

## INFORMATION SERVICES REMOTE ACCESS AGREEMENT

The purpose of this Agreement is to set forth the legal terms upon which Munson Healthcare's Information Services department may grant remote access to a physician practice ("Physician Office") for the benefit of a physician(s) and members of the office staff.

This Information Services Remote Access Agreement (the "Agreement"), effective as of the date this Agreement is fully executed, is entered into by and between the physician office set forth below ("Physician Office") and Munson Healthcare, a nonprofit corporation, on behalf of itself and its subsidiaries and other entities designated as an Affiliated Entity of Munson pursuant to HIPAA ("Munson").

### 1. Definitions.

1.1. "Administrative Policies" means the policies and procedures of Munson, including, without limitation, the policies and procedures adopted with respect to Information Services at Munson, as they may change from time to time.

1.2. "Authorized User" means an individual of Physician Office who has been approved for System access by Munson and who has agreed to adhere to Munson's policies regarding confidentiality and systems usage.

1.3. "Health Information" has the meaning set forth in HIPAA, to the extent such information is accessed through the System.

1.4. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, including all rules and regulations promulgated thereunder, as may exist from time to time.

1.5. "HITECH" means the Health Information Technology for Economic and Clinical Health Act (found in Title XIII of the American Recovery and Reinvestment Act of 2009), including all rules and regulations promulgated thereunder, as may exist from time to time.

1.6. "Law" means any federal, state or local law, rule or regulation, including, but not limited to HIPAA and HITECH.

1.7. "System" means a certain computer software system which allows users to remotely access patient electronic health records.

### 2. Establishment and Termination of Remote Access Privileges.

2.1. Grant of Remote Access Privileges. Munson grants to Physician Office, through its Authorized Users, the right to remotely access the System in accordance with and to the extent permitted under this Agreement. Requests for user access to the System must be documented on a Computer System Access Request Form, or digital equivalent as directed by Munson (the "Access Request Form"). Physician Office shall request access only for those individuals under the control of Physician Office and only for the minimum level of access and applications that such individual needs to perform their job duties. Each Authorized User must read and sign Munson's Confidentiality Agreement (Form #0195), as it may be modified or replaced from time to time, before access will be considered and granted.

2.2. Use by Authorized Users. Physician Office's right of access to the System shall be limited to Authorized Users. Physician Office shall immediately notify Munson if the level of access and/or applications granted by Munson for a given Authorized User should be modified so that the access granted to such Authorized User is the minimum necessary for such Authorized User to perform its job duties for Physician Office. Use of the System by, and acts or omissions of, Authorized Users shall be deemed use of the System by, and acts or omissions of, Physician Office. Physician Office shall maintain, and shall cause each Authorized User to maintain, strict confidentiality regarding password and log-on details.

2.3. Termination of Authorized Users. Physician Office shall notify the Munson as soon as possible if (but no later than three (3) business days after) an Authorized User's employment or other relationship with Physician Office has terminated, an individual is otherwise no longer eligible or qualified as an Authorized User, or an Authorized User no longer requires remote access to the System. Physician Office shall, upon Munson's request, provide a list of Authorized Users who continue to require access to the System to perform their job duties and any other information relating to the Authorized Users. Physician Office acknowledges that an Authorized User's access will be automatically disabled after ninety (90) days of inactivity in the System. If Physician Office has reason to believe that an Authorized User may use the System for improper or unauthorized purposes, Physician Office shall immediately notify Munson. Physician Office shall take all steps reasonably requested by Munson to prevent such improper or unauthorized access. Munson may terminate or suspend an Authorized User's access to the System with or without notice at any time in its sole and absolute discretion.

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2.4. No Grant of Ownership Rights. The System contains data or information that originates from Munson facilities. The “owner” of the data shall be the Munson facility that is the source of the data contained within the System. Remote access to the System does not grant to Physician Office or any Authorized User any ownership rights in such data or information. As between Munson and Physician Office and any Authorized User, Munson shall be and remain the sole and exclusive owner of the hardware and software included in or available through the System. In no event may Physician Office or an Authorized User download, copy, decompile, reverse engineer, or otherwise exert rights of ownership against software, databases, programs, applications, or data on the System.

2.5. Connection to System. Munson does not guarantee access to the System, which access shall be subject to all applicable licenses. The access is provided on an “as is” basis and Munson is not responsible for any interruptions to such access. Physician Office, for itself and its Authorized Users, agrees to release and hold Munson and its affiliates harmless from and against any and all damages Physician Office may incur related to the inability to access the System.

2.6. Support Issues. The Munson Help Desk will be available during regular business hours to assist with technical issues related to remote access. The response of the Help Desk will be prioritized based upon the urgency and importance of the issue. Physician Office shall take all reasonable measures to ensure the technical validity and reliability of connectivity with the System and will immediately advise the Help Desk of any difficulties or issues.

### 3. Use and Disclosure of Health Information.

3.1. Permitted Use and Disclosure. Authorized Users may access, use and disclose Health Information solely to carry out treatment, payment or health care operations, as those terms are defined in HIPAA, and only to the extent permitted by Law, for the patients for whom its healthcare provider is the: (a) attending physician; (b) consulting physician; (c) covering physician; or (d) primary care physician.

3.2. Prohibited Use and Disclosure. Authorized Users shall not use, extract or further disclose the Health Information other than as expressly permitted in this Agreement or as required by Law. Without limiting the generality of the foregoing, Authorized Users shall not use Health Information for marketing, promotional or research purposes. Physician Office and each Authorized User shall use appropriate safeguards to prevent the improper or prohibited use or disclosure of Health Information.

3.3. Compliance with Administrative Policies and Law. Physician Office shall ensure that all access to and use of the System and the Health Information by each Authorized User is in compliance with the Administrative Policies and Law. Physician Office shall establish and maintain all administrative safeguards, including, without limitation, security and access procedures, necessary or appropriate to ensure that Health Information is used and disclosed only as permitted by applicable Law and this Agreement. Upon the request of Munson, Physician Office shall make the internal practices, books, and records relating to access to the System, Physician Office’s HIPAA education documentation, and the use and disclosure of Health Information obtained thereby accessible to Munson and, to the extent required by HIPAA, to the Secretary of Health and Human Services, for the purposes of determining and facilitating Munson’s compliance with HIPAA.

3.4. Confidential Information; Covenant Not to Disclose. Physician Office warrants that Health Information accessed by its Authorized Users will be kept confidential and not be further disclosed to anyone, except as required by Law. Physician Office understands and agrees that any request made by or on behalf of a patient for access to information maintained in the System must be immediately referred to Munson. Physician Office acknowledges that it, its Authorized Users, employees, agents and contractors have no authority to grant access to the System or System information. Physician Office further agrees that if it has a legal obligation to disclose any Health Information to a third party, it will notify Munson promptly, in advance of the proposed disclosure date, so that the rights of Munson and the individual to whom the Health Information relates will not be prejudiced. If Munson or the individual objects to the release of such Health Information, Physician Office agrees to provide reasonable assistance, including reasonable assistance with information necessary to seek protective orders or other material in connection with the objection. Disclosures prohibited by law (including, but not limited to, information protected by HIPAA or the federal regulations on Alcohol and Drug Abuse Patient Records at 42 C.F.R. Part 2) are prohibited under this Agreement. The terms of this Section shall survive the termination or expiration of this Agreement.

3.5. Right to Monitor and Audit. Munson reserves the right to monitor remote access sessions, both retrospectively and concurrently. Munson may routinely audit an Authorized User’s access to the System and/or Health Information. In addition, Physician Office shall, upon Munson’s request, review audit reports on a routine basis and initiate Physician Office’s own investigation into potential confidentiality breaches committed by an Authorized User. In the event that an Authorized User’s use of the System violates an Administrative Policy or the Law, Munson may take such action, as it deems necessary or appropriate, including but not limited to, immediate suspension or termination of such Authorized User’s remote access privileges.

3.6. Notice of Breaches. Within twenty-four (24) hours of Physician Office’s discovery of a suspected or actual Breach (as defined by HIPAA), Physician Office shall notify, in writing, Munson’s Privacy Officer and/or Security Officer of such suspected

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or actual Breach. The notice shall include, to the best extent reasonably possible, the identification of each individual whose unsecured Health Information has been, or is reasonably believed by Physician Office to have been, accessed, acquired, or disclosed during the Breach.

3.7. Notice of Security Incidents. Physician Office will promptly report any actual or suspected privacy or security violations involving to Health Information made by its employees and/or agents to the Munson's Privacy Officer and/or Security Officer and will cooperate with Munson in the investigation of these incidents. Furthermore, Physician Office will: (i) promptly report to Munson any use or disclosure of Health Information not permitted by Law; (ii) any successful security incident involving to Health Information of which Physician Office becomes aware; and (iii) in summary form, upon request of Munson, any unsuccessful security incident involving to Health Information of which Physician Office becomes aware.

#### 4. Financial Arrangement.

4.1. Community Benefit. Munson and Physician Office agree that the intent of this Agreement is to provide remote access to the System in order to better serve the patients and community served by the parties. Therefore, Munson and Physician Office agree that all use of the remote access and the information accessed pursuant thereto shall be for purposes of treatment, payment and healthcare operations related to healthcare provided to the community served by users of the network.

4.2. No Referral Requirement. Physician Office and Munson both agree and understand that this Agreement is not intended to result in the exercise of influence over the reason or judgment of Physician Office when determining the appropriate course of care for patients. Physician Office is not under any obligation to refer patients to Munson, nor is Munson under any obligation to refer patients to Physician Office.

#### 5. Indemnification and Insurance.

5.1. Indemnification. Physician Office shall defend, indemnify and hold harmless Munson and its affiliates, and their respective directors, officers, employees and agents from and against all claims, causes of action, liabilities, losses, damages, costs and expenses (including reasonable attorney fees, expert witness fees, and amounts paid in settlement) incurred by any of them arising out of or relating to Physician Office's failure (either directly or through an Authorized User) to comply with the terms of this Agreement or any applicable Administrative Policy or Law.

5.2. Insurance. Physician Office shall, at its sole cost and expense procure and maintain: (i) commercial general liability insurance coverage with a single limit for bodily injury liability and property damage liability of not less than One Million Dollars (\$1,000,000.00) per occurrence with a Two Million Dollars (\$2,000,000.00); and (ii) information security and privacy insurance with limits of at least Two Millions Dollars (\$2,000,000).

#### 6. Term & Termination.

6.1. Term. This Agreement shall commence on the date this Agreement is fully executed and continue for a term of one (1) year. Thereafter, this Agreement shall automatically renew for additional successive one (1) year terms, unless either party provides written notice of non-renewal at least thirty (30) days prior to the end of the then current term.

##### 6.2. Termination.

6.2.1 Termination by Munson. Munson may terminate this Agreement: (a) immediately upon written notice to Physician Office, in the event that Physician Office breaches any material term of this Agreement; or (b) without cause, upon thirty (30) days prior written notice to Physician Office.

6.2.2 Termination by Physician Office. Physician Office may terminate this Agreement immediately upon written notice to Munson.

6.2.3 Effect of Termination: Survival. Upon termination of this Agreement, Physician Office's remote access privileges will be discontinued and all log-on and passwords for Physician Office and Authorized Users will be deactivated. All provisions of this Agreement regarding confidentiality and privacy of Health Information, and the obligation to comply with Law, shall survive the termination of this Agreement, as shall the obligation to pay any fees or charges accrued prior to the date of termination.

#### 7. Disclaimer of Warranties and Limitation of Liability.

7.1. No Warranties. Physician Office's remote access to the System and the Health Information is provided "AS IS." MUNSON MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMPATABILITY OF PHYSICIAN OFFICE'S SYSTEM WITH THE SYSTEM, OR THE OPERATION, CAPACITY,

Email signed copy to [informationsecurityofficer@mhc.net](mailto:informationsecurityofficer@mhc.net) for review and Munson signature

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SPEED, FUNCTIONALITY, CAPABILITIES, ACCESSIBILITY, OR SECURITY OF THE SYSTEM OR SERVICES, OR THE COMPLETENESS OF THE INFORMATION CONTAINED THEREIN. MUNSON DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7.2. Limitation of Liability. Except in cases of willful misconduct or gross negligence of Munson or its agents or employees, Physician Office’s exclusive remedy for any breach of this Agreement by Munson is limited to Physician Office’s actual damages (excluding attorney fees and expenses). Further, Munson shall not be liable for acts of a third-party.

8. General Terms and Conditions.

8.1. Entire Agreement; Amendment. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Except as expressly provided herein, this Agreement may be amended or modified only by a written document signed by a duly authorized representative of Physician Office and Munson; provided that Munson may amend this Agreement to comply with Law or Munson policy upon notice to Physician Office.

8.2. Assignment. This Agreement may not be assigned, transferred, subcontracted or delegated by Physician Office without the prior written consent of Munson.

8.3. Waiver. No provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the waiving/excusing party. Such waiver or consent shall be effective only with respect to the events addressed in the writing, and shall not constitute a waiver or consent to similar future events.

8.4. Severability. The provisions of this Agreement are severable. In the event that any term or provision of this Agreement is prohibited or unenforceable pursuant to Law, that provision shall be ineffective only to the extent and for the duration required by Law, without invalidating any of the remaining provisions.

8.5. Governing Law. This Agreement shall be governed by and interpreted according to the laws of the State of Michigan.

8.6. Notices. Notices required or permitted under this Agreement shall be given in writing, sent via certified mail, personal delivery or overnight mail to the address set forth below, or to such other address as a party may designate by like notice.

8.7. Compliance with Law. Both parties shall at all times comply with applicable Law in performing under this Agreement.

8.8. Relationship of Parties. The relationship of the parties under this Agreement is that of an independent contractor. Nothing in this Agreement is intended nor should be construed to create the relationship of employer and employee or principal and agent between or among any or all of them.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

**MUNSON**

**PHYSICIAN OFFICE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_

Address: 1105 Sixth Street  
Traverse City, MI 49684

Legal Name of Physician Office: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

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