

Strategic Health Intelligence Subscription Agreement for Health Information Exchange Direct Services

This Contract, including all Exhibits, Schedules, Terms and Conditions, and Attachments (“Subscription Agreement”) by and between Strategic Health Intelligence, LLC (“SHI”) and _____ (“Subscribing Participant”) is made effective as of this _____ day of _____ (Mo), _____ (Yr), for Health Information Exchange Direct (HIE Direct) Services.

Background

SHI has engaged Vendor to facilitate the exchange of Health Data through the use of a Health Information Exchange and HIE Direct Services.

Subscribing Participant desires to subscribe to and utilize the HIE Direct Services which SHI has procured through agreement with Vendor.

By subscribing to the HIE Direct Services, Subscribing Participant desires to exchange Health Data with the Strategic Health Intelligence Health Information Exchange and the Florida Health Information Exchange.

Thus, for and in consideration of the mutual covenants contained below, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby expressly acknowledged, the parties hereto mutually agree to the following terms and conditions:

Article I Definition of Terms

All definitions in the SHI Health Information Exchange General Participation Terms and Conditions which is attached and hereby incorporated by reference to this Agreement as Exhibit “A”, along with the following additional definitions apply to this Agreement:

1.1 **“Authorization Form”** means the Florida Form or its equivalent which is obtained either in the hospital or ambulatory setting by the Subscribing Participant. This may be communicated to the patient via the Notice of Privacy document that states the patient’s information may be shared on the HIE.

1.2 **“Cloud Environment”** means a technology infrastructure developed to provide applications as a service over the Internet, hosted remotely from the Subscribing Participant’s physical locations.

1.3 **“Continuity of Care Document”** means an electronic file that summarizes an individual’s medical status in a standard format for the purpose of information exchange. It contains a core data set of the most relevant administrative, demographic, and clinical information about an individual's health care, covering one or more health care encounters.

1.4 **“Delivery Service”** means the service provided by Vendor on the Network wherein the Subscribing Participant’s System requests Health Data on an Individual under Subscribing Participant's care (and with which it has a Treatment relationship) to other participants that are a part of health information exchanges, and for Public Health reporting purposes authorized by law.

1.5 **“Florida Form”** means the “Universal Patient Authorization Form for Full Disclosure of Health Information for Treatment and Quality of Care” adopted in Rule 59B-16.002, Florida Administrative Code.

1.6 **“HIE Direct Service”** shall mean the service provided by Vendor on the Network wherein the Subscribing Participant may, on behalf of one of its authorized Participant Users, send or receive a request for Health Data on an Individual under its care (and with which it has a Treatment relationship) to or from other Subscribing Participants through the Network, and send or receive a response to or from other Subscribing Participants that includes any Health Data found for that Individual.

1.7 **“Vendor”** means the technology provider company contracted by SHI to provide the services outlined in this Agreement for Subscribing Participants.

Article II Permitted Uses of the HIE Direct Service

Subscribing Participant agrees that it shall use or access Health Data through the Health Information Exchange via the HIE Direct Service, only for the following purposes (including any other Permitted Uses/Purposes in the SHI Health Information Exchange General Participation Terms and Conditions):

2.1 Execution of Vendor’s Duties. The Vendor shall have access to the Health Data, but only for the express purpose of connecting the Subscribing Participants and facilitating the delivery of the Health Data on behalf of such Subscribing Participants and otherwise fulfilling its obligations under this Agreement and its operating agreement with SHI. Vendor shall have no rights to access or use any Health Data beyond these limited purposes. Vendor does not claim any ownership in any of the content, including any text, data, information, images, sound, video or other material, that a Subscribing Participant may send, store or receive via the HIE Direct Network.

2.2 Network Reports. If SHI is required to arrange for certain reports and evaluations of the Network under a federal grant or contract, all Subscribing Participants agree to permit Vendor to generate such reports and provide such information as may be necessary for such required evaluation. To the extent any such reports contain any Health Data, such Health Data shall have undergone prior de-identification.

2.3 Management Uses. The Vendor may request information from Subscribing Participants related to potential breach or other security or technical issue, and Subscribing Participant shall not unreasonably refuse to provide information to Vendor for such purposes. Notwithstanding the preceding sentence, in no case shall a Subscribing Participant be required to disclose PHI to the Vendor in violation of Applicable Law. Any information, other than Health Data, provided by a Subscribing Participant to the Vendor shall be treated as Proprietary Information in accordance with Section 3 (Proprietary Information) of this Agreement's General Participation Terms and Conditions unless agreed otherwise. Vendor shall have access to all Proprietary Information necessary in order to fulfill its duties under this Agreement.

2.4 Cooperation by Participants in Network Evaluations. The Subscribing Participants agree to cooperate in studies conducted from time to time by SHI, Vendor or their respective agent related to various issues surrounding the Network, including, but not limited to, a project evaluation required by a federal grant or contract with SHI, and the efficacy and usefulness of the Network. Such cooperation by the Subscribing Participants may include, but not be limited to, participation in interviews, the completion of surveys, and the submission of other written or oral evaluations.

2.5 Treatment. Treatment of the Individual who is the subject of the Protected Health Information (PHI) requested or received by the Participant User or Recipient but only to the extent that these purposes are expressly permitted by the Individual in an Authorization Form or for a medical emergency as permitted in Applicable Law.

2.6 Health Care Operations. Health Care Operations but only to the extent that these purposes relate to quality or other purposes expressly permitted by the Individual in an Authorization Form and provided that the requesting Participant User of a Subscribing Participant has an established Treatment relationship with the Individual who is the subject of the PHI; or health care fraud and abuse detection with respect to use of the HIE Direct or compliance with this Agreement's requirements. The requesting Participant User of the Subscribing Participant must be requesting/accessing PHI for Participant User's own use. Subscribing Participant shall only use the Minimum Necessary PHI for such Health Care Operations purposes.

2.7 Public Health. Public Health activities and reporting, but only to the extent permitted by Applicable Law.

2.8 Disability Determination. Activities necessary for establishing whether an Individual is eligible for Social Security disability payments by federal or state agencies where access to medical records is authorized by the Individual for this purpose.

2.9 Clinical Data Analysis. For the development of analytics to examine groups of patients and discover health trends in the community to facilitate predictive modeling.

2.10 Third Party Data Reports. For the creation of aggregate reports regarding the health information of communities, and subsets of these communities. The report will not reveal PHI.

Article III

Duties of Subscribing Participants

3.1 Compliance. All use of and interactions with the Network by Subscribing Participant (and Participant's Users) shall comply with all applicable Network Operating Policies for Health Information Exchange Services which is attached and incorporated hereto as Attachment "B", SHI Health Information Exchange Patient Medical Records Access Policy, attached and incorporated hereto as Attachment "C", the SHI Health Information Exchange General Participation Terms and Conditions, this Subscription Agreement(s), any agreements between Subscribing Participant and its Participant Users, any Data Use and Reciprocal Support Agreements as discussed in Article VI, and all Applicable Law. Nothing in this Section shall require a disclosure that is contrary to a restriction (granted by the Subscribing Participant) placed on PHI by a patient pursuant to Applicable Law. Subscribing Participant shall be solely responsible for maintaining patient medical records, as applicable, in accordance with Applicable Laws, and shall not rely upon Health Data transmitted to, and temporarily stored on, the Network for meeting Subscribing Participant's obligations under any such laws. Failure to comply with any of the above referenced terms shall be grounds for suspension or termination of this Subscription Agreement.

3.2 Impermissible Purposes. Subscribing Participant shall not use the HIE Direct Service or permit any Participant User to use the Service to conduct any business or activity, or solicit the performance of any activity, which is prohibited by or would violate any Applicable Law or legal obligation, or for purposes that may create civil or criminal liability, including but not limited to: (i) uses which are defamatory, deceptive, obscene, or otherwise inappropriate; (ii) uses that violate or infringe upon the rights of any other person, such as unauthorized distribution of copyrighted material; (iii) "spamming," sending unsolicited bulk e-mail or other messages on the Network or sending unsolicited advertising or similar conduct; (iv) threats to or harassment of another; (v) knowingly sending any virus, worm or other harmful component; and (vi) impersonating another person or other misrepresentation of source.

Further, Subscribing Participant will not knowingly use the Network, and will not permit any of its Participant Users to use the Network, (i) in a manner that significantly and adversely affects the performance or availability to other Subscribing Participants of the Network, (ii) in a manner that interferes in any way with Vendor's computers or network security, or (iii) to attempt to gain unauthorized access to Vendor's or any Subscribing Participant's computer system.

3.3 Cooperation. To the extent not legally prohibited, each Subscribing Participant shall: (i) cooperate fully with SHI, Vendor, and other Subscribing Participant's with respect to such activities as they relate to this Agreement; (ii) provide such information to SHI and/or Vendor and/or each other Subscribing Participant as they may reasonably request for purposes of performing activities related to this Agreement, (iii) devote such time as may reasonably be requested by SHI or Vendor to review information, meet with, respond to, and advise SHI, Vendor, or other Subscribing Participants with respect to activities as they relate to this Agreement; (iv) provide such reasonable assistance as may be requested by SHI or Vendor when performing activities as they relate to this Agreement; and (v) subject to a Subscribing Participant's right to restrict or condition its cooperation or disclosure of information in the interest of preserving privileges in any foreseeable dispute or litigation or protecting a Subscribing Participant's Proprietary Information, provide information and assistance to SHI, Vendor or other Subscribing Participants in the investigation of Breaches and Disputes. In no case shall a Subscribing Participant be required to disclose PHI in violation of Applicable Law. In seeking another Subscribing Participant's cooperation, each Subscribing Participant shall make all reasonable efforts to accommodate the other Subscribing Participant's schedules and operational concerns. A Subscribing Participant shall promptly report, in writing to any other Subscribing Participant, SHI, and Vendor, any problems or issues that arise in working with the other Subscribing Participant's employees, agents, or subcontractors that threaten to delay or otherwise adversely impact a Subscribing Participant's ability to fulfill its responsibilities under this Agreement.

3.4 Safeguards. Each Subscribing Participant shall be responsible for maintaining a secure environment that supports access to and use of the Network via the HIE Direct Service. Each Subscribing Participant shall use appropriate safeguards to prevent use or disclosure of PHI by such party other than as permitted by this Agreement, including appropriate administrative, physical, and technical safeguards that protect the confidentiality, integrity, and availability of PHI through the Network.

3.5 Malicious Software. In participating in HIE Direct, each Subscribing Participant shall ensure that it employs security controls that meet applicable industry or Federal standards so that the information and Health Data being transmitted and any method of transmitting such information and Health Data will not introduce any viruses, worms, unauthorized cookies, Trojans, malicious software, "malware," or other program, routine, subroutine, or data designed to disrupt the proper operation of a System, the Network or any part thereof, or any hardware or software used by a Subscribing Participant or Vendor in connection therewith, or which, upon the occurrence of a certain event, the passage of time, or the taking of or failure to take any action, will cause a System or the Network or any part thereof or any hardware, software or data used by a Subscribing Participant or Vendor in connection therewith, to be improperly accessed, destroyed, damaged, or otherwise made inoperable. In the absence of applicable industry standards, each Subscribing Participant and Vendor shall use all commercially reasonable efforts to comply with the requirements of this Section.

Article IV Duties of Vendor

4.1 Vendor will provide the HIE Direct services as described in its agreement with SHI, which have been attached and incorporated hereto as "Vendor Responsibilities and Service Levels" in Attachment "D".

Article V
Duties of SHI

5.1 SHI's role is only to facilitate the exchange of Health Data through the operation of the Network and Services, in accordance with Vendor's agreement with SHI and as provided in this Subscription Agreement. SHI has no role in verifying whether a Subscribing Participant is authorized to send, receive, use or disclose particular Health Data.

Article VI
Data Use and Reciprocal Support Agreements

6.1 Subscribing Participant recognizes that in order to gain access to the Florida Health Information Network (FHIN), to allow for broader exchange of Health Data for its Subscribing Participants, SHI has entered into various Data Use and Reciprocal Support Agreements (DURSA) with each of these respective Health Information Networks.

6.2 Each DURSA is a single multi party agreement that establishes the rules of engagement and obligations under applicable laws which all participants in the respective Health Information Network to which the DURSA applies agree to be bound by

6.3 These DURSAs are occasionally amended and updated to reflect the framework for a broad based information exchange under the then existing body of law.

6.4 SHI's HIE to which the Subscribing Participant is joining through this Subscription Agreement, has joined the Florida Health Information Exchange through DURSAs executed by SHI.

6.5 The Subscribing Participant agrees to abide by the terms of these agreements as a Subscribing Participant of SHI's HIE, including the current DURSA, and any amended or additional DURSA's that are necessary for SHI's HIE to remain a member of the aforementioned Health Information Networks.

Article VII
Payment for Services

7.1 Subscribing participant agrees to pay SHI the monthly cost of \$__35.00__, within 30 calendar days of the date of SHI's invoice for the Health Information Exchange Services outlined in this Agreement. SHI will invoice Subscribing Participant once a month, at the end of the month. Invoices are sent by the 10th business day of the following month or on a yearly basis.

7.2 The above cost is exclusive of all federal, state, municipal, or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future, and the Subscribing Participant shall pay any tax (excluding taxes on SHI's net income) that SHI may be required to collect or pay now or at any time in the future and that are imposed upon the sale or delivery of items or services provided pursuant to this Agreement.

7.3 SHI may, at its option, assess a finance charge of the lesser of 2% per annum, accrued, calculated and payable monthly, or at the highest amount allowed by law, on all past due amounts. In the event that the Subscribing Participant fails to make timely payment, SHI will have no obligation

to continue to provide services, if after providing written notice to Subscribing Participant of non-payment, Subscribing Participant does not make payment within ten (10) business days.

7.4 Subscribing Participant is responsible for paying any additional fees or costs involved in establishing a connection to the HIE Direct Service, including but not limited to the costs of any system infrastructure or equipment necessary to comply with the Network Operating Policies Specific to the HIE Direct Services Services, gain access to the Heath Information Exchange, or otherwise meet its duties under this Agreement.

7.5 In the event payment due to SHI need be collected at law, through or under the advice of an attorney, or through a collection agency, Subscribing Participant agrees to pay all costs of collection, including without limitation all court costs and reasonable attorney's fees.

Article VIII Term of Agreement

8.1 Subscription Start Date. Health Information Exchange Services provided to the Subscribing Participant under this Agreement shall begin on _____.

8.2 The term of this Agreement and the rights and obligations assumed under it, commence on the date this Agreement is signed by both parties, and shall continue in full force and effect for ____ () years, unless written notice of termination or intent to renegotiate the payment terms is delivered to the other party at least ten (10) days prior to the expiration of any term, including the initial ____ () year term.

8.3 If either party is in default under this Agreement (including non-payment), then the non defaulting party may terminate the Agreement if after giving notice to the defaulting party of the default, and allowing the defaulting party ten (10) business days to cure its default, the default remains uncured.

Article IX General Terms and Conditions

9.1 SHI Health Information Exchange General Participation Terms and Conditions is hereby incorporated into this Agreement and attached hereto as Attachment "A".

Article X Conflict

10.1 If a provision of this Strategic Health Intelligence Subscription Agreement for HIE Direct Services conflicts with a provision in the SHI Health Information Exchange General Participation Terms and Conditions, or any other applicable amendment, the provision of this Strategic Health Intelligence Subscription Agreement for Health Information Exchange Services controls.

Article XI
Notices

11.1 All notices to be made under this Agreement shall be given in writing to the appropriate party's representative at the address listed in this Article XI, and shall be deemed given: (i) upon delivery, if personally delivered; (ii) upon the date indicated on the return receipt, when sent by U.S. Postal Service Certified Mail, return receipt requested; (iii) if by transmission through a nationally recognized overnight courier service that has the capability to track the notice, upon receipt; (iv) if transmitted via electronic mail to the address listed in this Article, upon the date and time indicated by the electronic date and time stamp; or (v) if transmitted by facsimile upon the date and time stamp indicated by the send confirmation.

For notices to Subscribing Participant, use:

Company Name: _____

Contact: _____

Address: _____

Email: _____

Phone: _____

Fax: _____

For notices to Strategic Health Intelligence, LLC, use:

Strategic Health Intelligence, LLC
PO Box 747
Pensacola, FL 32591
Attention: Strategic Health Intelligence
Email: ashleyspikes@the-hie.com
T: (850) 393-3219

*This Agreement continues onto the next page for signature and execution.

IN WITNESS WHEREOF, this Subscription Agreement for Health Information Exchange Services has been entered into and executed by officials duly authorized to bind their respective parties.

Strategic Health Intelligence, LLC

By: (Printed) _____

Name: _____

Title: _____

Date Signed: _____

Subscribing Participant: _____

By: (Printed) _____

Name: _____

Title: _____

Date Signed: _____