

notified; (ii) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt.

(e) Waiver by Accepting Varied Performance. No waiver of any provision or consent to any action shall constitute a waiver of any other provision or consent to any other action, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit a Party to provide a waiver in the future except to the extent specifically set forth in writing. Any waiver given by a Party shall be null and void if the Party requesting such waiver has not provided a full and complete disclosure of all material facts relevant to the waiver requested.

(f) Independent Contractors. The Parties to this BA Agreement are independent contractors. Neither Party is an agent, representative or employee of the other Party. Neither Party will have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This BA Agreement will not be interpreted or construed to create an association, agency, joint venture or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

(g) Amendments and Modifications. No amendment, modification, or supplement to this BA Agreement shall be binding on any of the Parties unless it is in writing and signed by the Parties in interest at the time of the modification.

(h) Integration. This BA Agreement as well as agreements and other documents referred to in this BA Agreement constitute the entire agreement between the Parties with regard to the subject matter hereof and thereof. This BA Agreement supersedes all previous agreements between or among the Parties. There are no agreements, representations, or warranties between or among the Parties other than those set forth in this BA Agreement or the documents and agreements referred to in this BA Agreement.

(i) Severability. If any term or provision of this BA Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this BA Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this BA Agreement. If any provision or part thereof of this BA Agreement is stricken in accordance with the provisions of this Section, then this stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(j) Choice of Law and Forum Selection. To the extent not preempted by HIPAA or the HIPAA Rules, the laws of the Commonwealth of Massachusetts shall govern this BA Agreement. The Parties agree that all actions or proceedings arising in connection with this BA Agreement shall be tried and litigated exclusively in the State and Federal courts located in Boston, Massachusetts.

(k) Supersedure. In the event that any term or provision of any agreement between the Parties conflicts with a term or provision of this BA Agreement, this BA Agreement shall control.

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