

## **ATTACHMENT 5**

### **EXEMPLAR PLAN SPONSOR'S AMENDMENT TO PLAN DOCUMENTS REQUIRED FOR ACCESS TO PROTECTED HEALTH INFORMATION**

**{INSERT NAME OF GROUP HEALTH PLAN}**

#### **GROUP HEALTH PLAN DOCUMENT AMENDMENT**

#### **PRIVACY OF PROTECTED HEALTH INFORMATION**

##### **1. Plan Sponsor's Certification of Compliance.**

Neither the Plan nor any health insurance issuer or business associate servicing the Plan will disclose Plan Participants' Protected Health Information to the Employer (Plan Sponsor) unless the Employer (Plan Sponsor) certifies that the Plan Documents have been amended to incorporate this [section/article] and agrees to abide by this [section/article].

##### **2. Purpose of Disclosure to Employer (Plan Sponsor).**

- (a) The Plan and any health insurance issuer or business associate servicing the Plan will disclose Plan Participants' Protected Health Information to the Employer (Plan Sponsor) only to permit the Employer (Plan Sponsor) to carry out plan administration functions for the Plan not inconsistent with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Parts 160-64). Any disclosure to and use by the Employer (Plan Sponsor) of Plan Participants' Protected Health Information will be subject to and consistent with the provisions of paragraphs 3 and 4 of this [section/article].
- (b) Neither the Plan nor any health insurance issuer or business associate servicing the Plan will disclose Plan Participants' Protected Health Information to the Employer (Plan Sponsor) unless the disclosures are explained in the Notice of Privacy Practices distributed to the Plan Participants.
- (c) Neither the Plan nor any health insurance issuer or business associate servicing the Plan will disclose Plan Participants' Protected Health Information to the Employer (Plan Sponsor) for the purpose of employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the Employer (Plan Sponsor).

##### **3. Restrictions on Plan Sponsor's Use and Disclosure of Protected Health Information.**

- (a) The Employer (Plan Sponsor) will neither use nor further disclose Plan Participants' Protected Health Information, except as permitted or required by the Plan Documents, as amended, or required by law.
- (b) The Employer (Plan Sponsor) will ensure that any agent, including any subcontractor, to whom it provides Plan Participants' Protected Health Information agrees to the restrictions and conditions of the Plan Documents,

including this [section/article], with respect to Plan Participants' Protected Health Information.

- (c) The Employer (Plan Sponsor) will not use or disclose Plan Participants' Protected Health Information for employment-related actions or decisions or in connection with any other benefit or employee benefit plan of the Employer (Plan Sponsor).
- (d) The Employer (Plan Sponsor) will report to the Plan any use or disclosure of Plan Participants' Protected Health Information that is inconsistent with the uses and disclosures allowed under this [section/article] promptly upon learning of such inconsistent use or disclosure.
- (e) The Employer (Plan Sponsor) will make Protected Health Information available to the Plan Participant who is the subject of the information in accordance with 45 Code of Federal Regulations § 164.524.
- (f) The Employer (Plan Sponsor) will make Plan Participants' Protected Health Information available for amendment, and will on notice amend Plan Participants' Protected Health Information, in accordance with 45 Code of Federal Regulations § 164.526.
- (g) The Employer (Plan Sponsor) will track disclosures it may make of Plan Participants' Protected Health Information so that it can make available the information required for the Plan to provide an accounting of disclosures in accordance with 45 Code of Federal Regulations § 164.528.
- (h) The Employer (Plan Sponsor) will make its internal practices, books, and records, relating to its use and disclosure of Plan Participants' Protected Health Information, to the Plan and to the U.S. Department of Health and Human Services to determine compliance with 45 Code of Federal Regulations Parts 160-64.
- (i) The Employer (Plan Sponsor) will, if feasible, return or destroy all Plan Participant Protected Health Information, in whatever form or medium (including in any electronic medium under the Employer's (Plan Sponsor's) custody or control), received from the Plan, including all copies of and any data or compilations derived from and allowing identification of any Participant who is the subject of the Protected Health Information, when the Plan Participants' Protected Health Information is no longer needed for the plan administration functions for which the disclosure was made. If it is not feasible to return or destroy all Plan Participant Protected Health Information, the Employer (Plan Sponsor) will limit the use or disclosure of any Plan Participant Protected Health Information it cannot feasibly return or destroy to those purposes that make the return or destruction of the information infeasible.

**4. Adequate Separation Between the Employer (Plan Sponsor) and the Plan.**

- (a) The following employees or classes of employees or other workforce members under the control of the Employer (Plan Sponsor) may be given access to Plan Participants' Protected Health Information received from the Plan or a health insurance issuer or business associate servicing the Plan:

_____	_____
_____	_____
_____	_____
_____	_____

This list includes every employee or class of employees or other workforce members under the control of the Employer (Plan Sponsor) who may receive Plan Participants' Protected Health Information relating to payment under, health care operations of, or other matters pertaining to the Plan in the ordinary course of business.

- (b) The employees, classes of employees or other workforce members identified in paragraph 4(a) of the [section/article] will have access to Plan Participants' Protected Health Information only to perform the plan administration functions that the Employer (Plan Sponsor) provides for the Plan.
- (c) The employees, classes of employees or other workforce members identified in paragraph 4(a) of this [section/article] will be subject to disciplinary action and sanctions, including termination of employment or affiliation with the Employer (Plan Sponsor), for any use or disclosure of Plan Participants' Protected Health Information in breach or violation of or noncompliance with the provisions of this [section/article] to the Plan Documents. Employer (Plan Sponsor) will promptly report such breach, violation or noncompliance to the Plan, as required by paragraph 3(d) of this [section/article], and will cooperate with the Plan to correct the breach, violation or noncompliance, to impose appropriate disciplinary action or sanctions on each employee or other workforce member causing the breach, violation or noncompliance, and to mitigate any deleterious effect of the breach, violation or noncompliance on any Participant, the privacy of whose Protected Health Information may have been compromised by the breach, violation or noncompliance.