

OneHealthPort ("OHP") - Participating Organization Terms

1.0 **Services/System.**

1.1 Services include those Services selected by Participating Organization.

1.2 The OHP System ("System") is the hardware, software, telecommunications, websites, networks, and content used to transmit information from one entity to another.

2.0 **Use of Services.**

2.1 Participating Organization will ensure its use of the System and Services is limited to its authorized subscribers ("Subscribers") for whom an OHP Participating Organization Subscriber Acknowledgement has been properly completed, and that its Subscribers' use complies with all U.S. and state statutes and regulations, including HIPAA Business Associate Requirements and such additional OHP privacy and security policies, rules and requirements as may be adopted from time to time.

2.2 Participating Organization and its Subscribers will take all reasonable steps to ensure the security and integrity of the System, the Services, and individual System IDs, including prevention of unauthorized use of the System or Services, and to prevent the unlawful use or disclosure of Protected Health Information, and will immediately advise OHP if they believe the Systems' security has been compromised in any way, if there are any System errors, inaccuracies, faults or disruptions, or if the System or Services are being used to or otherwise contribute to unlawful use or disclosure of protected health information

2.3 Participating Organization will instruct all Subscribers on the proper use of the System and protection of their System IDs.

2.4 Participating Organization will advise OHP of any change in Subscribers, or related Subscriber data.

2.5 Participating Organization will:

2.5.1 Appoint a primary and back-up Administrator(s) for the purpose of managing Participating Organization's use of the System. Administrators may delegate responsibility to other Participating Organization employees or agents to assist in the issuance and revocation of System IDs to its Subscribers.

2.5.2 Train its Administrators with regard to System use and operation, identification and prevention of security breaches, and compliance with applicable statutes, regulations, privacy and security policies, and rules.

2.5.3 Ensure that all of its Subscriber information is accurate and complete at all times.

2.5.4 Validate the identity of all Subscribers it confirms using Delegated Registration Privileges

2.6 Participating Organization will assist OHP, or its designees, as may be reasonably required, in the investigation and resolution of any System or Services failures, security breaches, or enhancements.

2.7 OHP may revoke System IDs for non-use or due to indications that they may have been compromised, are invalid, or that their continued use may otherwise compromise System operations or security. Upon notice of revocation, use of affected System IDs is to be immediately terminated.

3. **Term.**

This Agreement shall be effective on the date indicated, and continue in effect until terminated by either party as follows:

3.1 Upon ninety (90) days prior written notice by one party to the other.

3.2 Upon thirty (30) days prior written notice of default by one party to the other, unless the defaulting party cures the default (or if the default cannot be reasonably cured within thirty (30) days, commences and diligently pursues cure) during the notice period.

3.3 Immediately upon written notice by one party to the other, if a default is not reasonably capable of being cured, or if the defaulting party has been determined by an applicable government authority or audit to not maintain its own systems or its interfaces with the System in a manner which protect the integrity and security of the System or System IDs.

3.4 The obligations of the parties under this Agreement, other than those related to the continuation of Services, shall survive termination.

4.0 **Miscellaneous.**

4.1 OHP provides the System and Services on an "AS IS" basis and specifically MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, NO WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

4.2 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE ARISING IN ANY MANNER FROM OR IN RELATION TO THIS AGREEMENT, WHETHER ARISING UNDER CONTRACT OR ANY OTHER LEGAL THEORY.

4.3 Subject to the foregoing, each party agrees to indemnify and hold the other party, and their respective officers, directors, employees, agents and Relying Parties harmless against any and all claims, liabilities, losses and costs (including reasonable attorneys fees) arising in relation to the indemnifying party's actions or failures to act, provided the party to be indemnified promptly gives the indemnifying party notice of the same and fully cooperates with the indemnifying party in its investigation and defense of the same.

4.4 The respective employees, agents, subcontractors, and service providers of OHP, Participating Organization and Relying Parties are acknowledged to be third party beneficiaries of this Agreement, including without limitation, those provisions related to warranties, limitations of liability and indemnification.

4.5 In the event of any dispute between the parties arising out of this Agreement, the parties agree to use their best efforts to resolve the dispute through face-to-face, good faith negotiations, following notice from the disputing party. Disputes not resolved within sixty (60) days following notice will be submitted to binding arbitration in King County, Washington, by a single arbitrator under the auspices of Judicial Dispute Resolution LLC, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over the parties. The arbitrator may award the prevailing party the cost and reasonable attorney fees it expended in such arbitration.

4.6 OHP may identify Participating Organization as a user of the System and Services, including use of Participating Organization's logos, trademarks and service marks ("Marks") for that limited purpose only, and Participating Organization may identify itself as an OHP System and Services user, including use of OHP's Marks for that limited purpose. In regard to such use, each party shall comply with the other's reasonable usage guidelines, shall not knowingly use such Marks in any manner likely to diminish their value and shall not assert any ownership interest in or transfer rights to such Marks.

4.7 This Agreement shall be governed by and construed under the laws of the State of Washington, without regard to its conflict of law principles.

4.8 This Agreement, and any rights or obligations under it, may be assigned or transferred by sale or merger by either party by providing the other party with prior written notice, and upon the acquiring party's agreement to be bound by the terms of this Agreement.

4.9 If any provision of this Agreement is found to be invalid or unenforceable, this Agreement will be deemed to be amended by modifying such provision to the extent necessary to make it valid and enforceable, while preserving its intent, or if that is not possible, by striking the provision and enforcing the remainder of the Agreement.

4.10 For additional information, see the OneHealthPort website www.onehealthport.com, including without limitation, the applicable Certification Practice Statement, the Certificate Policy, the Table of Definitions, Business Associate Requirements, and other OHP Privacy and Security Policies.