

Agreement for Updating Profile Information

This Agreement for Updating Profile Information, including the Exhibits referenced herein, (this “**Agreement**”) is made as of _____ (the “**Effective Date**”) by and between _____ with a principal address of _____ (hereafter known as the “**Licensor**”) and Healthgrades Operating Company, Inc., a Delaware corporation (“**HG**”). HG and Licensor shall be collectively referred to herein as the “**Parties**”, and shall sometimes individually be referred to as a “**Party**.”

WHEREAS, Licensor desires to provide to HG certain Employed Physician profile information for HG’s use, among other uses, on HG Sites where patients and prospective patients can obtain information regarding such Employed Physicians; and

WHEREAS, HG desires to receive such Employed Physician profile information for use on HG Sites and for other of HG’s business purposes;

NOW THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

1. DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the defined terms set forth below and used in this Agreement shall have the meanings set forth in this Section 1.

“**Administrator(s)**” means the individuals identified by Licensor for receipt of a user ID and password to be provided by HG permitting such individuals’ access to the Site for the purpose of updating the Licensed Data on the Site via HG’s Manage My Profile tool.

“**Affiliated Physician**” means physicians who have admitting privileges, practicing privileges or consulting privileges at Licensor’s hospital but are not employed by the Licensor.

“**Data Governance and User Experience Rules and Policies**” means HG’s rules and policies for determining the display of Licensed Data on the Site, which such rules and policies may be updated by HG from time to time in HG’s sole discretion.

“**Effective Date**” shall have the meaning set forth in the preamble.

“**Employed Physician**” means physicians who are employed Fulltime by Licensor. This does not include physicians who are employed by a Physician Hospital Organization (PHO), Independent Physician Association (IPA), and a Foundation of such hospital or other entity. For purpose of clarity, “Employed Physicians” do not include “Affiliated Physicians”.

“**Fulltime**” means a physician who works for Licensor more than thirty (30) hours per week, and for whom Licensor is required to provide a federal form W-2.

“**Intellectual Property Rights**” means, collectively, worldwide patents, trade secrets, copyrights, trademarks, privacy, service marks, trade names, and all other intellectual

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property rights and proprietary rights, including all rights or causes of action for infringement or misappropriation of any of the foregoing.

“**Licensed Data**” means all the Employed Physician data provided by Licensor to HG pursuant to this Agreement containing the data elements identified on Exhibit A of this Agreement. Licensed Data shall also include all updates and revisions to the Licensed Data.

“**Manage My Profile**” is an on-line physician portal accessed via an HG designated Site that enables Administrators to update associated Employed Physician profiles at any time.

“**Site**” means www.healthgrades.com or other HG owned or operated Universal Resource Locator (URL).

2. LICENSE

2.1 License Grant to HG. Licensor hereby grants to HG a perpetual, irrevocable, transferable, worldwide, royalty-free, unrestricted license to use, reproduce, create derivative works of, distribute, publicly perform, publicly display and otherwise exploit, and allow others to engage in any and all of the foregoing, any and all Licensed Data that is provided to HG hereunder. Licensor acknowledges that the Licensed Data may be used without restriction for any purpose whatsoever, commercial or otherwise, without any compensation or obligation to Licensor.

2.2 Consent to Contact. Licensor agrees that HG may contact Licensor and/or any and all Employed Physicians, via telephone, e-mail, facsimile or other appropriate means, regarding the Licensed Data (including without limitation requested updates or additions to the same) and other HG products and services.

2.3 License to Administrators. Subject to the terms and conditions of this Agreement, HG hereby grants to each Administrator (as listed in Exhibit B) a nonexclusive, non-transferable, revocable license to access and use Manage My Profile during the Term for the sole purpose of providing and/or updating Licensed Data on behalf of Licensor.

2.4 Further Acknowledgements. Licensor represents that any Licensed Data submitted hereunder will not contain any of the following material (“**Proscribed Material**”):

- material that is false, factually inaccurate or misleading;
- material that is defamatory, libelous, deceptive or fraudulent;
- material that violates any U.S. or foreign law or regulation, including without limitation any law or regulation governing advertising or testimonial;
- material that discriminates against, ridicules, harasses or disparages an individual or group for any reason, or on the basis of race, religion, national origin, gender, sexual orientation, marital status, age or disability;
- material that violates any person’s privacy right, including any such rights a person might have under the Health Insurance Portability and Accountability Act (HIPAA);

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- material that infringes or violates any person's copyright, trademark or other intellectual property right;
- material that is obscene or derogatory;
- material that promotes violence, firearms, ammunition or weapons designed to inflict serious bodily harm;
- material that, to your knowledge, would cause HG, to the extent that HG used the License Data as permitted under this Agreement, to violate any U.S. or foreign law or regulation, including without limitation any law related to advertising or testimonials, any law concerning defamation, libel and privacy, and any copyright, trademark or other intellectual property law.

Licensor agrees it is providing the Licensed Data pursuant to this Agreement and that Licensor and HG have hereby established a business relationship.

3. LICENSOR REPRESENTATIONS AND RESPONSIBILITIES

3.1 Licensor Representations. Licensor hereby represents, warrants and covenants to HG that: (i) Licensor will provide the Licensed Data to HG only for Employed Physicians; (ii) Licensor has the full lawful power and authority to enter into and perform its obligations under this Agreement; (iii) Licensor either (A) owns all right, title and interest in and to all Licensed Data provided to HG under this Agreement; or (B) has the valid and enforceable right to provide all the rights granted to HG under this Agreement with respect to the Licensed Data; (iv) the Licensed Data is complete and accurate and not misleading in any respect; and (v) the provision of the Licensed Data to HG and any and all rights granted in the Licensed Data to HG, all as set forth in this Agreement, will not violate, conflict with or infringe upon any third party Intellectual Property Right, or any third party contractual right.

3.2 Disclaimers. THE SITE AND THE RELATED HG PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE SITE AND THE RELATED PRODUCTS AND SERVICES MIGHT CONTAIN TECHNICAL OR OTHER INACCURACIES OR TYPOGRAPHICAL ERRORS.

TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, HG DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO: (A) ANY WARRANTIES CONCERNING THE AVAILABILITY, ACCURACY, RELIABILITY, COMPLETENESS, CURRENCY, QUALITY, PERFORMANCE OR SUITABILITY OF THE SITE AND THE RELATED PRODUCTS AND SERVICES; AND (B) ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HG MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED OR STATUTORY, THAT THE SITE OR THE RELATED PRODUCTS AND SERVICES WILL ASSIST LICENSOR IN ITS PRACTICE OR FOR ANY OTHER PURPOSE. HG DOES NOT REPRESENT OR WARRANT THAT

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THE SITE OR THE RELATED PRODUCTS OR SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT DEFECTS, IF ANY, WILL BE CORRECTED. LICENSOR EXPRESSLY AGREES THAT ITS USE OF THE SITE AND THE RELATED PRODUCTS AND SERVICES IS ENTIRELY AT LICENSOR'S OWN RISK. FURTHER, HG EXPRESSLY DISCLAIMS ANY AND ALL RESPONSIBILITY AND LIABILITY WITH RESPECT TO SEPARATE AGREEMENTS LICENSOR MAY MAKE WITH PATIENTS, CONSUMERS OR SITE USERS, AND LICENSOR WILL LOOK SOLELY TO SUCH PERSONS AND/OR ENTITIES WITH RESPECT TO ANY AND ALL CLAIMS ARISING OUT OF SUCH AGREEMENTS.

4. LICENSOR'S OBLIGATIONS

- 4.1 Multiple Employed Physician Data Delivery. Promptly after the Effective Date, Licensor may send to HG, for all Employed Physicians, the Licensed Data containing the data elements identified on Exhibit A, which such data element list may be modified by HG from time to time at HG's sole discretion. Thereafter, during the Term, Licensor may from time to time send updates to the Licensed Data to HG for Employed Physicians, such updates to include revisions to Licensed Data previously provided as well as information relating to Employed Physicians who became employed with Licensor after the Effective Date. Each delivery of Licensed Data will be sent to HG in form and format designated by HG. Within a reasonable period of time after HG's receipt of the Licensed Data from Licensor, HG shall display the Licensed Data on the Site subject to HG's Data Governance and User Experience Rules and Policies.
- 4.2 Manage My Profile. Licensor may appoint one or more Administrators. The list of Employed Physicians profiles to be managed by each Administrator will be sent to HG in a form and format designated by HG. Licensor acknowledges that each Administrator who submits or updates Licensed Data to HG utilizing Manage My Profile shall be required to comply with the license rights and restrictions set forth in Section 2.3 above. Licensor shall be liable for the actions or omissions of each Administrator in violation of this Agreement as if such actions or omissions were the actions or omissions of Licensor.
- 4.3 Site Monitoring. HG reserves the right to view, monitor and record activity on the Site without notice to or permission from Licensor. HG may disclose any records, electronic communications, information, materials or other content of any kind at HG's sole discretion. However, HG is not responsible for screening, policing, editing or monitoring the Site.

5. FEES

- 5.1 Fees. There are no fees associated with Administrative/Roster only access.

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6. TERM AND TERMINATION

- 6.1 Term. This Agreement shall be effective as of the Effective Date and, unless terminated sooner in accordance with this Agreement, shall continue for a period of one (1) year (“**Initial Term**”). Thereafter, unless terminated sooner in accordance with the Agreement, this Agreement shall automatically renew for additional terms of one (1) year each (each a “**Renewal Term**”). The Initial Term and each Renewal Term shall be collectively referred to as the “**Term**”.
- 6.2 Termination. Either Party may terminate this Agreement by providing the other Party with written notice of its intent not to renew the Agreement at least thirty (30) days prior to the expiration of the Initial Term or then current Renewal Term, as applicable. HG may terminate this Agreement for any reason, without cause, upon thirty (30) days prior written notice to Licensor. Either Party may terminate this Agreement in the event of a material breach by the other Party that remains uncured for a period of thirty (30) days after receipt of written notice of the breach from the other Party. **ALL NOTICES OF TERMINATION MUST BE SENT TO:** Healthgrades Operating Company, Inc., 999 18th Street, Suite 600, Denver, Colorado 80202. Attention: Contracts Department or may be emailed to contracts@healthgrades.com.
- 6.3 Effect of Termination. Within thirty (30) days after the termination of this Agreement for any reason, Licensor shall pay to HG all fees then owed by Licensor hereunder as of such termination. The provisions of Sections 2.1, 3.1, 5.1, 6.2, 6.3, 7, 8, 9 and 10 shall survive the termination or expiration of this Agreement.

7. INDEMNIFICATION

- 7.1 Licensor Indemnity. Licensor agrees to defend, indemnify and hold harmless HG from and against: (x) any third party claim that HG’s use of the Licensed Data supplied by Licensor hereunder constitutes an infringement of or otherwise violates any Intellectual Property Right; and (y) any third party claim that Licensor did not have the right to provide Licensed Data to HG on such third party’s behalf, and, in each such event, Licensor will pay any damages finally awarded against HG from any such claim so long as HG: (i) notifies Licensor promptly upon learning of the claim and concluding that it is a claim subject to the defense and indemnity provided in this Section (provided that the failure to provide prompt notice shall only relieve Licensor of its obligations under this Section if and to the extent that such failure was materially prejudicial to Licensor’s defense of the claim), and (ii) provides Licensor with sole control over the defense or settlement of the claim and such information and assistance, at Licensor’s cost and expense, to defend or settle the claim as Licensor may reasonably request. This Section sets forth Licensor’s exclusive liability to HG and HG’s exclusive remedy against Licensor with respect to any claims that are the subject matter of this Section 7.

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8. **DISCLAIMER OF DAMAGES, LIMITATION OF LIABILITY.** *Other than with respect to Licensor's obligations to indemnify HG as set forth in Section 7 above, in no event shall either Party be liable hereunder for any loss of profits or other economic loss of whatever nature, or any incidental, indirect, special, consequential, or other similar damages arising out of any claim of whatever nature relating to this Agreement or to any obligations, acts, events, or occurrences pursuant to, preliminary to or incidental to this Agreement regardless of whether the liable Party was advised of the possibility of such damages. Other than with respect to Licensor's obligations to indemnify HG as set forth in Section 7 above, the cumulative liability of each Party to the other Party for all claims related to this Agreement, including without limitation any cause of action sounding in contract, tort (including negligence), or strict liability shall be limited to direct proven damages in an amount not to exceed the total amount of all fees actually paid or owing by Licensor to HG hereunder during the twelve (12) month period immediately preceding the events giving rise to the claim for damages. CLAIMS NOT MADE WITHIN ONE (1) YEAR AFTER THE FIRST EVENT GIVING RISE TO A CLAIM SHALL BE DEEMED WAIVED.*

9. **NOTICES**

All notices shall be sent to the following addresses of the respective Parties:

If to HG: Health Grades Operating Company, Inc.
 999 18th Street, Suite 600
 Denver CO 80202
 Telephone: 215-915-4911
 Facsimile: 303-716-1298
 Attention: John Kane
 Email: JKane@healthgrades.com

If to Licensor: Telephone: _____
 Facsimile: _____
 Attention: _____
 Email: _____

10. **MISCELLANEOUS.**

10.1 HG and Licensor are independent Parties. Nothing in this Agreement will be construed to make either Party an agent, employee, joint venturer, partner or legal representative of other Party. This Agreement is governed by and interpreted in accordance with the laws of the State of Colorado, without regard to its conflict of laws provisions. Any action arising out of this Agreement or any action to enforce this Agreement will be brought only in the federal or state courts residing in Denver Colorado, U.S.A., and the Parties expressly agree to be subject to the jurisdiction of such courts. Neither Party may assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder without the other Party's prior approval. Notwithstanding the foregoing, either Party may assign this Agreement, upon notice to the other Party, to a related

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or unrelated person or entity in connection with a sale, consolidation or other reorganization of its business, in whole or in part. Unless otherwise expressly permitted pursuant to the terms of this Agreement, no modification, amendment, supplement to or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and signed by duly authorized representatives of the Parties. This Agreement and its Exhibits constitute the complete and exclusive statement of the terms, conditions and representations of the agreement between the Parties with respect to the subject matter hereof, and supersedes all prior or simultaneous, written or oral negotiations, correspondence, understandings and agreements between the Parties with respect to the subject matter hereof. If any provision of this Agreement is held to be unenforceable, this holding will not affect the validity of the other provisions of this Agreement. Neither Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control.

IN WITNESS WHEREOF, the Parties hereto, each acting under due and proper authority, have read, understood and executed this Agreement for Updating Profile Information as of the Effective Date as evidenced by the signature of each Party’s authorized representative below.

Healthgrades Operating Company, Inc.

Licensor

By : _____

By : _____

(Sign Here)

Name : _____

Name : _____

(Print Name)

Title: _____

Title: _____

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EXHIBIT A – (Data for Administrator)

- a. NPI number (required - all ten digits including leading zeroes)
- b. First Name (required)
- c. Middle Name (if available)
- d. Last Name (required)
- e. Suffix (if available)
- f. Gender
- g. Provider Degree (MD, DO...)
- h. Practicing Specialty
- i. Practice Name
- j. Office Name
- k. Address (P.O. Box is not accepted)
- l. Address Suite Number
- m. City
- n. State
- o. Zip code* (include leading zeroes)
- p. Appointment Phone Number (Office Phone Number)
- q. Office Fax Number
- r. Email Address of Provider (must be unique)
- s. DEA Number
- t. State License Number
- u. State License Issued State
- v. Last 4-digits of Social Security Number
- w. Birth Date

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EXHIBIT B

Fees and Charges

- I. Manage My Profile. There are no fees associated with the establishment of an Administrator/Roster access or the use of Manage My Profile.

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Administrators

Administrator 1

Name: _____

Organization: _____

Address: _____

Telephone: _____

Email: _____

Administrator 2

Name: _____

Organization: _____

Address: _____

Telephone: _____

Email: _____