
 - (ii) **Costs and Fees:** Telecommunications and equipment costs provided are estimates based on quotes provided to ATP by equipment and service vendors. Site will pay for all other costs and are responsible for their own telecom and maintenance costs. *Estimated costs are subject to change based on actual charges.*
 - (iii) **Estimated Costs and Fees:**

Equipment:	\$
Service/Fees/Maintenance:	\$
Membership:	\$ _____
Total Estimated Costs & Fees:	\$
8. **Payment:**

Purchase of Equipment. If purchased through University, Member will issue a purchase order in advance to ATP for the specified equipment and pay the resulting invoice within 30 days of receipt, pursuant to Paragraph 7.A.(1).

Payment of maintenance/installation. Billed yearly by ATP. Payment terms as set out in the ATP invoice.

Membership. Pursuant to Section 4.O. payable in full at the start of each membership year and is due within 20 days of invoicing by the Arizona Telemedicine Program.
9. **Telehealth Site Contact Information:**

Telehealth Coordinator: _____

Site Administrator: _____

Designated Senior Administrator: _____

Designated Senior Administrator backup: _____