

**DOCUMENT 10:
ALASKA CHARTLINK PROVIDER PARTICIPANT AGREEMENT**

Alaska ChartLink: Provider Participant Agreement

This Provider Participant Agreement (the “Agreement”) made between _____, a _____ located at _____ (hereinafter “Provider”), and Alaska ChartLink, an Alaska nonprofit, located at _____ (hereinafter “Alaska ChartLink”).

A. WHEREAS, Alaska ChartLink is a health information exchange (HIE) organization formed for the purpose of facilitating HIE between and among providers, patients and authorized third-party entities. As part of this activity, Alaska ChartLink allows participating providers who enter into and comply with this Agreement access to personal health information held by other participating organizations through the Alaska ChartLink Network (the “Network”).

B. WHEREAS, Provider desires to obtain access to use the Network and, accordingly, has completed and executed the necessary portions of this Agreement, as well as reviewing and agreeing to the various policies of the Network.

C. WHEREAS, Although Alaska ChartLink is not a Covered Entity under HIPAA, this Agreement is entered into for the purpose of protecting the confidentiality and security of patient information transmitted or communicated to Provider as part of or in connection to the Network and for complying with Provider’s obligations under the federal Health Insurance Portability and Accountability Act of 1996 and its implementing regulations on privacy and security, 45 C.F.R. Parts 160 and 164 (“HIPAA”).

D. NOW THEREFORE, for good and valuable consideration, Alaska ChartLink and the Provider agree to the following:

I. Definitions.

For the purposes of this Agreement, the listed terms below shall have the definitions as set forth below:

- A. Protected Health Information. Protected Health Information (PHI) shall have the same meaning as the terms “Protected Health Information” or “PHI” in the Privacy Rule.
- B. Privacy Rule. Privacy Rule shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and 164.
- C. Required by Law. Required by Law shall have the same meaning as the term Required by Law in the Privacy Rule.
- D. Databases. Databases refers to the information and data collected by all providers participating in the Alaska ChartLink Network.

II. Use and Disclosure of Data.

Alaska ChartLink hereby authorizes Provider to have access to the Network and the Databases accessible through the Network for the following uses and purposes:

- A. Treatment of a patient of or by Provider.

- B. Mitigation of a breach of confidentiality (as defined in the Alaska ChartLink Breach of Confidentiality Policy) or unauthorized access of PHI.
- C. Payment for healthcare services.
- D. Auditing and monitoring compliance with the terms and conditions of this Agreement.
- E. Providing customized summary reports with non-identifying data or statistics as needed for public health or other governmental purposes required by law.

Provider hereby authorizes Alaska ChartLink (and all persons participating in the Alaska ChartLink Network) to have access to its data bases and PHI for the following uses and purposes:

- A. Treatment of a patient.
- B. Mitigation of a breach of confidentiality (as defined in the Alaska ChartLink Breach of Confidentiality Policy) or unauthorized access of PHI.
- C. Auditing and monitoring compliance with the terms and conditions of this Agreement.
- D. Providing customized summary reports with non-identifying data or statistics as needed for public health or other governmental purposes required by law.

III. Responsibilities of Alaska ChartLink as a Business Associate:

Alaska ChartLink and Provider acknowledge that under the Privacy Rule, Provider is a Covered Entity and Alaska ChartLink is a Business Associate of the Provider with respect to certain Alaska ChartLink duties. Alaska ChartLink and Provider will be using and disclosing PHI. Accordingly, Alaska ChartLink and Provider agree as follows:

- A. Alaska ChartLink may not use or disclose PHI in any manner that would constitute a violation of this Agreement or 45 C.F.R. Parts 160 and 164 if used or disclosed by Provider except that:
 - 1. Alaska ChartLink may use and disclose PHI if necessary for proper management and administration of Alaska ChartLink or to carry out the legal responsibilities of Alaska ChartLink.
- B. Alaska ChartLink agrees to not use or further disclose PHI other than as authorized by this Agreement or as required by law.
- C. Alaska ChartLink will use appropriate administrative, technical and physical safeguards to protect the confidentiality and integrity of PHI and to prevent the use or disclosure of any individually identifiable health information received from or on behalf of Provider other than as permitted or required by Federal or State law or by this Agreement. Alaska ChartLink agrees to comply with applicable requirements of law relating to PHI and with respect to any task or other activity Alaska ChartLink performs on behalf of Provider to the extent that the Provider would be required to comply with such requirements.
- D. If Alaska ChartLink becomes aware of any use or disclosure of PHI, not provided for by this Agreement, it shall report such use or disclosure to Provider.

- E. Alaska ChartLink shall mitigate, to the extent reasonable practicable, any deleterious effects from any improper use and/or disclosure of PHI that Alaska ChartLink reports to Provider.
- F. Alaska ChartLink shall require that its agents, including subcontractors, to whom it provides PHI under this agreement, agree to the same restrictions and conditions that apply to Alaska ChartLink with respect to such information.
- G. Alaska ChartLink agrees to comply with Provider's request to accommodate an individual's access to his/her PHI in a mutually acceptable time and manner. In the event an individual contacts Alaska ChartLink directly about access to PHI, Alaska ChartLink will not provide access to the individual but shall immediately forward such request to Provider.
- H. Alaska ChartLink agrees to comply with Provider's request to make amendments to PHI pursuant to 45 C.F.R. 164.526. Alaska ChartLink shall promptly incorporate any such amendments into the PHI. In the event an individual contacts Alaska ChartLink directly about making amendments to PHI, Alaska ChartLink will not make any amendments to the individual's PHI, but shall forward such request to Provider.
- I. Alaska ChartLink agrees to document such disclosures of PHI and information related to such disclosures as would be required for Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528. Alaska ChartLink agrees to provide to Provider in a mutually acceptable time and manner, information collected in accordance with this section, to permit Provider to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528.
- J. Alaska ChartLink shall make its internal practices, books and records relating to uses and disclosures of PHI available to the Secretary of the U.S. Department of Health and Human Services or designee, for purposes of determining Provider and Alaska ChartLink compliance with the Privacy Rule.
- K. Upon termination of this Agreement, Alaska ChartLink shall return or destroy all PHI and will retain no copies of such information. If such return or destruction of PHI is not feasible, Alaska ChartLink agrees that the provisions of this Agreement are extended beyond termination to such PHI, and Alaska ChartLink shall limit all further uses and disclosures to those purposes that make the return or destruction of such PHI infeasible.
- L. Alaska ChartLink agrees to regularly monitor and audit the access of each Network participant, and to take reasonable steps to pursue any breach or other privacy and security issues raised by such monitoring and auditing.

Provider reserves the right to terminate Alaska ChartLink's use of the PHI at any time that Provider has reason to believe that Alaska ChartLink has violated any of the conditions set forth in paragraphs A-K of Section III, or has accessed any information not described herein for any purpose.

IV. Duties of Provider.

- A. Provider authorizes Alaska ChartLink and the Network to obtain Provider's data in a mutually agreed upon format.

- B. Provider agrees to be bound by the restrictions and conditions of paragraphs A-K of Section III to the extent Provider has access to PHI of other Providers through Alaska ChartLink. Alaska ChartLink reserves the right to terminate Provider's access to the Network and access to the Databases at any time that Alaska ChartLink has reason to believe that Provider has violated any of the conditions set forth in Section III or has accessed any information that Provider would not otherwise be authorized to receive pursuant to this Agreement.
- C. Provider agrees to be bound by the policies and procedures of Alaska ChartLink, as may be amended from time to time by Alaska ChartLink. The policies and procedures of Alaska ChartLink shall be considered a part of this Agreement. Provider agrees to review these policies and procedures with employees and to obtain an attestation of such policies and procedures from each employee prior to providing access to the Network.
- D. Provider agrees to supply Alaska ChartLink with copies of the applicable privacy and security policies and procedures of its organization upon signing of this Agreement. The Provider may also be asked at any time to provide evidence of compliance with Alaska ChartLink policies, and to validate that appropriate organizational policies and procedures are in place to comply with those policies. If a Provider needs assistance with such policies and procedures, it should notify Alaska ChartLink prior to entering into this Agreement, and Alaska ChartLink will provide assistance to the extent that such resources are available.
- E. Provider agrees to regularly monitor and audit access to Alaska ChartLink and report any issues to Alaska ChartLink upon discovery. Provider shall immediately notify Alaska ChartLink of the revocation of an individual's access and will provide a follow-up report regarding the breach/violation within sixty (60) days of such breach/violation.
- F. Provider agrees to supply Alaska ChartLink with the names of any persons who are given access to the Network, and a quarterly list of the active staff with access to the Network (due by the 15th of January, April, July and October). Provider should be aware, and should make potential employees aware, that individuals may be denied access to the Network based on past performance or behavior reported by a former employer or other participating provider.
- G. Provider understands that the Network primarily depends on the participating providers to ensure that the patient information in the Databases is true, accurate and complete. If the Provider becomes aware of any inaccuracies in its own Database, it agrees to communicate such inaccuracy to Alaska ChartLink as soon as reasonably possible.

V. Fees.

Participation in the Network may be subject to an access fee or fees, depending on the size of the organization and number of accessing individuals. Alaska ChartLink will

distribute any proposed fee schedule at least thirty (30) days prior to instituting such fee, and participating providers will have the option to terminate at that time.

VI. Term.

The term of this Agreement shall begin _____, or upon signature by both parties, whichever is later, and shall continue in force for _____ years from such date. Thereafter, the Agreement will automatically renew for additional one (1) year periods, provided that during any such renewal period either party may terminate this Agreement without cause upon giving thirty (30) days prior written notice to the other.

VII. Termination

Notwithstanding any other provision of this Agreement, either party may immediately terminate this Agreement if the other party has materially violated its responsibilities regarding PHI under this Agreement and has failed to provide satisfactory assurances within ten (10) days of notice of such material violation that the violation has been cured and steps taken to prevent its recurrence.

Alaska ChartLink also reserves the right, within its sole discretion, to suspend or terminate Provider's access (or access of any individual working at Provider) upon reasonable suspicion of a violation of this Agreement, or violation of policies and procedures that may jeopardize the privacy and security of the Databases.

VIII. Insurance and Liability.

In order to adequately insure themselves for liability arising out of the activities to be performed under this Agreement, each party agrees to obtain and maintain in force and effect liability insurance to insure themselves and their respective personnel for liability arising out of activities to be performed under, or in any manner related to, this Agreement.

IX. Independent Contractor Relationship

None of the provisions of this Agreement are intended to create any relationship between the parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties, nor any of their respective officers, directors, employees or agents, shall have the authority to bind the other or shall be deemed or construed to be the agent, employee or representative of the other except as may be specifically provided herein. Neither party, nor any of their employees or agents, shall have any claim under this Agreement or otherwise against the other party for Social Security benefits, workers' compensation, disability benefits, unemployment insurance, vacation, sick pay or any other employee benefits of any kind.

X. Confidentiality

As noted above, the parties shall maintain the confidentiality of patient medical records and treatment in accordance with state and federal laws. In addition, each party acknowledges that information regarding the other party's business operations, including, but not limited to, procedures, programs, formularies and reimbursement schedules are proprietary and confidential, and agrees to hold such information in strict confidence and not to disclose or make available such information to any third party, except as required by law.

XI. Effect of Governmental Laws and Regulation

Each party shall have the right to terminate this Agreement to comply with any legal order, ruling, opinion, procedure, policy, or other guidance issued, or proposed to be issued, by any federal or state agency, or to comply with any provision of law, regulation, or any requirement of accreditation, tax-exemption, federally-funded health care program participation or licensure which: (i) invalidates or is inconsistent with the provisions of this Agreement; (ii) would cause a party to be in violation of the law; or (iii) jeopardizes the good standing status of licensure, accreditation or participation in any federally-funded healthcare program, including the Medicare and Medicaid programs.

XII. Miscellaneous

- A. Assignment. This agreement shall not be assignable by either party except upon the written consent to such assignment by the other party.
- B. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to access to the Network.
- C. Governing Law. This Agreement shall be governed by the laws and decisions of the State of Alaska and federal privacy laws such as HIPAA, to the extent they preempt Alaska state law.
- D. Survival of Obligation. Articles III, VIII and X of this Agreement shall survive the expiration or termination of this Agreement.
- E. Notice. All notices and other communications required or permitted to be given shall be made in writing and shall be considered given and received when (a) personally delivered to the other party; (b) delivered by courier; (c) delivered by facsimile; or (d) deposited in the U.S. Mail, postage prepaid, return receipt requested and addressed as set forth below or at such other address such party shall have specified by notice given in accordance with the provisions of this section.

[Remainder of page intentionally blank]

Alaska ChartLink and Provider have executed this Agreement in their respective names by their duly authorized officers.

Alaska ChartLink

[Provider]

By: _____
Title: _____
Date: _____
Notice Address:

By: _____
Title: _____
Date: _____
Notice Address: