

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

INTERLOCAL AGREEMENT

This Agreement is made and entered into by and between the DALLAS COUNTY HOSPITAL DISTRICT d/b/a PARKLAND HEALTH & HOSPITAL SYSTEM, a political subdivision of the State of Texas, located in Dallas County, Texas, ("PARKLAND") and the CITY OF UNIVERSITY PARK, TEXAS, a Municipal Corporation, located in Dallas County, Texas ("CITY").

WITNESSETH

WHEREAS, the Interlocal Cooperation Act, Chapter 791, V.T.C.A., Texas Government Code provides authorization for any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, PARKLAND and the CITY are local governments as defined in Texas Government Code, Section 791.003(4), have the authority to enter into this Agreement, and have entered into this Agreement by action of its governing body in the appropriate manner prescribed by law; and

WHEREAS, PARKLAND provides biomedical on-line supervision pre-hospital emergency medical control services known as the BioTel/EMS System, which is staffed by physicians, paramedics, registered nurses, and clerical staff, and was created on July 1, 1980, to provide medical control for paramedics in the field via radio and telemetered patient data; and

WHEREAS, PARKLAND contracts with The University of Texas Southwestern Medical Center ("UT SOUTHWESTERN") for certain physician and other services that are a part of the BioTel/EMS System, including the provision of certain off-line services, including, but not limited to, training, protocol development, and policy development; and

WHEREAS, PARKLAND desires to contract with the CITY for the sale of BioTel/EMS System services and the CITY desires to purchase from PARKLAND the BioTel/EMS System services; and

WHEREAS, both PARKLAND and the CITY represent to one another that each respective party has the authority to enter into this Agreement and perform the obligations and duties stated herein; and

NOW THEREFORE, PARKLAND and the CITY hereby enter into this Interlocal Agreement in consideration of the aforementioned recitals, and for the mutual considerations stated herein:

I.
DESCRIPTION OF SERVICES

1. For the consideration hereinafter agreed to be paid to PARKLAND by the CITY, PARKLAND shall provide medical direction for the CITY's emergency medical services, and shall provide a prehospital emergency medical direction system known as BioTel/EMS System or "BIOTEL," hereinafter called the "Services."

2. The Services are to be performed according to acceptable standard medical practices and to conform to the Scope of Service for On-line and Off-line Medical Control for the BioTel/EMS System ("Scope of Services") attached hereto as Exhibit A.

II.
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

1. Except as is permitted by applicable law and to satisfy the requirements of this Agreement, PARKLAND agrees that it will not use or disclose the CITY's protected health information (PHI) for any purpose. However, the parties agree that PARKLAND will receive PHI from the CITY for treatment purposes as described in this Agreement and that such PHI will no longer be considered the CITY's PHI once it has been received by PARKLAND for these treatment purposes. After receipt by PARKLAND, the PHI received by PARKLAND belongs to PARKLAND.

2. As this Agreement is subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the administrative regulations and/or guidance which have issued or may in the future be issued pursuant to HIPAA, including but not limited to the Department of Health and Human Services regulations on privacy and security, and Texas state laws pertaining to medical privacy (collectively, "Privacy Laws"), the parties agree to comply with all Privacy Laws that are applicable to this Agreement and to execute the Business Associate Addendum attached to this Agreement.

III.
COORDINATION

1. All Services under this Agreement shall be coordinated under, and performed in accordance with the Agreement and the Scope of Services to the reasonable satisfaction of the Chief of the Fire-Rescue Department of the CITY, or his/her designated representative, hereinafter called "Director." The Director shall have authority to approve payment for Services that have been properly provided in accordance with the terms of this Agreement. If at any time PARKLAND fails to properly furnish all or a portion of the Services called for by this Agreement, the CITY is authorized to withhold payment of funds associated with the Services not properly performed hereunder until any deficiency has been, if possible, cured. It is further agreed between PARKLAND and the CITY that should any dispute or questions arise respecting the reasonableness of the withheld amount of payment attributable to

PARKLAND's failure to fully perform, the parties agree to meet and make a good faith effort to resolve the dispute. Prior to the CITY exercising any payment withholding under this provision, the CITY must provide PARKLAND with notice of any deficiencies and provide PARKLAND ten (10) business days to remedy any deficiencies. The CITY will release any withheld funds associated with the Services not properly performed once the deficiencies are remedied.

IV.
PAYMENT

1. The Agreement term is one (1) year. Total payments by the CITY during the Agreement term shall not exceed FOURTEEN THOUSAND THREE HUNDRED FORTY THREE DOLLARS AND FIVE CENTS (\$14,343.05), which amount (or a portion thereof where Agreement term may exceed one year) is hereby set aside and segregated for the purpose of paying for the Services in accordance with the terms of this Agreement. Payments shall be made in equal monthly payments in the amount of \$1,195.25 and shall be made at the end of each month.

V.
TERM

1. The term of this Agreement shall commence on October 1, 2016, and terminate on September 30, 2017, unless sooner terminated in accordance with the provisions of this Agreement. The Agreement may be renewed for successive twenty-four (24) month periods upon the same terms and conditions as set forth in this Agreement. The parties shall mutually agree to any change in consideration during subsequent renewal periods.

VI.
INDEPENDENT CONTRACTOR

1. PARKLAND's status and the status of all physicians, nurses, paramedics, and other medical personnel performing work related to the BioTel/EMS System shall be that of an Independent Contractor and not any of the following: an agent; servant; employee; member of CITY's workforce; or representative of the CITY in the performance of these Services. No term or provision of this Agreement or act of PARKLAND or the CITY under this Agreement shall be construed as changing that status.

VII.
INDEMNIFICATION

1. PARKLAND, to the extent permitted by the laws of the State of Texas, shall indemnify, defend and hold harmless the CITY and all of its officers, agents and employees from any suits, actions or claims whatsoever that might arise on account of any injury or damage received or sustained by any person or property as a result of PARKLAND's conduct of

any activity or operation in connection with PARKLAND's use of the BioTel/EMS System. To the extent permitted by law, PARKLAND shall pay any judgment, together with costs, which may be obtained against the CITY, or any of its officers, agents or employees as a result of such injury or damage.

2. The CITY shall give PARKLAND prompt notice of any matter covered by Subsection VII.1 above, and shall forward to PARKLAND every demand, notice, summons or process received in any claim or legal proceeding covered by Subsection VII.1 above.

3. PARKLAND shall not be obligated to indemnify, defend or hold harmless the CITY or any of its officers, agents, or employees when the injury or damage to a person or property is caused by the negligence of the CITY, its officers, agents or employees. In the event of joint and concurrent negligence of PARKLAND and the CITY, responsibility and indemnity, if any, shall be apportioned in accordance with the laws of the State of Texas.

4. The CITY, to the extent permitted by the laws of the State of Texas, shall indemnify, defend and hold harmless PARKLAND and all of its officers, agents and employees from any suits, actions or claims whatsoever that might arise on account of any injury or damage received or sustained by any person or property as a result of the CITY's conduct of any activity or operation in connection with the CITY's use of the BioTel/EMS System. To the extent permitted by law, the CITY shall pay any judgment, together with costs, which may be obtained against PARKLAND, or any of its officers, agents or employees as a result of such injury or damage.

5. PARKLAND shall give the CITY prompt notice of any matter covered by Subsection VII.4 above, and shall forward to the CITY every demand, notice, summons or process received in any claim or legal proceeding covered by Subsection VIII.4 above.

6. The CITY shall not be obligated to indemnify, defend or hold harmless PARKLAND or any of its officers, agents, or employees when the injury or damage to a person or property is caused by the negligence of PARKLAND, its officers, agents or employees. In the event of joint and concurrent negligence of the CITY and PARKLAND, responsibility and indemnity, if any, shall be apportioned in accordance with the laws of the State of Texas.

7. No part of this Agreement shall be interpreted to constitute a waiver of any defense of the parties available to the CITY and PARKLAND under Texas law and the immunities or limits of liability granted to PARKLAND or the CITY under the Texas Torts Claim Act.

8. The provisions of this section are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

VIII.
TERMINATION

1. The CITY may, at its option and without prejudice to any other remedy it may be entitled at law or in equity, or elsewhere under this Agreement, terminate further work under this Agreement, in whole or in part by giving at least one hundred eighty (180) days prior written notice thereof to PARKLAND, with the understanding that all Services being terminated shall cease upon the date specified in such notice. The CITY shall compensate PARKLAND in accordance with the terms of this Agreement for the Services properly performed prior to the date specified in such notice, following inspection and acceptance of same by the CITY's Director. PARKLAND shall not, however, be entitled to lost or anticipated profits should the CITY choose to exercise its option to terminate.

2. PARKLAND may, at its option and without prejudice to any other remedy it may be entitled at law or in equity, or elsewhere under this Agreement, terminate further work under this Agreement, in whole or in part by giving at least one hundred eighty (180) days prior written notice thereof to the CITY, with the understanding that all Services being terminated shall cease upon the date specified in such notice.

IX.
NOTICES

All notices, communications and reports under this Agreement shall be mailed or delivered to the respective parties as follows:

To: PARKLAND
Dallas County Hospital District
d/b/a Parkland Health & Hospital System
5200 Harry Hines Blvd.
Dallas, Texas 75235
Attention: EVP & Chief Nursing Officer

With copy to: Dallas County Hospital District
d/b/a Parkland Health & Hospital System
5200 Harry Hines Blvd.
Dallas, Texas 75235
Attention: General Counsel, Legal Affairs

To: CITY
The City of University Park, Texas
3800 University Blvd.
University Park, Texas 75205
Attention: Chief, Fire Department

X.
MISCELLANEOUS

1. This Agreement is entered into subject to the Charter and ordinances of the CITY, as amended, and applicable Texas State and Federal laws. The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas; and exclusive venue for any litigation that may be filed by either party hereto in connection with this Agreement shall be in Dallas County, Texas.

2. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof and this Agreement shall be considered as if such invalid, illegal or unenforceable provision has never been contained in this Agreement.

3. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

4. This Agreement can be revised at any time by mutual consent of the parties and shall be revised by written amendment(s) to this Agreement and signed by both parties. No oral modifications can be made to this Agreement.

5. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

6. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties relating to matters in this Agreement.

**Dallas County Hospital District d/b/a
Parkland Health & Hospital System**

By: _____

Name: Liz McMullen

Title: Vice President & Controller, Finance

Date: 9-28-16

The City of University Park, Texas

By: _____

City Attorney

By: _____

City Manager

EXHIBIT A

Scope of Services for On-line and Off-line Medical Control for the BioTel/EMS System

I. On-line Medical Direction

A. Staffing

1. Nurse staffing provided continuously 24/7/365

- a. In addition to continuous nurse staffing 24/7/465, double coverage will be provided during peak times; however, such additional coverage may be through a paramedic.
- b. Coordinates in-time on-line medical direction.

2. Physician staffing continuously 24/7/365

- a. The physician responsible for coordinating all system medical control and addressing clinical issues associated with the operation of the BioTel/EMS System shall be known as the BioTel/EMS Medical Director.
- b. The UT SOUTHWESTERN emergency medicine physicians working within the Parkland Emergency Department shall provide medical control (i.e. medical advice and direction) when requested by CITY's paramedics who are assisting patients. Adequate BioTel/EMS System physician staffing shall be maintained twenty-four (24) hours a day, seven (7) days a week, during the term of this Agreement. A physician will answer all requests for assistance either from the BioTel/EMS System room or from the Emergency Department areas twenty-four (24) hours a day, seven (7) days a week. The physician need not be present in the radio room while assigned to, and on duty with, the BIOTEL operation.
- c. BIOTEL physicians shall respond to a field paramedic's request for assistance immediately after receipt of a call. PARKLAND will be responsible for monitoring and enforcing a sixty (60) second response time standard ninety percent (90%) of the time.
- d. When requested, BIOTEL presently has the capability to obtain a specialized physician in the following areas: Pediatrics, internal medicine, surgical, trauma, obstetrical/gynecological, psychiatry, toxicology and cardiology. Additional sub-specialty consultation is available.

3. Miscellaneous

- a. Only registered nurses (RNs), physicians, paramedics and clerical staff shall be assigned by PARKLAND to the BioTel program
- b. The BIOTEL program shall be adequately staffed by at least one (1) registered nurse twenty-four (24) hours a day, seven (7) days a week throughout the duration of this Agreement. Additional personnel will be assigned as needed based upon workload. Efficiency of the system shall be maintained by PARKLAND administration. A nurse or paramedic shall monitor the radio communications at all times. Changes to the staffing model may be made, if necessary upon agreement between the CITY and PARKLAND.
- c. All RNs and paramedics assigned to the BIOTEL program shall undergo initial training and ongoing training including the role of BIOTEL and EMS in the community. They will review and be tested on the BioTel/EMS Treatment Guidelines and Policies and are instructed in proper communication procedures relating to the BIOTEL equipment
- d. When notified by field personnel, BIOTEL staff shall assist as needed in contacting a hospital to which a critical, priority patient is en-route, and provide that hospital with pertinent data concerning the patient.
- e. BIOTEL staff shall be responsible for assisting other medical personnel in emergency situations. BIOTEL RNs shall follow established BIOTEL RN Treatment Guideline Options according to the needs of the patient. The BIOTEL staff shall contact an Emergency Medicine physician when a request for assistance is made, and shall record all recommended treatments and maintain all appropriate records.
- f. BIOTEL staff shall ensure the proper functioning of all contracted BIOTEL equipment.
- g. Personnel assigned to BIOTEL shall utilize the current BioTel/EMS Treatment Guideline and Policy Manual enacted for the functioning of the BioTel/EMS System. PARKLAND may modify the BioTel/EMS Treatment Guideline and Policy Manual provided, however, that both the CITY and PARKLAND mutually agree upon any material changes to these procedures, unless otherwise required by law, rule, regulation, and all other applicable governmental agencies and accrediting organizations having jurisdiction over PARKLAND. PARKLAND shall make the BioTel/EMS Treatment Guideline and Policy Manual available to the CITY.

- h. BIOTEL staff shall monitor area hospital's capabilities and help coordinate EMS transports to appropriate facilities as provided in accordance with departmental procedures approved by the BioTel/EMS System Medical Director.
- i. BIOTEL staff shall maintain a current database for day-to-day medical control, as well as the monthly statistical report. The BIOTEL staff will also maintain revisions to the BioTel/EMS Treatment Guidelines and Policies and perform other tasks as needed under the direction of BIOTEL Management. A copy of the statistical report will be furnished to the CITY quarterly
- j. The BIOTEL Program Manager shall serve as the primary liaison with: Area receiving hospitals, other EMS agencies, Emergency air medical services operating in the DFW region, UT SOUTHWESTERN – Division of EMS Education, Pre-hospital providers that are not under BIOTEL medical control.

B. Additional Services

1. Social Work Program

- a. Assessment and enrolment of patients, serving as a liaison between social service agencies and CITY, and providing feedback and updates to EMS agencies.

2. Emergency Legal Assistance Program

- a. Will provide an on-call attorney licensed to practice law in the State of Texas.
- b. The Attorney will be:
 - (1) Familiar with delivery of Emergency Medical Services and applicable laws pertaining thereto, including, but not limited to the Medical Practice Act and the Health and Safety Code and any other applicable laws.
 - (2) On-call twenty-four (24) hours /day, seven (7) days a week.
 - (3) Expected to provide an alternate in case of his/her absence.

3. Field Amputation Team Activation at the request of CITY field paramedics, supervisors or Chief Officers or at the discretion of BIOTEL staff consistent with BIOTEL policy.

- a. The Team will provide supplies necessary for field amputation

- b. The Team will be ready for transport to scene within fifteen (15) minutes of activation. Estimated time of arrival may vary depending on scene location and other factors.

4. Bloodborne Pathogen Exposure Tracking

- a. Will provide a process for CITY personnel who have sustained a blood and/or body fluid exposure while on-duty to receive testing and subsequent follow-up with Dallas County Health Department.

- 5. Data collection including CITY call volume, types of BIOTEL calls, frequency and type of physician consultation, numbers of patients for whom BIOTEL is notified/contacted received by area hospitals, resource overload based on the report from North Texas Trauma Regional Advisory Committee (NCTTRAC), Emergency Legal Assistance Program, Specialty Team Activation, Trauma diversion, and any other data collection requested by CITY.

- 6. Maintenance of the BioTel room and facilities, and the records involving On-line Medical Control for the BioTel/EMS System, shall be provided by PARKLAND. The BioTel/EMS System room and facilities shall be available for reasonable use by the CITY's paramedics, provided that such use does not interfere with the medical operations and functions of the BioTel/EMS System office and facilities.

- C. Periodic meetings, at least quarterly, will be attempted to be scheduled between the CITY representatives and the PARKLAND and UT SOUTHWESTERN personnel who supervise the BioTel/EMS System. The purpose of the meetings shall be to assess the program and services provided and recommend improvements.

II. Off-line Medical Direction

A. Staffing

1. BIOTEL Medical Director

- a. Have the ultimate responsibility for all clinical aspects of the EMS System and shall meet all State of Texas requirements for serving as an EMS System Medical Director.
- b. Be immediately available 24/7/365 for consultation or problem resolution or shall arrange for an Associate EMS Medical Director to be available in his/her place.
- c. Assign to CITY an Associate Medical Director who shall serve as CITY's day-to-day Medical Director.

2. BIOTEL Associate Medical Director

- a. Work with CITY's Chief and EMS Command Staff to ensure that the CITY's EMS operations, administration, training and special operations activities result in the delivery of quality out-of-hospital emergency medical care for the residents of and visitors to the CITY.
- b. Assist the CITY with the review and response to any clinical or clinical/operational complaint, concerns, unusual occurrence ("UO") or commendations that are brought to the attention of the CITY regarding EMS and will assist in the development and implementation of a comprehensive EMS Quality Management Plan.
- c. Work with the CITY's EMS Chief responsible for EMS to develop, implement, and evaluate EMS quality improvement activities.
- d. Be made aware of and will consult on the response to all EMS clinical claims (lawsuits) against the CITY.
- e. Ensure that the CITY provides reality-based training for its EMS providers.
- f. Interact outside of the hospital setting with the CITY's EMS providers.
- g. Educate and train CITY's EMS providers on all BIOTEL Treatment Guidelines and Policies.
- h. Serve as the physician liaison to other healthcare providers in the CITY.
- i. Be notified of all significant on-duty illness or injury to CITY EMS providers. The Associate Medical Director shall serve as the liaison with the treating physician(s) in the hospital where the CITY EMS provider is transported to, shall serve as the CITY EMS providers' medical advocate and shall advise the CITY's EMS leadership of the status of the CITY EMS providers' illness or injury.

B. Additional Services

1. May attend regular or ad hoc meetings at the request of the CITY's leadership.
2. May assist in the development or provision of specialized education and training for the CITY's providers.
3. May serve as a consultant to the CITY's 911 Communications Center. The Medical Director shall review, as requested, any EMS dispatch incidents in consultation with the 911 Center's leadership. In addition, the Medical Director participates in tape audits and the evaluation of new dispatch protocols and/or procedures as requested.

4. May be made aware of and will serve as a consultant in the planning and response to any EMS special event in which the CITY serves as the emergency medical provider.
5. May oversee the clinical aspects of the CITY's Mobile Community Healthcare Program (MCHP) and will be immediately available or arrange for an appropriate individual to be immediately available for consultation regarding any patient enrolled in that program.
6. In collaboration with the CITY's Chief responsible for EMS, may ensure that the CITY's policies designed to minimize the risk of exposure to blood borne pathogens are state-of-the art. Together, recommendations for changes in policy, protocol, or protective equipment are made to the CITY Chief to mitigate the likelihood of exposure to blood-borne pathogens.
7. May serve as advocate for the CITY's role in promoting Public Access Defibrillation and CPR training for the CITY.
8. May take on additional responsibilities or projects as requested by the CITY Chief following approval of the BioTel/EMS System Medical Director.

C. Hours and Rates

1. The minimum number of hours provided to CITY for off-line medical direction will be four (4) hours.
2. Additional hours for off-line medical direction will be provided at an hourly rate of \$180.00 per hour.

Business Associate Addendum
to
Interlocal Agreement

This Business Associate Addendum to the Interlocal Agreement (the "Addendum"), effective October 1, 2016 (the "Effective Date"), is entered into by and between the City of University Park, Texas ("Covered Entity") and the Dallas County Hospital District d/b/a Parkland Health & Hospital System, ("Business Associate").

RECITALS

This Addendum amends the Interlocal Agreement by and between Business Associate and Covered Entity, made and entered into effective the 1st day of October, 2016 (the "Agreement") by adding the provisions set forth herein, which are fully incorporated into and made a binding part of the Agreement.

Under the Agreement, Business Associate may perform or assist in performing a function or activity on behalf of Covered Entity that involves the Use and/or Disclosure of Protected Health Information (as defined in 45 C.F.R. 160.103 and as may be amended from time to time ("PHI")).

The parties desire to amend the Agreement to include certain requirements regarding the Use and/or Disclosure of PHI as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); any and all regulations promulgated thereunder including the standards for privacy of individually identifiable health information at 45 C.F.R. Parts 160 and 164 ("Privacy Rule") and the standards for the security of electronic protected health information at 45 C.F.R. Parts 160, 162, and 164 ("Security Rule") (collectively, the Privacy Rule and the Security Rule are referred to herein as the "HIPAA Rules"); any applicable state law or regulation; and the Health Information Technology for Economic and Clinical Health Act ("HITECH") provisions of the American Recovery and Reinvestment Act of 2009 ("ARRA").

NOW, THEREFORE, for and in consideration of the representations, warranties and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Terms Used. Terms used, but not otherwise defined, in this Addendum, shall have the same meaning as those terms in the HIPAA Rules.
2. Permitted Uses and Disclosures of PHI. Except as otherwise limited in the Agreement or this Addendum, Business Associate may Use and/or Disclose PHI to perform the functions,

activities, or services for or on behalf of Covered Entity as specified in the Agreement provided that such Use and/or Disclosure would not violate the HIPAA Rules if done by Covered Entity. All other Uses or Disclosures not authorized by the Agreement or this Addendum are prohibited.

3. Business Associate agrees to:

3.1. Not Use and/or Disclose PHI other than as permitted or required by the Agreement or this Addendum or as Required By Law.

3.2. Use appropriate safeguards to comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI and to implement and use appropriate safeguards to reasonably and appropriately protect the confidentiality, integrity and availability of PHI and to prevent the Use and/or Disclosure of PHI other than as provided for by the Agreement or this Addendum.

3.3. Report to Covered Entity, through its Privacy Officer, any Use or Disclosure of PHI not provided for by the Agreement or this Addendum within three (3) business days of discovering the unauthorized Use or Disclosure. Additionally, within three (3) business days of discovery, Business Associate agrees to report any potential Breach of unsecured PHI as that term is defined in 45 CFR 164.402 and any successful Security Incident as that term is defined in 45 CFR 164.304. Unsuccessful Security Incidents shall be reported to Covered Entity only upon request. Business Associate shall permit Covered Entity to investigate any report submitted pursuant to this provision and shall allow Covered Entity to examine Business Associate's premises, records, and practices. In the event Covered Entity is required to provide notice to Individuals impacted by a Breach caused by Business Associate or its subcontractors and agents, Business Associate shall reimburse Covered Entity for the reasonable costs relating to the provision of such notice.

3.4. Ensure that all subcontractors and agents to whom it provides PHI received from, or created or received by, Business Associate on behalf of Covered Entity sign a business associate agreement meeting the requirements of 45 CFR 164.504 and agree in writing to the same restrictions, conditions, and requirements that apply to Business Associate pursuant to this Addendum. This shall include, without limitation, ensuring that agents and subcontractors implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI created, received, maintained, stored, or transmitted on behalf of Covered Entity. Business Associate shall be fully liable to Covered Entity for any acts, failures or omissions of its subcontractors and agents as if the acts, failures or omissions were Business Associate's own acts, failures or omissions.

3.5. Provide access (at the request of, and in a reasonable time and manner designated by, Covered Entity) to PHI in a Designated Record Set in order to meet the requirements under 45 C.F.R. 164.524. In the event an Individual submits a request for access directly to Business Associate, Business Associate shall promptly forward the request to

Covered Entity through its Privacy Officer. Business Associate is not required to provide access to PHI if it does not maintain a Designated Record Set on behalf of Covered Entity.

3.6. Make any amendment(s) (at the request of, and in a reasonable time and manner designated by, Covered Entity) to PHI in a Designated Record Set that Covered Entity directs pursuant to 45 C.F.R. 164.526. In the event an Individual submits a request for amendment directly to Business Associate, Business Associate shall promptly forward the request to Covered Entity through its Privacy Officer. Business Associate is not required to amend PHI if it does not maintain a Designated Record Set on behalf of Covered Entity.

3.7. Make internal practices, books, and records relating to the Use and Disclosure of PHI received from, created, or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or at the request of Covered Entity, to the Secretary of the Department of Health and Human Services or his/her designee (the "Secretary"), in a reasonable time and manner as designated by Covered Entity or the Secretary, for the purposes of determining compliance with the Privacy Rule and this Addendum. Business Associate shall promptly notify Covered Entity of communications with the Secretary regarding PHI provided by or created by Covered Entity and shall provide Covered Entity with copies of any information Business Associate has made available under this provision. Notwithstanding the foregoing, no attorney-client, accountant-client, or other legal privilege shall be deemed waived by Business Associate or Covered Entity by virtue of this Addendum.

3.8. Document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528 as may be amended from time to time, and incorporating exceptions to such accounting designated under the regulation. Accounting of disclosures shall be in accordance with the policies and procedures of the Covered Entity and shall be made within a reasonable time specified by Covered Entity. The first accounting in any 12 month period requested by an Individual shall be provided without charge; a reasonable charge may be made for subsequent accountings if Business Associate informs the Individual in advance of the fee and the Individual is afforded an opportunity to withdraw or modify the request. In addition, to the extent that Business Associate maintains PHI in an electronic health record, Business Associate agrees to account for all disclosures of electronic PHI upon request of an Individual for a period of at least three (3) years prior to the request (but no earlier than the Effective Date of this Addendum) as required by HITECH. Such accounting shall be directly to the Individual if requested by the Covered Entity.

3.9. Provide to Covered Entity, in a reasonable time and manner designated by Covered Entity, information collected in accordance with Section 3.8. of this Addendum, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528.

3.10. Ensure that all Uses and Disclosures of PHI are subject to the principle of "minimum necessary," i.e., only PHI that is the minimum necessary to accomplish the intended purpose of the Use, Disclosure, or request may be Used or Disclosed.

3.11. Mitigate, to the extent practicable, any harmful effect of an unauthorized Use or Disclosure of PHI and any Breach or Security Incident by Business Associate or its subcontractors or agents of which Business Associate becomes aware.

3.12. Provide adequate training to members of its Workforce and to its subcontractors and agents regarding the requirements of the HIPAA Rules, HITECH, and this Addendum.

3.13. Provide Business Associate's policies and procedures for maintaining the confidentiality of records in a Designated Record Set as required by the Privacy Rule and this Addendum to Covered Entity at its request.

3.14. Comply with all applicable federal and state privacy and security requirements.

4. Covered Entity agrees to:

4.1. Provide Business Associate with its notice of privacy practices if a limitation in the notice of privacy practices may affect Business Associate's Use or Disclosure of PHI under the Agreement of this Addendum.

4.2. Provide Business Associate with any changes in, or revocation of, permission by an Individual to the Use and/or Disclosure of PHI, if such changes affect Business Associate's permitted or required Uses and/or Disclosures. Covered Entity will further notify Business Associate of any restriction on the Use and/or Disclosure of PHI agreed to by Covered Entity in accordance with the provisions of 45 CFR 164.522 and any restriction requested by an Individual that Covered Entity is required to comply with in accordance with the provisions of HITECH.

5. Specific Uses and Disclosures Permitted by Business Associate. Except as otherwise limited in the Agreement and this Addendum, Business Associate may:

5.1. Use or Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate provided that such Uses and Disclosures are required under state and federal laws.

5.2. Use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 C.F.R. 164.504(e)(2)(i)(B) when such services are required pursuant to the Agreement between the parties.

6. LIABILITY LIMITATIONS. All parties agree to be responsible for their own negligent acts or omissions or other tortious conduct in the course of performance of this Agreement, without

waiving any sovereign immunity, governmental immunity or available defenses available to the parties under Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. All parties agree that any such liability or damages occurring during the performance of this Agreement caused by the joint or comparative negligence of the parties, or their employees, agents or officers shall be determined in accordance with comparative responsibility laws of Texas.

7. Term and Termination.

7.1. Term. The term of this Addendum shall be effective as of the Effective Date of the Agreement and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such PHI, in accordance with Section 7.3 below.

7.2. Termination for Cause. Covered Entity may immediately terminate the Agreement and this Addendum if Covered Entity determines that Business Associate has breached a material term of this Addendum. Alternatively, the Covered Entity may choose, in its sole discretion, to: (i) provide the Business Associate written notice of the existence of an alleged material breach; and (ii) afford the Business Associate an opportunity to cure said alleged material breach upon mutually agreeable terms. Nonetheless, in the event that mutually agreeable terms cannot be achieved within ten (10) days, Business Associate must cure said breach to the satisfaction of the Covered Entity within thirty (30) days from the date of the original notice. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of the underlying Agreement and this Addendum.

7.3. Effect of Termination.

7.3.1. Except as provided in paragraph 7.3.2 of this Section, upon termination of the Agreement or this Addendum, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This Section shall also apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

7.3.2. In the event that Business Associate determines that return or destruction of the PHI is infeasible, Business Associate shall provide in writing to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual written agreement of the Parties that return or destruction of the PHI is infeasible, Business Associate shall extend the protections of this Addendum to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

8. Rights to Proprietary Information; Injunctive Relief. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate. Business Associate understands and acknowledges that any disclosure or misappropriation of any of PHI in violation of this Addendum will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as Covered Entity shall deem appropriate. Such right of Covered Entity is to be in addition to the remedies otherwise available to Covered Entity at law or in equity.

9. Miscellaneous.

9.1. Amendment. The Parties agree to take such action as is necessary to amend this Addendum from time to time to comply with the requirements of applicable federal or state laws or regulations governing the Use or Disclosure of Individually Identifiable Health Information.

9.2. Survival. The respective rights and obligations of Business Associate under Section 7 of this Addendum shall survive the termination of the Agreement and this Addendum.

9.3. Interpretation. Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA and HITECH. The provisions of this Addendum shall prevail over any provisions in the underlying Agreement that may conflict or appear inconsistent with any provision in this Addendum.

9.4. No Third Party Beneficiary. Nothing in this Addendum is intended, nor shall be deemed, to confer any benefits on any third party.

9.5. Counterparts; Facsimiles. This Addendum may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

9.6 Effect of Addendum. Except as amended by this Addendum, the terms and provisions of the underlying Agreement shall remain in full force and effect.

9.7 Supersedure. In the event that any term or provision of any agreement between the parties conflicts with a term or provision of this Addendum, this Addendum shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their respective duly authorized representatives.

**Dallas County Hospital District d/b/a
Parkland Health & Hospital System**

Covered Entity

By:



By:

City Attorney

Name: Liz McMullen

Title: Vice President & Controller, Finance

By:

City Manager

Date:

9-28-16