

Hoag Community Dropbox Agreement

THIS AGREEMENT (the “**Agreement**”), dated as of the [REDACTED] day of [REDACTED], 2016 sets forth the terms and conditions under which Hoag Memorial Hospital Presbyterian and its Affiliates (“**Hoag**”), as it creates its community-wide health information exchange (“**HIE**”) system, shall permit [REDACTED] (“**HIE User**”) to license and install a computer interface (the “**Dropbox**”) to enable HIE User to receive diagnostic results and/or medical reports from Hoag at the HIE User location listed below. HIE User and Hoag may be referred to in this Agreement individually as a “**Party**” and together as the “**Parties.**”

1. Hoag Responsibilities. As part of its provision of electronic delivery of diagnostic results and/or medical reports to HIE User, Hoag shall provide for the software development, licensing and installation of the Dropbox at no cost to HIE User.

2. HIE User Responsibilities.

2.1 The sole purpose of the Dropbox is to communicate diagnostic results and/or medical reports from Hoag to HIE User electronically. HIE User shall not use or permit the use of the Dropbox for any other purpose, and shall not copy, disclose, market, license, sell or distribute the Dropbox to any third party.

2.2 HIE User shall look solely to Hoag for licensing, installation, training and support and/or maintenance of the Dropbox.

2.3 HIE User is responsible for maintaining its own system (including all hardware, software, internet connectivity and related expenses). All communications facility charges shall be borne by HIE User.

3. Dropbox Failure Reporting. HIE User shall immediately report to Hoag notice of any failure of the Dropbox to receive accurate and timely diagnostic results and/or medical reports so that Hoag can arrange for transmission of diagnostic results and/or medical reports via alternative methods in the event that the issue cannot be resolved within one (1) business day.

4. Term and Termination. This Agreement shall remain in force until terminated upon the provision by either Party to the other of thirty (30) days’ written notice of termination. Upon termination, Hoag shall arrange for alternative provision of diagnostic results and/or medical reports to HIE User as mutually agreed upon by the Parties.

5. Confidentiality.

5.1 Patients’ clinical records and other information received in the Dropbox relating to patients (“**Patient Data**”) are confidential and constitute “Protected Health Information” as defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended (“**HIPAA**”). As Covered Entities (also as defined under HIPAA), the Parties agree to use Patient Data consistent with permitted and required uses under HIPAA and in accordance with other Applicable Laws (as defined in Section 8, “Compliance with Laws”).

5.2 This Agreement is confidential and may not be disclosed to third parties without the prior written consent of Hoag, to the extent permissible by law.

5.3 The provisions of this Section 5 (“Confidentiality”) shall survive termination of this Agreement.

6. Limitation of Liability. HOAG EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES REGARDING THE DROPBOX, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. Exclusion of Damages. HOAG SHALL HAVE NO LIABILITY TO HIE USER FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY DAMAGES WHATSOEVER, INCLUDING DAMAGES FOR LOSS OF USE, DATA OR PROFITS ARISING OUT OF OR IN ANY WAY RELATED TO THE PERFORMANCE OF THE DROPBOX OR HIE USER'S USE OF THE DROPBOX, EVEN IF HOAG HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES. This limitation does not apply to claims for errors resulting solely from Hoag's negligence.

8. Compliance with Laws. Both Parties agree to comply with all applicable laws, rules or regulations ("**Applicable Laws**"). Applicable Laws include, but are not limited to, federal and state physician self-referral laws and regulations, federal and state anti-kickback laws and regulations, and HIPAA regulations.

9. Miscellaneous. This Agreement constitutes the entire understanding of the Parties regarding the subject matter of this Agreement. It may not be amended or modified except by a writing signed by the Parties. Neither Party may assign this Agreement without the prior written consent of the other Party. This Agreement shall be governed by California law, without regard to conflict of laws principles. All communications hereunder shall be in writing and shall be sent by registered or certified mail, return receipt requested, to the addresses noted below. All notices to Hoag shall be addressed to the attention of the Vice President and General Counsel. Neither Party shall use the name/logo of the other Party without the other Party's prior written consent.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day, month and year first written above.

For HOAG:	For HIE USER: _____
By:	By: _____
Print Name: Amy Klepsa	Print Name: _____
Title: Manager HIE Adoption & Quality	Title: _____
Date: _____	Date: _____
Address: One Hoag Drive, P.O. Box 6100 Newport Beach, CA 92658-6100	Address: _____