

Pinnacle Integrated Medicine, Inc.

ACO PARTICIPANT AGREEMENT

THIS ACO PARTICIPANT AGREEMENT (this “Agreement”) is entered into as of the 1st day of January, 2020 (the “Effective Date”) by and between Pinnacle Integrated Medicine, Inc. an Idaho benefit corporation (“Pinnacle” or “ACO”), and _____ (“ACO Participant”).

Background

The problems of fragmented, duplicative, and uncoordinated care affects almost all patients in the United States health care system today, but this is especially burdensome for patients with multiple chronic conditions and for physicians who are coordinating their care. Lack of transitional care support, incentives, or collaborative infrastructure leads to errors and waste.

Pinnacle provides collaborative and accountable care system support to the ACO Participant. As more particularly described in Pinnacle’s policies and procedures, the model involves health care initiative programs using the team approach with the patient at the center to provide resources for caregivers to provide enhanced and coordinated patient-centered medical home-directed care for patients through such things as prevention, standardization of evidence-based best practices, community-based care coordination, investments in health information technology, health information exchange, medication reconciliation, and reimbursement incentives for increasing the quality and efficiency of care for patient populations (“ACO Programs”). For purposes of clarity, ACO Programs specifically include ACO and ACO Participants, through their ACO provider/suppliers, defined herein, meeting all of the applicable terms and conditions of the Medicare Shared Savings Program (the “MSSP”).

The purposes of this Agreement include providing means for Pinnacle and ACO Participant: (1) to participate in care coordination and obtain resources and payments through ACO Programs; and (2) to allow the parties an effective means of participating in acceptable ACO Programs with the Medicare program.

The parties desire to memorialize their respective roles, rights, and responsibilities through the execution of this Agreement.

NOW, THEREFORE, in consideration of the promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

I. Rights and Obligations of ACO

- (a) Support. ACO shall support and coordinate the activities of the ACO Participant in providing ACO Services to encourage joint accountability for improving the quality of care and reductions in spending growth. ACO provides administrative services, data

analysis, data support, and operational and policy recommendations to the ACO Participant. ACO facilitates coordinated sharing of best practices and uniformity of policies and processes among payors and providers.

(b) ACO shall provide specific support as appropriate to the initiative involved as follows:

- 1) Collect claims and clinical data in the ACO central data repository. Provide data analysis, reporting, performance measurement, and point-of-care clinical data support.
- 2) Assist ACO Participant so that every patient involved in an ACO Program has a primary care provider who assumes responsibility for care, with access to a multi-disciplinary team to address each patient's needs.
- 3) Consistent with recognized national standards, develop and provide training in and support programs to incorporate evidence-based best practice standards of care (*i.e.*, common chronic diseases, such as diabetes; asthma; hypertension; congestive heart failure; heart attack; multiple chronic disease management; reduced hospital readmissions; care transition protocols; prevention of unnecessary Emergency Department visits; and development of prevention roadmaps). Guidelines and care delivery processes will cover diagnoses with significant potential to achieve quality and cost improvements, taking into account circumstances of individual patients.
- 4) Establish clinically valid and severity-adjusted performance metrics, monitor performance measures, and provide regular feedback, including periodic reports.
- 5) Provide tools and initiatives to facilitate care transitioning, including admission to and discharge from the inpatient setting.
- 6) Provide administrative services support, including financial accounting and administration, and operate in a prudent and fiscally sound manner.

(c) ACO may take remedial action (including the imposition of a corrective action plan, denial of incentive payments such as Shared Savings distributions, and termination of the ACO's agreement with the ACO Participant) to address noncompliance with the terms of the MSSP program or program integrity issues identified by CMS.

II. Rights and Obligations of ACO Participant

(a) Qualifications. ACO Participant shall maintain sufficient personnel and facilities to meet ACO Participant's responsibilities under this Agreement. ACO Participant, and ACO provider/suppliers of ACO Participant, shall maintain all licenses, qualifications, accreditations, credentials, and privileges required to provide the services hereunder. For purposes of this Agreement, "ACO provider/suppliers" are ACO provider/suppliers

as defined in 42 CFR 425.20 who are and maintain all licenses and certifications to provide health care services within the State or territory in which services are delivered. ACO Participant shall ensure that medical services to members comply with sound medical practice. ACO Participant shall ensure that all of ACO providers/suppliers are properly qualified, credentialed for and enrolled in the Medicare and Medicaid programs (or obtain suitable waivers to allow participation in care coordination arrangements with such payors) and applicable ACO Programs.

- (b) Policies and Procedures. ACO Participant shall make reasonable efforts to have all of its personnel comply with all applicable ACO policies and procedures. ACO Participant shall take prompt remedial action against its ACO provider/supplier, including the imposition of a corrective action plan, denial of incentive payments, and/or termination of this Agreement, to address non-compliance with the requirement of the Medicare Shared Savings Program (“MSSP”) or other program integrity issues, including those identified by CMS. If ACO Participant is unable or unwilling to comply with such policies or procedures, ACO may terminate this Agreement by providing ACO Participant not less than thirty (30) days’ written notice.
- (c) Acceptance of Patients. ACO Participant shall provide care coordination services for patients contracted on ACO Participant’s behalf by ACO pursuant to this Agreement, unless ACO Participant provides ACO with thirty (30) days’ advance written notice that ACO Participant is unable to provide care coordination services for such patient.
- (d) Care Coordination. ACO Participant, through its ACO provider/supplier, agrees to participate diligently and in good faith in the responsibilities, duties and privileges arising from participation in ACO Programs which may include active engagement in advanced primary care practice patient-centered medical home activities, including coordination with care managers, following relevant enhanced care management protocols applicable to a patient; facilitating partnerships between patients and their care team and, when appropriate, their families; embedding best practices, clinical guidelines, and targeted initiatives into the overall routine delivery of patient care; participating in patient self-management initiatives; and, if applicable, accepting attribution of participating patients to their practice. ACO Participant agrees, and shall ensure that ACO provider/supplier agree, to become accountable for, and be willing to be involved in, public reports on the quality, cost, and overall care of patients with whom they are involved through ACO Programs.
- (e) ACO Participant shall provide relevant data for and abide by performance measurement activities, including those which may impact ACO Participant’s qualification for case management, shared savings, or other value-based payments, pursuant to all applicable laws, regulations, and data use agreements. Data requirements and/or performance metrics will follow nationally recognized criteria where possible and ACO metric selection protocols and be approved by relevant ACO committees.
- (f) ACO Participant shall identify patients participating in ACO Programs.

- (g) Upon execution of this Agreement, ACO Participant shall provide ACO a list of all ACO provider/supplier that includes the following data elements:
- 1) A list of all ACO provider/supplier that includes the following data elements:
 - a. Each Participating Provider's name (surname, first name, and middle initial), whether they are Participating Primary Care Providers (as defined above) and the type of licensure as a health care professional (*i.e.*, physician, nurse practitioner, etc.);
 - b. The Participating Provider's National Provider Identifier ("NPI") number;
 - c. The location (street, city, state, zip) of the ACO Participant at which the Participating Provider practices.
 - 2) The following ACO Participant-related information:
 - a. ACO Participant name.
 - b. ACO Participant address (street, city, state, zip code).
 - c. NPI.
 - d. Tax identification number.
 - e. Indication whether ACO Participant is an FQHC, RHC, or Critical Access Hospital (CAH).
- (h) At the request of ACO, ACO Participant shall provide to ACO documentation of the agreements that establish an affiliation between ACO Participant and its ACO provider/supplier.
- (i) ACO Participant shall promptly, and not less than within 30 days, report any change in composition of its ACO provider/suppliers, and update its Medicare enrollment information, including the addition and deletion of ACO professionals and ACO providers/suppliers billing through the TIN of the ACO Participant in accordance with medical performance requirements.
- (j) If required, ACO Participant shall notify assigned patients that they are participating in the applicable ACO Program covering them of the ACO Participant in accordance with medical performance requirements.
- (k) ACO Participant shall ensure that its ACO provider/suppliers do not avoid high-risk covered patients.
- (l) ACO Participant shall comply and ensure the compliance of all ACO provider/suppliers, with all requirements, terms, and conditions of the MSSP, including without limitation, such requirements, terms, and conditions set forth at 42 C.F.R. Part 425 and in any participation agreement between ACO and the Centers for Medicare and Medicaid Services ("CMS"). These include, without limitation, the quality reporting requirements of 42 C.F.R. 425 and the Beneficiary notification requirements in 42 C.F.R. 425.312. ACO Participant acknowledges and agrees that participating in the MSSP affects its ability to participate in other Medicare demonstration projects or programs that involve shared savings. ACO Participant shall ensure that ACO

provider/suppliers acknowledge and agree that participating in the MSSP affects their ability to participate in other Medicare demonstration projects or programs that involve shared savings.

- (m) ACO Participant shall ensure that ACO provider/suppliers shall have rights to meaningful involvement in the governance, direction, and operation of ACO. Among other governance rights, ACO Participant shall ensure that ACO provider/suppliers shall be eligible to serve on the committees of ACO.

III. Legal Compliance

The parties shall comply with all applicable local, state, and federal civil and criminal laws, including, but not limited to, 42 CFR 425, the participation agreement with CMS, federal criminal law, civil monetary penalties law, Title XVIII and XIX of the Social Security Act, the False Claims Act (31 U.S.C. 3729, *et seq.*), the anti-kickback statute (42 U.S.C. 1320a-7b(b)), the civil monetary penalties law (42 U.S.C. 1320a-7a), the physician self-referral law (42 U.S.C. 1395nn), Title 12 of the Code of Federal Regulations, the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, the Health Insurance Portability and Accountability Act of 1996 and any rules and regulations promulgated thereunder found at 45 C.F.R. Parts 160 and 164 (“HIPAA”), and federal regulations governing the confidentiality of alcohol and drug abuse patient records codified at 42 C.F.R. Part 2. ACO Participant will ensure that ACO providers/suppliers billing through the TIN of the ACO Participant also comply with all applicable local, state, and federal civil and criminal laws, including without limitation those listed above. Pursuant to such HIPAA obligations, the parties have executed contemporaneously herewith the Business Associate Agreement attached at Exhibit B and incorporated herein by reference. Furthermore, the parties shall comply with the Sherman Act of 1899, as amended, the Clayton Act of 1914, as amended, the Federal Trade Commission Act of 1914, as amended, and all other applicable federal, state, and foreign statutes, rules, regulations, orders, decrees, administrative and judicial doctrines, and other laws that are designed or intended to prohibit, restrict, or regulate actions having the purpose or effect of monopolization or restraint of trade.

IV. Compensation

ACO Participant shall be entitled to and shall ensure that its ACO provider/suppliers are entitled to, to shared savings payments as set forth on Exhibit A attached hereto and incorporated by reference herein. The policy for distribution of shared savings shall at all times be interpreted to encourage ACO Participant and ACO provider/suppliers to adhere to ACO’s quality assurance and improvement program and evidence-based clinical guidelines.

V. Term and Termination

- (a) This Agreement shall commence as of the Effective Date and shall remain in effect for an initial term of two (2) years (“Initial Term”). Thereafter, it shall automatically renew

- for terms of one (1) year each (“Renewal Term”), unless either party gives the other party written notice of its intent not to renew at least ninety (60) days prior to the end of the Initial Term or the then applicable Renewal Term, or unless otherwise terminated pursuant to the terms of this Agreement.
- (b) This Agreement may be terminated by either party, with or without cause, upon ninety (90) days’ written notice to the other party, provided, however, that ACO Participant shall be subject to all applicable consequences for termination from ACO before completion of the then applicable MSSP contract term.
 - (c) Upon termination of this Agreement, ACO Participant shall cooperate with ACO in making reasonable and medically appropriate arrangements for the continued care coordination and transfer of patients, and by furnishing of ACO data necessary to complete ACO’s annual assessment and reporting under the MSSP and other applicable requirements for ACO’s full compliance with the MSSP
 - (d) Each party shall have the right to immediately 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 or state-funded health care program, including, without limitation, Medicare and Medicaid programs.
 - (e) Notwithstanding any other provision of this Agreement, either party may terminate this Agreement if the other party has materially violated its responsibilities under this Agreement and has failed to provide satisfactory assurances within thirty (30) days of notice of such material violation that reasonable steps are being taken to effect a cure, and in any event: (i) such cure will be completed no later than thirty (30) days from notice of such material violation; and (ii) the breaching party has taken reasonable steps to prevent the recurrence of such material violation.
 - (f) ACO may terminate this Agreement if ACO Participant or ACO provider/suppliers fail to comply with the requirements, terms, and conditions of the MSSP, including without limitation, such requirements, terms, and conditions set forth at 42 C.F.R. Part 425 and in any participation agreement between ACO and CMS.
 - (g) Upon termination of this Agreement, the rights of each party hereunder shall terminate provided, however, in the event this Agreement is terminated prior to the completion of then-applicable MSSP contract between ACO and CMS, then ACO Participant acknowledges and agrees that ACO Participant shall be responsible for compliance with its obligations under this Agreement for the entire term, regardless of the date of termination and that ACO Participant shall forego or disclaim any entitlement to any subsequent Shared Savings program distributions, even if such distributions applied to

periods proceeding the termination of the Agreement and such termination may limit ACO Participant's ability to participate in future Shared Savings programs.

VII. Miscellaneous

- (a) The parties agree that the legal relationship between ACO and ACO Participant is strictly an independent contractor relationship. Nothing in this Agreement shall be deemed to create a joint venture, agency, or partnership relationship between ACO and ACO Participant. Except as expressly authorized in this Agreement, no party shall have the power to enter into any contract or commitment in the name of, or on behalf of, another party or to bind a party in any respect whatsoever. Nothing in this Agreement shall be deemed to create an employer/employee relationship between ACO and any Participating Provider, and ACO provider/suppliers shall not be entitled to any benefits, rights, or privileges provided by ACO to its employees.
- (b) This Agreement shall be governed by and construed under the laws of the State of Idaho.
- (c) This Agreement constitutes the entire agreement between the parties with regard to participation through the ACO in the Medicare Shared Savings Program and the related subject matter hereof and supersedes any and all written or oral agreements heretofore made in that regard. The only parties to this Agreement are Pinnacle and _____ (“ACO Participant”).
- (d) This Agreement may only be amended or modified in writing duly executed by both parties. Any attempted oral amendment or modification shall be void.
- (e) If any of the provisions of this Agreement are determined to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.
- (f) The parties agree that for services involving Medicare beneficiaries, the Department of Health and Human Services, the Comptroller General, and the Office of the Inspector General, or their designees shall have the right to audit, inspect, and evaluate any books, contracts, records, documents, and evidence of services for Medicare beneficiaries pursuant to an agreement pertaining to compliance with program requirements, quality of services performed, determination of amount due to or from CMS and the fiscal soundness of ACO. The parties shall maintain and give access to relevant records for a period of ten (10) years from the termination of this Agreement or the date of completion of the last audit, whichever is later.
- (g) The parties agree that the provisions of the Background section of this Agreement are binding and enforceable.

[Signature Page Follows]

[Signature Page to ACO Participant Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the Effective Date.

_____ (“ACO Participant”)

By: _____

Print Name: _____

Title: _____

Pinnacle Integrated Medicine, Inc.

By: _____

Print Name: _____

Title: _____

EXHIBIT A

Payment Schedule

- A. Shared Savings Incentive Payments Program – In consideration of performance of the requirements by ACO Participant herein and overall success of the program involved, ACO Participant may qualify for performance incentive payments as may be offered through CMS’s Medicare Shared Savings Program. Among other factors, the availability of such funds will depend on meeting patient satisfaction and quality metrics and the generation of savings in the aggregate for a designated patient population by jointly accountable ACO provider/suppliers. The opportunity to receive shared savings will depend on ACO Participant and its ACO provider/suppliers adhering to quality measures, improvement programs, and evidence-based medicine clinical guidelines established by ACO. The policy for distribution of shared savings shall at all times be interpreted to encourage participants to adhere to the quality assurance and improvement program and evidence-based clinical guidelines. There will be no shared savings to ACO Participant or Participating Provider if quality and best-practice minimum threshold metrics are not met. Determination of savings will follow accepted industry practices. ACO shall use best efforts, and available technology and data that may change over time, after covering administrative expenditures, to apportion savings distributions roughly in proportion to the relative measured contributions among ACO provider/suppliers. ACO retains the right to exercise fiduciary responsibility to escrow certain distributions on behalf of participants to cover possible future losses in lieu of ACO provider/suppliers being requested to assume risk of loss.

EXHIBIT B

Business Associate Agreement

This Business Associate Agreement (“Agreement”) is entered between _____ (“Covered Entity”) and Pinnacle Integrated Medicine, Inc. (“Business Associate”).

1. Purpose and Intent.

Business Associate has agreed to perform certain services for or on behalf of Covered Entity, which services may involve the creation, maintenance, use, transmission or disclosure of Protected Health Information within the meaning of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its implementing regulations, 45 C.F.R. parts 160 and 164 (“the Privacy and Security Rules”). This Agreement supplements the parties’ agreement for services and is intended and shall be interpreted so as to satisfy the requirements for Business Associate contracts as set forth in the Privacy and Security Rules, including 45 C.F.R. §§ 164.314 and .504(e). Business Associate hereby agrees to comply with applicable provisions of the Privacy and Security Rules and to assist Covered Entity with its compliance as explained below.

2. Definitions.

Protected Health Information means any information which is created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual. See 45 C.F.R. § 160.103. *Protected Health Information* includes Protected Health Information that is maintained in or transmitted by electronic media (“Electronic Protected Health Information”), including but not limited to Protected Health Information maintained on computers, magnetic tape, optical disk, digital memory, etc., or transmitted through the internet, extranet, leased lines, dial-up lines, networks, and the physical movement of Protected Health Information maintained on electronic media. See *id.*

Disclose and *disclosure* mean, with respect to Protected Health Information, the release, transfer, transmission, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate’s internal operations.

Use and *uses* mean, with respect to Protected Health Information, the creation, maintenance, sharing, transmission, employment, application, utilization, examination or analysis of Protected Health Information within Business Associate’s internal operations.

Terms used but not otherwise defined in this Agreement shall be defined as set forth in 45 C.F.R. Part 160 and Part 164, Subparts A, C, and E.

3. Obligations and Activities of Business Associate.

a. **Limits on Use or Disclosure.** Business Associate agrees to use or disclose Protected Health Information only as permitted or required by this Agreement or as required by law.

b. **Safeguards.** Business Associate agrees to use appropriate safeguards to prevent the unauthorized use, disclosure, or access to Protected Health Information other than as provided for by this Agreement. Among other things, Business Associate agrees to use appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.

c. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect caused by a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

d. **Reporting.** Business Associate agrees to immediately report to Covered Entity's Privacy Officer any use or disclosure of Protected Health Information not allowed by this Agreement. Business Associate further agrees to immediately report to Covered Entity's Privacy Officer any attempted or successful unauthorized access, use, disclosure, modification, or destruction of Electronic Protected Health Information or interference with information system operations involving Electronic Protected Health Information.

e. **Agents, Contractors and Subcontractors.** Business Associate agrees to ensure that any agent, contractor or subcontractor to whom it provides, discloses or transmits Protected Health Information agrees to the same restrictions and conditions concerning the Protected Health Information that apply through this Agreement to Business Associate. Business Associate shall comply with this section by entering a Business Associate Agreement with such agent, contractor or subcontractor, which contract requires the agent or subcontractor to comply with the terms of this Agreement.

f. **Access to Information.** Upon a request by Covered Entity, Business Associate agrees to provide access to Protected Health Information to Covered Entity as necessary to enable Covered Entity to comply with 45 C.F.R. § 164.524. Business Associate shall provide access to the Protected Health Information in the time and manner designated by Covered Entity.

g. **Amendment to Information.** Upon request by Covered Entity and at Covered Entity's direction, Business Associate agrees to make any amendment(s) to Protected Health Information as necessary to enable Covered Entity to comply with 45 C.F.R. § 164.526. Business Associate shall act on the amendments in the time and manner designated by Covered Entity.

h. **Accounting of Disclosures.** If Business Associate makes any disclosure of Protected Health Information to any entity other than Covered Entity for any purpose other than for treatment, payment, or health care operations as defined in 45 C.F.R. § 164.501, Business Associate shall document the following information and maintain such documentation for six (6) years: (1) the name and address of the entity to whom the Protected Health Information was disclosed; (2) the date of the disclosure; (3) a brief description of the Protected Health Information disclosed; (4) a brief description of the purpose for the disclosure; and (5) any other information related to such disclosures as required to enable Covered Entity to comply with 45 C.F.R. § 164.528. Upon request by Covered Entity, Business Associate agrees to provide to Covered Entity the information concerning such disclosures as necessary to enable Covered Entity to respond to a request by an individual for an accounting of disclosures of Protected Health Information pursuant to 45 C.F.R. § 164.528. Business Associate shall act in the time and manner designated by Covered Entity.

i. **Access to Books and Records.** Business Associate agrees to make internal practices, books, and records (including policies and procedures and Protected Health Information) relating to the use and disclosure of Protected Health Information on behalf of Covered Entity available to Covered Entity or the Secretary of Health and Human Services, or their designees, to enable them to determine Covered Entity's compliance with the Privacy and Security Rules. Business Associate shall make the documents available in the time and manner designated by Covered Entity or the Secretary.

4. Permitted Uses and Disclosures by Business Associate.

a. **General Use and Disclosure Provisions.** Except as otherwise limited in this Agreement, Business Associate may create, maintain, use, transmit or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity in the course of and for the purpose of providing legal services to Covered Entity, if such use or disclosure of Protected Health Information would not violate (1) the Privacy and Security Rules if done by Covered Entity or (2) Covered Entity's policies and procedures which limit disclosures to the minimum necessary.

b. Additional Use and Disclosure Provisions.

(1) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(2) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(4) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

5. Obligations of Covered Entity.

a. **Notice of Privacy Practices.** Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

b. **Changes to Authorization.** Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

c. **Restrictions on Consent.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

d. **Requests in Violation of Privacy Rule.** Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity.

6. Term and Termination.

a. **Term.** The term of this Agreement as it relates to the use and disclosure of Protected Health Information shall be effective as of the Effective Date identified below and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created, maintained, or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is not feasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

b. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach of the Agreement by Business Associate, Covered Entity shall either:

(1) Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate fails to cure the breach or end the violation within the time specified by Covered Entity, Covered Entity shall terminate this Agreement and all related agreements for Business Associate's services involving the creation, maintenance, use, receipt, transmission or disclosure of Protected Health Information;

(2) Immediately terminate this Agreement together with any related agreement for Business Associate's services involving the creation, use, maintenance, transmission, receipt, or disclosure of Protected Health Information if Business Associate has breached a material term of this Agreement and cure is not possible; or

(3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

c. **Effect of Termination.** Except as provided in paragraph (1) of this section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information. In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon Covered Entity's determination that return or destruction of Protected Health Information is not feasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

7. **Miscellaneous.**

a. **Regulatory References.** A reference in this Agreement to a section in the Privacy and Security Rules means the section as in effect or as amended.

b. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and HIPAA.

c. **Survival.** The respective rights and obligations of Business Associate under Section 6(c), "Effect of Termination," of this Agreement shall survive the termination of this Agreement.

d. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.

e. **Governing Law.** This Agreement shall be construed to comply with the requirements of the Privacy and Security Rules. All other aspects of this Agreement shall be governed under the laws of the State of Idaho and venue for any actions relating to this Agreement shall be in Ada County, Idaho.

f. **Assignment/Subcontracting.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and assigns. Business Associate may not assign or subcontract rights or obligations under this Agreement without the express written consent of Covered Entity. Covered Entity may assign its rights and obligations under this Agreement to any successor or affiliated entity.

g. **Entire Agreement.** This Agreement contains the entire agreement between the parties as it relates to the use or disclosure of Protected Health Information, and supersedes all prior discussions, negotiations and services relating to the same.

h. **Cooperation.** Business Associate agrees to cooperate with Covered Entity and assist Covered Entity in complying with requirements under HIPAA or the Privacy and Security Rules. Business Associate shall make itself and its agents, affiliates, subsidiaries, subcontractors or employees available to Covered Entity, at no cost to Covered Entity, to testify as witnesses in the event of litigation or administrative proceedings against Covered Entity, its directors, officers or employees based upon a claimed violation of HIPAA, the Privacy and Security Rules, or other laws relating to security and privacy.

8. Effective Date.

The Effective Date of this Agreement shall be _____

COVERED ENTITY

By: _____

Print Name: _____

Print Title: _____

Date: _____

BUSINESS ASSOCIATE

Pinnacle Integrated Medicine, Inc.

By: _____

Print Name: _____

Print Title: _____

Date: _____