

COMPLIANCE PROGRAM MONITORING AGREEMENT

This Compliance Program Monitoring Agreement (the “Agreement”) is made and entered into as of the ____ day of _____, 200_, by and between _____, a California nonprofit public benefit corporation (the “Group”) acting at the direction of the USC Office of the General Counsel and the USC Office of Compliance , and _____ (“Monitor”).

Recitals

- A. The Group is a faculty practice group affiliated with the University of Southern California Keck School Of Medicine and operated in accordance with the Medical School Faculty Practice Plan, and serves as the practice counterpart to the Department of _____.
- B. The Group, through its faculty members (“Physicians”), furnishes medical services to patients.
- C. The USC Office of the General Counsel has adopted a compliance program (“Compliance Program”) to be administered under the direction and oversight of the University Compliance Officer (“Compliance Officer”).
- D. The Compliance Program requires that the faculty practice groups assume responsibility for ensuring that all billing activities of the Physicians, including procedural and diagnosis coding assignment, medical record supporting documentation and fee abstraction, conforms to the compliance guidelines set forth in the, USC Physician Billing Compliance Program.
- E. Group desires for Monitor to review Group’s billing practices for quality assurance purposes in accordance with the Compliance Program policies and procedures and Monitor desires to provide such services to Group as set forth in the Compliance Program and this Agreement.
- F. Group and Monitor acknowledge that such monitoring and review shall be performed at the direction of the Compliance Officer and the USC Office of General Counsel.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth below, the parties agree as follows:

Section 1. Services Provided by Monitor

- 1.1 **In General.** Monitor shall furnish those monitoring and quality assurance services set forth in MA-500, the Compliance Monitoring and Auditing Policy of the Professional Billing Services and Procedure Manual, as may be revised from time to time, including but not limited to the following: (1) use of the USC Healthcare Compliance Sampling Methodology Documentation Form and Compliance Billing Monitoring Reports to construct an appropriate monitoring sample for Group practitioners; and (2) documentation review and scoring in full accordance with the USC Monitoring Summary Report; and (3) one-to-one education for Group physicians; and (4) documentation of testing results in the USC healthcare compliance database.
- 1.2 **Personnel.** Monitor shall provide professional and clerical staff (“Personnel”), qualified to furnish the services set forth in this agreement. In the event that the USC Office of Compliance or the USC Office of the General Counsel is dissatisfied with the services provided by Monitor or the Monitor’s employee assigned to provide the services herein or determines in its reasonable discretion and after consultation with USC legal counsel that such continued service presents a conflict of interest, USC shall have the right to require that Group find a replacement Monitor. Monitor hereby represents and warrants that no Personnel providing services herein have been excluded from the Medicare or Medicaid programs or convicted of any offense related to the provision of healthcare services or fraud. **Monitor represents and warrants that the individual(s) performing the auditing services herein for Group do not in any way perform the billing and collection functions for Group.**
- 1.3 **Expertise.** Prior to the initiation of monitoring the monitor must complete the USC competency exam which will be administered by the USC Office of Compliance. Monitor represents and warrants that Monitor and Personnel have the appropriate level of experience, training and expertise to perform the services set forth herein. Monitor shall maintain current certified procedural coder status to perform services for Group with expertise in CPT, HCPCS and ICD-9-CM coding common to the Group, third-party reimbursement, data collection, and leading practices for billing procedures. Acceptable certifications for monitors performing the work are defined in policies as noted above.
- 1.4 **Information System.** Monitor shall utilize the information system designated by USC (the “USC Care Information System”) for performance of these services. The parties acknowledge and agree that at the time that this Agreement is executed, the IDX billing system is the designated USC Care Information System.
- 1.5 **Physician Education by Monitor.** Any educational information or programs prepared by Monitor for Group or Physicians, including any written materials proposed to be distributed at such programs, shall be subject to the prior written approval of the Compliance Officer or his/her designee.

- 1.6 Workload: One full time equivalent monitor may not review more than 1,000 billed events per year.
- 1.7 Timeline for Provisions of Service: Monitor shall notify Group within 2 business days of any deficiencies in the documents or other materials submitted by Group that prevents the monitoring services described in this Agreement from being completed within the time period described in Exhibit A.

Section 2. Compliance Program Obligations

- 2.1 In General. Monitor acknowledges that it has reviewed the online Compliance Program Policy Manual and the Professional Billing Services Policies & Procedures Manual and shall abide by all the applicable terms and conditions of those policies and procedures as they may be revised from time to time, including MA-500, the Compliance Monitoring and Auditing Policy. Monitor represents and warrants that Monitor can and will perform the monitoring and quality assurance services in accordance with the terms set forth in this agreement and the Compliance Program policies and procedures. **Monitor shall use every effort to review medical records of claims that have not yet been billed to a payor.**
- 2.2 Engagement by Legal Counsel and Compliance Program. Monitor understands and agrees that the monitoring and quality assurance functions performed herein are done at the direction of USC Office of the General Counsel, which serves as legal counsel for the USC Compliance Program. All reports, summaries, findings and other documentation prepared in connection with monitor's services herein shall be sent to the USC Office of General Counsel.
- 2.3 Disclosure of Litigation. Monitor represents and warrants that Monitor is not engaged in or a party to or threatened with any suit, action, proceeding, inquiry, enforcement action, investigation, claim or demand that have been or are required to be disclosed in Monitor's current or future financial statements pursuant to GAAP or applicable federal or state securities laws, rules or regulations (a) relating to billing practices or alleging healthcare fraud or abuse on the part of Monitor or (b) that could have a material adverse effect on Monitor's continued ability to perform any or all of its duties and obligations under this Agreement (collectively, "Disputes"). Monitor agrees to promptly disclose to the Compliance Officer the existence or material change in status of any Disputes throughout the term of this engagement letter.
- 2.4 Attendance at Compliance Programs. The USC Office of Compliance shall, from time to time, conduct educational sessions and training programs relating to coding, documentation, and other compliance issues. Monitor shall ensure that all appropriate Personnel attend such programs. The USC Office of Compliance shall use best efforts to provide reasonable notice of such sessions to Monitor.

Section 3. Maintenance of and Access to Records

- 3.1 **In General.** Monitor shall return all source documents, billing and collection information, and other documents created in the performance of the services herein.
- 3.2 **Non-routine Inquiries.** Monitor shall maintain files of all correspondence and applications submitted to any governmental or private payor with respect to the Physicians, if any, and shall make copies of all such documents available to the Office of the General Counsel and the USC Office of Compliance, upon request. Monitor shall promptly notify Group and Compliance Officer of any non-routine inquiries, requests for additional information or notices from any payor with respect to the enrollment of any Physician of which Monitor is or becomes aware.
- 3.3 **Cooperation with Audits.** Monitor shall cooperate, under the direction of the Compliance Officer, with any audits or investigations of the School of Medicine, USC Care or Group or Physician by any governmental or other third-party payor or insurance carrier, except to the extent specifically prohibited by law. Monitor shall notify the Compliance Officer in writing within one (1) working day of receipt by Monitor of any subpoena or other request for information (including requests for interviews of Monitor personnel) other than routine requests from patients or payors in the ordinary course of business regarding Group's billing, services, documentation, or this Agreement. As directed by the USC Office of the General Counsel or Compliance Officer, Monitor shall promptly correct any procedures determined by the Compliance Officer to be not in compliance with generally accepted accounting practices or Compliance Program requirements.
- 3.4 **Compliance with Law.** Monitor shall comply with all laws, regulations and ordinances now in effect or hereafter adopted regarding the retention and availability of its books and records related to the performance of its obligations under this Agreement for the Group.

Section 4. Compensation

- 4.1 **Fees.** Monitor's compensation for the services provided pursuant to this Agreement shall be as set forth in Exhibit A attached hereto and incorporated herein by reference. Such fees shall be paid by Group.

Section 5. Confidentiality

- 5.1 Monitor shall comply with USC's and Group policies and procedures and federal, state and local laws, regulations and interpretations governing patient confidentiality and access to, use and disclosure of confidential information. Monitor shall comply with the University's Privacy and Security addendum as set forth in Exhibit B.

Section 6. Term

- 6.1 **Term.** The term of this Agreement shall begin on the date of execution and shall continue in full force and effect for 1 year (“Expiration Date”) unless terminated earlier pursuant to this section. This Agreement shall automatically renew for successive one-year terms upon the Expiration Date unless one party to this Agreement serves on the other party a written notice of intent not to renew the Agreement no later than ninety (90) days prior to the Expiration Date.
- 6.2 **Termination without Cause.** Group may terminate this Agreement at any time without cause upon sixty (60) days prior written notice of termination to Monitor.
- 6.3 **Termination for Noncompliance.** Monitor’s services may be terminated at any time upon notice to Monitor upon determination in USC Care’s or the Office of General Counsel’s reasonable discretion, that Monitor has violated any term of this Agreement that presents a compliance risk for Group, USC Care or the Keck School of Medicine.
- 6.4 **Termination for Bankruptcy.** In the event Monitor shall cease conducting business or file for bankruptcy protection, the Agreement shall terminate immediately and ownership of all materials (excluding Monitor-owned computer hardware or software) used in furnishing services herein shall revert to Group.
- 6.5 **Transfer of Documents.** Upon termination of this Agreement, Monitor shall promptly deliver and transfer to the Group all property of the Group as well as all documents, working papers and other materials relating thereto.

Section 7. Indemnification and Insurance

- 7.1 **Indemnification.** Monitor shall defend, indemnify and hold harmless Group, USC and USC Care, its officers, employees, directors and trustees from and against any and all liability, loss, expense, attorneys’ fees or claims for injury or damages arising out of the performance of the services set forth herein, but only in proportion to and to the extent that such liability, loss, expense, attorneys’ fees or claims for injury or damages are caused by or result from the gross negligent or intentional acts or omissions of Monitor, its officers, employees or agents. Group hereby warrants that to the best of its knowledge, the information furnished to Monitor pursuant to its obligations under this Agreement, including but not limited to demographic and procedure charge information, shall be accurate. Group shall promptly notify Monitor of any claim asserted against it for which such indemnification is sought and shall promptly deliver to Monitor a true copy of any summons or other process, pleading or notice issued in any lawsuit or other proceeding to assert or enforce such claim. Monitor, at its own expense, shall provide counsel reasonably acceptable to Group and USC to defend against any indemnified claims. Monitor reserves the right to control the defense of such action, provided that Monitor shall obtain the written consent of Group and USC

before agreeing to any settlement proposal that affects Group or USC, which consent shall not be unreasonably withheld. Group or USC may participate in the investigation, trial and defense of such action or appeal at its own expense. Group agrees to cooperate with Monitor in connection with the claims for which Monitor indemnifies Group.

- 7.2 Insurance. Monitor shall, at its expense, obtain and maintain comprehensive or commercial form general liability insurance (contractual liability included) in a form and with an insurance carrier satisfactory to USC. Monitor shall furnish evidence of such coverage upon USC's request.

Section 8. Use of University Name

- 8.1 Neither the stationary, billing forms, nor any operating practice of Monitor shall imply that Monitor is part of or affiliated with the University of Southern California. Monitor shall not use the name, marks or logos or USC, USC Care or group without the prior written consent of USC, including the USC Office of the General Counsel.

Section 9. Independent Contractor

- 9.1 In the performance of this Agreement, it is mutually understood and agreed that Monitor is at all times acting and performing as an independent contractor with, and not as an employee, joint venture or lessee of, the Group. Monitor shall not have any claim under this Agreement or otherwise against the Group for workers' compensation, unemployment compensation, sick leave, vacation pay, pension or retirement benefits, Social Security benefits or any other employee benefits, all of which shall be the sole responsibility of Monitor.

Section 10. Change in Law

- 10.1 If there is a change in any statute or regulation, state or federal, which affects this Agreement or the activities of either party under this Agreement or any change in the judicial or administrative interpretation of any such statute, or regulation and either party reasonably believes in good faith that the change will have a substantial adverse effect on that party's business operations or its rights or obligations under this Agreement, then that party may, upon written notice, require the other party to enter into good faith negotiations to renegotiate the terms of this Agreement. If the parties are unable to reach an agreement concerning the modification of this Agreement within thirty (30) days after the date of the notice seeking renegotiation or the effective date of the change, or if the change is effective immediately then either party may immediately terminate this Agreement by written notice to the other party.

Section 11. Notices

11.1 Any notice, demand, request, consent, approval or other communication required or permitted hereunder to be served on or given to either party hereto by the other party shall be in writing and shall be deemed to have been served or given on the date of delivery if delivered in person to the party named below, or if delivered by certified or registered mail, postage prepaid, return receipt requested, or other reputable delivery service such as United Parcel Service indicated on the return receipt if addressed as follows:

Monitor: _____

Group: _____

Compliance Officer: Laura LaCorte
University of Southern California
Office of Compliance
3500 So. Figueroa St., Suite 105
Los Angeles, CA 90089-8007

Section 12. Binding Effect

12.1 This Agreement shall not be binding unless and until executed by the appropriate USC Senior Vice President and the Compliance Officer.

Section 13. Governing Law

13.1 This Agreement shall be governed by and interpreted under the laws of the State of California.

INTENDING TO BE LEGALLY BOUND, the parties hereto have caused this Agreement to be executed by their authorized representatives.

MONITOR VENDOR

By: _____

Name: _____

Title: _____

Date: _____

GROUP

By: _____

Name: _____

Title: _____

Date: _____

Please initial fee option selected

OPTION 1 _____ OPTION 2 _____

USC UNIVERSITY COMPLIANCE OFFICER

By: _____

Name: Laura L. LaCorte

Title: Associate Senior Vice President, Compliance

Date: _____

USC OFFICE OF THE SENIOR VICE PRESIDENT, FINANCE AND CFO

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

TIMING AND FEES

TIMING

Sample Selection: Will occur within five (5) business days of receipt of the IDX reports.

Completion of Monitoring: Upon receipt of a complete packet which includes:

monitoring will be completed within ten (10) business days. Completion of monitoring is defined as providing the Group with the signed audit summary sheet.

Provider Education: Monitor will complete provider education within 10 days. The education will be scheduled through the Department liaison and shall be conducted in person, via conference call and or web cast. All documents to be discussed with the physician will be provided to the physician at least three (3) days prior to the education.

Results Reporting and Return of Monitoring Material: Results will sent to the Department Administrator and the USC HealthCare Compliance Office within three (3) business days of monitoring completion (including provider education).

FEES

(To be completed by Monitor/Group)

EXHIBIT B

PRIVACY AND SECURITY ADDENDUM

RECITALS

A. The U.S. Department of Health and Human Services issued regulations on "Privacy Standards for Individually Identifiable Health Information," which comprise 45 C.F.R. Parts 160 and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (the Privacy Standards").

B. The U.S. Department of Health and Human Services issued regulations on "Health Insurance Reform: Security Standards, " which comprise 45 C.F.R. Parts 160, 162, and 164, promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (the "Security Standards").

C. Vendor has entered into an agreement with University pursuant to which Vendor uses and/or discloses individually identifiable health information.

D. University is a "covered entity" and Vendor is a "business associate" within the meaning of the Privacy and Security Standards (collectively "the Standards").

E. University, as a covered entity, is required by HIPAA to obtain satisfactory assurances that Vendor, as a business associate, will appropriately safeguard all Protected Health Information ("PHI") disclosed by, or created or received by Vendor on behalf of, University.

F. The parties hereto desire to enter into this Addendum to memorialize their obligations with respect to PHI pursuant to the requirements of the Standards.

In consideration of the mutual promises and agreements below and in order to comply with all legal requirements for the protection of this information, the parties hereto agree as follows:

I. GENERAL PROVISIONS

Section 1. **Effect.** This Addendum supplements, modifies and amends any and all agreements (the "Agreement(s)"), whether oral or written, between the parties involving

the disclosure of PHI by University to Vendor, or the creation or receipt of PHI by Vendor on behalf of University. The terms and provisions of this Addendum shall supersede any other conflicting or inconsistent terms and provisions in any Agreement(s) between the parties, including all exhibits or other attachments thereto and all documents incorporated therein by reference.

Section 2. **Amendment.** Vendor and University agree to amend this Addendum to the extent necessary to allow either Vendor or University to comply with the Standards promulgated or to be promulgated by the Secretary of the U.S. Department of Health and Human Services (“Secretary”).

Section 3. **Definitions.** Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in 45 C.F.R. Parts 160, 162, and 164. As used herein, “PHI” means Protected Health Information as that term is defined in the Standards, and “ePHI” means electronic protected health information as defined in the Standards.

II. OBLIGATIONS OF VENDOR

Section 1. **Use and Disclosure of Protected Health Information.** Vendor may use and disclose PHI only as required to satisfy its obligations under the Agreement, as permitted herein, or required by law, but shall not otherwise use or disclose any PHI. Vendor shall not use or disclose PHI received from University in any manner that would constitute a violation of the Standards if used by University, except that Vendor may use PHI (i) for Vendor's proper management and administrative services, (ii) to carry out the legal responsibilities of Vendor or (iii) to provide data aggregation services relating to the health care operations of University if required under the Agreement. Vendor acknowledges that all PHI shall be and remain the sole property of University, including any and all forms thereof developed by Vendor in the course of its fulfillment of its obligations pursuant to this Agreement. Vendor further represents that, to the extent Vendor requests that University disclose PHI to Vendor, such a request is only for the minimum necessary PHI for the accomplishment of Vendor's purpose.

Section 2. **Safeguards Against Misuse of Information.** Vendor agrees that it will use all appropriate safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Addendum. Vendor further agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that the Vendor creates, receives, maintains, or transmits on behalf of University

Section 3. **Reporting of Disclosures of Protected Health Information and Security Incidents** Vendor shall, within thirty (30) days of becoming aware of any use or disclosure of PHI in violation of this Agreement by Vendor or by a third party to which Vendor disclosed PHI pursuant to Section 2 of this Addendum, report any such disclosure to University. Vendor agrees to promptly report to University any security incident (as defined in 45 CFR Section 164.304) of which the Vendor becomes aware.

Section 4. **Designation of Security Contact.** Vendor agrees to designate an appropriate employee of the Vendor (the “**Vendor Security Contact**”) reasonably acceptable to University to address all security issues with respect to University that may arise under the Agreement.

Section 5. **Agreements by Third Parties.** Vendor shall obtain and maintain a written agreement with each agent or subcontractor that has or will have access to PHI, which is received from, or created or received by Vendor on behalf of University, pursuant to which agreement such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Vendor pursuant to this Agreement with respect to such PHI.

Section 6. **Access to Information.** Within five (5) business days of a request by University for access to PHI about an individual contained in a Designated Record Set, Vendor shall make available to University such PHI for so long as such information is maintained in the Designated Record Set. In the event any individual requests access to PHI directly from Vendor, Vendor shall within two (2) business days forward such request to University. Any denials of access to the PHI requested shall be the responsibility of University.

Section 7. **Availability of Protected Health Information for Amendment.** Within ten (10) days of receipt of a request from University for the amendment of an individual's PHI or a record regarding an individual contained in a Designated Record Set (for so long as the PHI is maintained in the Designated Record Set), Vendor shall provide such information to University for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. §164.526.

Section 8. **Accounting of Disclosures.** Within ten (10) days of notice by University to Vendor that it has received a request for an accounting of disclosures of PHI, other than related to the treatment of the patient, the processing of payments related to such treatment, or the operation of a covered entity or its business associate and not relating to disclosures made earlier than six (6) years prior to the date on which the accounting was requested, Vendor shall make available to University such information as is in Vendor's possession and is required for University to make the accounting required by 45 C.F.R. §164.528. At a minimum, Vendor shall provide University with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to Vendor, Vendor shall within two (2) days forward such request to University. Vendor hereby agrees to implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section.

Section 9. **Availability of Books and Records.** Vendor hereby agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Vendor on behalf of, University available to the Secretary

for purposes of determining University's and Vendor's compliance with the Privacy Standards, and shall do so promptly upon the request of the University or the Secretary.

Section 10. **Notice of Request for Data.** Vendor agrees to notify University within five (5) business days of Vendor's receipt of any request or subpoena for PHI. To the extent that University decides to assume responsibility for challenging the validity of such request, Vendor agrees to cooperate fully with University in such challenge.

Section 11. **Injunction.** Vendor hereby agrees that University will suffer irreparable damage upon Vendor's breach of this Addendum and that such damages shall be difficult to quantify. Vendor hereby agrees that University may seek an injunction to enforce the terms of this Addendum against Vendor, in addition to any other remedy University may have.

III. TERM AND TERMINATION

Section 1. **Term.** This Addendum shall become effective on the Effective Date and, unless otherwise terminated as provided herein, shall have a term that shall run concurrently with that of the last expiration date or termination of the Agreement(s).

Section 2. **Termination Upon Breach of Provisions Applicable to Protected Health Information.** Any other provision of the Agreement(s) notwithstanding, this Addendum and the Agreement(s) may be terminated by University upon thirty (30) days written notice to Vendor in the event that Vendor breaches any material provision contained in this Addendum and such breach is not cured within such thirty (30) day period; provided, however, that in the event that termination of the Agreement (s) is not feasible, in University's sole discretion, Vendor acknowledges and agrees that University has the right to report the breach to the Secretary, notwithstanding any other provision of the Agreement(s) to the contrary.

If and to the extent requested by University, Vendor shall continue to perform the services required by the Agreement on a limited basis and/or assist University in transitioning such services and any related PHI or other data to University or to a third party designated by University for a reasonable charge (not to exceed the amount charged for performing such services pursuant to the Agreement). The Vendor agrees to defend, indemnify, and hold harmless University against any and all claims, liabilities, judgments or damages asserted against, imposed upon or incurred by University that arise out of any violation by the Vendor of its obligations under this Agreement.

Section 3. **Effect of Termination.** Upon termination of this Addendum, Vendor shall either return or destroy all PHI received from University or created or received by Vendor on behalf of University and which Vendor still maintains in any form. Vendor shall not retain any copies of such PHI. Notwithstanding the foregoing, to the extent that University agrees that it is not feasible to return or destroy such PHI, the terms and provisions of this Addendum shall survive termination of the Agreement(s) and such PHI shall be used or disclosed solely for such purpose or purposes which prevented the return or destruction of such PHI.