



## Inpriva Master Services Agreement for the Florida Health Information Exchange

This Master Services Agreement between Inpriva, Inc., a Colorado corporation ("Inpriva") and the Client identified below ("Client") includes Exhibits A ("Services"), B ("Pricing") and C ("Business Associate Agreement") together with all Service Addendums ("Service Addendum") containing Service Orders and any Additional Terms and Conditions mutually agreed upon in writing.

1. **Services:** Inpriva will provide the services, products, software and information, collectively known as "Services" described in the Exhibit A in accordance with the terms noted herein and as amended within any Service Addendum attached hereto.
2. **Prices and Rates:** The price for each Service is set forth in Exhibit B or Service Addendum attached hereto. Client shall pay all sales, use, gross receipts, excise, occupational, access, bypass, franchise and other federal, state and local taxes, assessments, fees, charges, and surcharges, however designated, imposed on or based upon the provision, sale, purchase and/or use of Services.
3. **Payment:** Except when separately set forth in Exhibit B or a Service Addendum, Inpriva shall invoice Client, (i) in advance, for annually recurring flat-rate Services to be provided, (ii) in advance for one-time, non-recurring and pro-rated Services to be provided and (iii) monthly following the use of all measured or metered Services provided. All invoices are due upon delivery, subject to any additional payment terms set forth in the Service Addendum and become past due thirty (30) days later without demand or set off by Client. If any invoice is not paid to Inpriva within thirty (30) days of delivery, a late charge shall accrue on the delinquent amount at a rate of 1.5% per month, or the maximum rate permitted by law, whichever is less. Any and all dispute claims must be submitted to Inpriva within thirty (30) days of receipt of the applicable invoice. All dispute claims not submitted within said thirty (30) day period are deemed waived. Inpriva shall have the right, at its election and without obligation, in addition to all of its other rights and remedies, to immediately terminate this Master Services Agreement and/or suspend Services in the event of any overdue payment in excess of thirty (30) days or any breach or default under of this Agreement.
4. **Term; Renewal; Termination:** The term of this Agreement shall begin on the Effective Date set forth at the end of this Agreement and shall end upon the later of the completion of twelve (12) months or completion of all the terms for Service. The term for each Service shall be set forth in Exhibit A or a Service Addendum and shall not be less than twelve (12) months unless otherwise stated in the Exhibit A or the Service Addendum. During the term, Client shall pay Inpriva for each Service subject to this Agreement and accompanying Exhibits and Inpriva shall not increase such amounts during that period, but thereafter, Inpriva may increase such amounts upon 90 days prior written notice. If Client cancels Service before the term of this Agreement is complete or before Service activation, then Client is responsible for the termination charges equal to the remaining balance of this Agreement. The term for each Service shall automatically renew for successive additional periods ("Extended Term") each equal to the term set forth in Service Addendum or twelve (12) months, if not specified in the Service Addendum unless either party delivers to the other party written notice of termination at least thirty (30) days prior to the end of the term or the Extended Term.
5. **Obligations of Inpriva:** Inpriva shall be responsible for providing Services consistent with industry standards, except as provided in the Exhibit A and Service Addendum. INPRIVA DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE UNLESS SPECIFIED SEPARATELY IN EXHIBITS OR SERVICE ADDENDUM.
6. **Obligations of Client:** Client shall be responsible for the manner in which Service is used, including the maintenance and security of the data retrieved, local computer network security, determination of trusted senders and recipients of Health Information Network (HIN) messages and all other matters related to the use of Service. Client shall ensure that users of the Service maintain the confidentiality of the authentication mechanisms. Client is solely responsible for ensuring that the individuals and systems accessing the Service are authorized to do so. Client shall notify Inpriva immediately if there is any unauthorized use of or any other breach in the security of its Service. Additional Obligations of Client may be specified in Exhibits or Service Addendum.
7. **Warranty:** Inpriva warrants that it owns the HIN Services, including all associated intellectual property rights, or otherwise has the right to grant Client the right and license provided in this Agreement, and that as of the date of this Agreement neither the HIN Services nor any materials supplied by Inpriva to client infringe any valid patents, copyrights, trademarks, or other proprietary rights of any other third parties.

8. **Liability Limitation:** Notwithstanding anything to the contrary contained in this agreement, neither party, nor any of its affiliated persons and entities, will be responsible for consequential, incidental, indirect, exemplary or special damages, including lost profits (even if they have been advised of the possibility or likelihood of such damages).
9. **Other Networks: Access and Cancellation at Inpriva Discretion.** Client agrees to comply with the acceptable use policies, rules and regulations, and terms and conditions of any networks accessed through Inpriva as outlined herein including all Service Addendums. Inpriva reserves the right to deny access to, or terminate Services which, in Inpriva's sole opinion, are causing, or may cause, harm to Inpriva facilities, servers or to other systems. Inpriva will make reasonable efforts to notify Client of any such Inpriva action, but is not bound by this Agreement to do so.
10. **Confidential Information:** Each party shall keep and maintain strictly secret and confidential any and all confidential or proprietary information of the other party and, except as required in connection with the performance of this Agreement or as is required by law and shall not use the same or disclose the same to any third party.
11. **Non-Solicitation:** Client shall not, directly or indirectly, do any of the following: (i) solicit any director, officer, employee, or agent of Inpriva, or encourage any such person to terminate any such relationship with Inpriva, (ii) encourage any Client, supplier or other entity having a business relationship with Inpriva to terminate or alter such relationship, whether contractual or otherwise written or oral, with Inpriva, (iii) encourage any prospective Client or supplier not to enter into a business relationship with Inpriva.
12. **Miscellaneous:** Client may not assign this Agreement or any rights or interests hereunder without the express prior written consent of Inpriva and no said assignment shall relieve Client of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns. This Agreement and any and all related Exhibits and Service Addendums constitute the entire agreement and understanding of the parties and supersede all prior and contemporaneous agreements and understandings between the parties with respect to the subject matter hereof. Any changes to this Agreement, or any additional or different terms in the Client Orders, Service Addendums or any other documents will not be effective unless agreed to in writing by Inpriva. The contractual relationship between Inpriva and Client for each Service shall be governed by the following order of precedence: (i) Service Addendum, (ii) Additional Terms and Conditions, (iii) Exhibits and (iv) Master Services Agreement.
13. **Governing Law:** In the event of a dispute between the Client and Inpriva arising out of this Agreement, the applicable Federal and state conflicts of law provisions that govern the operations of the parties shall determine governing law. Litigation between the Client and Inpriva concerning this Agreement or its subject matter shall be conducted exclusively in state or federal court in the state where the party being sued is located.
14. **Compliance With Laws:** Client shall not use or permit its end users to use Services in any manner that violates any applicable laws or Inpriva use policies, infringes on the rights of others or interferes with users of the Inpriva network or other networks, including, without limitation, distribution of chain letters or unsolicited bulk electronic mail (spamming), knowingly distribute or release computer worms and viruses, use a false identity, attempt to gain unauthorized entry to any site or network, distribute child pornography, obscenity or defamatory material, or infringe patents, copyrights, trademarks or other intellectual property rights.
15. **Rights not Waived:** Failure by either Client or Inpriva to insist upon compliance by the other party with the terms and conditions of this Agreement including any Service Addendum shall not constitute a waiver of any rights under this Agreement.
16. **Partial Invalidity:** If any part, term, or provision of this Agreement is determined to be invalid or unenforceable by a court, board, or tribunal of competent jurisdiction, such term or provision shall be construed in all respects as if such provision were written in a manner acceptable to said court, board, or tribunal, or, if such provision is found to be totally unacceptable to such court, board, or tribunal in any form, then as if such invalid provision were omitted altogether.

**Entire Agreement:** It is expressly understood that there are no oral agreements or understandings between Client and Inpriva, which will be deemed to extend, restrict, or otherwise supersede the exact terms of this agreement. If any provision of this Agreement including any Service Addendum fails to comply with applicable law, then this Agreement shall, without prior notice, be automatically modified to conform with the minimum requirements of any law or governmental regulation having application to or jurisdiction over the subject matter or the parties hereto. Otherwise, this Agreement, the Application Form, and any later written changes published via Inpriva service, constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the undersigned have executed this Agreement with an Effective Date of August 28,2014.

**INPRIVA, INC..**

Signed by:           D - J - [Signature]          

Printed Name: Don Jorgenson

Title: CEO

Date: Aug 28, 2014

**CLIENT:** \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

Signed by: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT A

### INITIAL HEALTH INFORMATION NETWORK SERVICES

This Exhibit contains a list and overviews of Health Information Network Services (“HIN Services”) that may be provided by Inpriva, the respective responsibilities of Inpriva and Client and additional terms and conditions that apply to those Health Information Network Services.

#### Identity Services

- a. Description.
  - Inpriva is both an EHNAC/DirectTrust Accredited Certificate Authority and Accredited Registration Authority. Inpriva closely follow the policies and procedures required by the X.509 Certificate Policy for the Federal Bridge Certification Authority (FBCA) (“FBCA Certificate Policy”) published by the Federal Public Key Infrastructure Policy Authority and is a FBCA Cross-certified Registration Authority. In addition, Inpriva will enforce the specific policies and procedures specified in the Certificate Policy Profiles referenced in its certificate policies.
  - Client customers that are currently using an existing secure messaging service will need to have both the organization and administrative users proofed to the proper level as specified by the Direct Project and have certificates generated to enable these customers to be migrated onto the Inpriva solution and thus properly encrypt and protect the information these customers will be sharing. When possible, Inpriva will take every step to eliminate the need to have face-to-face activities with those existing accounts.
- b. Inpriva Responsibilities.
  - Client Domain Setup and Configuration within the Inpriva Direct Network
  - Creation of sub-domains based on the requirements of the Client Direct customers
  - Configuration of the Edge Connectors for SMTP, POP3, and IMAP protocols
  - Registration Authority Configuration
    - Enforcement of Inpriva identity proofing policies
    - Enforcement of Inpriva Certificate Policy profiles
    - Configuration of the Inpriva-branded Enrollment Portal to meet the Client Direct registration requirements
  - Client Direct Training
- c. Client Dependencies.

The timely and quality completion of the Inpriva responsibilities and deliverables are dependent upon Client and Inpriva reaching a mutual understanding of who will initiate Client customer communication and what information will be communicated to Client customer.

#### Mail Services

- hDirect Mail Mailbox
  - User Subscription License (USL) Terms:
    - Each One-Year USL for an hDirect Mail mailbox purchased pursuant to an annual commitment shall be valid for one year from activation or for thirteen months after the date of purchase, whichever comes first.

**EXHIBIT B**

**PRICE AND PAYMENT TERMS AND CONDITIONS**

**Product Pricing**

The prices below represent base rates negotiated for Florida Health Information Exchange. These prices represent a substantial discount from the Inpriva retail rates through June 2015.

***Identity Services***

	<u>Initial</u>	<u>Renewal</u>
• Direct Organization Certificate – includes Identity Proofing/Organization	\$45/year	\$18/year
• Direct Admin Digital Credential – includes Identity Proofing/Individual	\$45/year	\$18/year

***Mail Services***

• Cost/Mailbox	\$8/month
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**Vouchers and Discounts**

Florida Health Information Exchange and Inpriva may, from time to time, issue Vouchers or Discount Codes that can be applied toward the cost of Services. The Vouchers or Discount Codes may be applied at the time of a website purchase or used as a credit to reduce a qualifying amount due on an invoice.

**Terms**

Products will be offered on a Florida HIE Direct Messaging website. In most cases, payment will be required in advance on an annual basis for all products and services.

## EXHIBIT C

### BUSINESS ASSOCIATE AGREEMENT

The parties to this Exhibit agree that the following provisions constitute a business associate agreement for purposes of complying with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This Exhibit is applicable if the Inpriva is a business associate within the meaning of the Privacy and Security Regulations, 45 C.F.R. 160 and 164.

a. **Limits on Use and Disclosure.**

- i. **Use Under This Agreement.** Business Associate agrees to not use or further disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as Required By Law. Business Associate may use and disclose PHI to perform those functions, activities, or services that Business Associate performs for, or on behalf of, each Covered Entity as specified in this Agreement, provided that such use or disclosure would not violate HIPAA or HITECH if done by a Covered Entity, including but not limited to accessing and transmitting PHI on the HIN Services and maintaining the HIN Services. Any such use or disclosure allowed by this subsection shall be limited to those reasons and those individuals as necessary to meet the Business Associate's obligations under this Agreement.
- ii. **Other Disclosures.** Business Associate will not make the following disclosures that are otherwise allowed to be made by a Covered Entity under 45 CFR § 164.512 unless compelled to do so by law or unless such a disclosure is specifically authorized or required by this Agreement:
  1. About victims or abuse, neglect, or domestic violence;
  2. For health oversight activities;
  3. For judicial and administrative proceedings;
  4. For law enforcement purposes;
  5. About decedents;
  6. For cadaveric organ, eye, or tissue donation purposes;
  7. To avert a serious threat to health or safety;
  8. For specialized government functions;
  9. For workers' compensation purposes;
  10. For marketing purposes;
  11. For fundraising purposes.

If Business Associate is requested to make a disclosure for one of the foregoing reasons, it shall forward such request to the relevant Covered Entity so that the Covered Entity can coordinate and prepare a timely response. Business Associate shall make PHI available to the Covered Entity for the foregoing reasons if requested to do so in writing by the Covered Entity for the Covered Entity to coordinate and prepare a timely response.

- iii. **Use of PHI for Management and Administration or Legal Responsibilities of Business Associate.** Notwithstanding subsection a. of this Agreement, Business Associate may use and disclose PHI received by the Covered Entity pursuant to this Agreement for: (1) the proper management and administration of the Business Associate; or (2) to carry out the legal responsibilities of the Business Associate. However, the Business Associate will only be allowed to disclose PHI for the aforementioned uses if: (1) the disclosure is Required By Law; or (2) the Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as Required By Law and for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI.

- b. **Safeguards.** Business Associate agrees to use reasonable and appropriate administrative, physical and technological safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement. In addition, Business Associate shall implement such safeguards and security measures as are necessary to comply with the HIPAA Security Rule as set forth in 45 CFR Parts 160 and Subparts A and C of Part 164. The Business Associate will report to the Covered Entity within twenty-four (24) hours of discovery any security incident of which the Business Associate is aware.
- c. **Report of Improper Use or Disclosure.** Business Associate agrees to report to a Covered Entity within ten (10) business days of discovery any use or disclosure of the Covered Entity's PHI not provided for by this Agreement of which Business Associate becomes aware.
- d. **Agents and Subcontractors.** Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by the Business Associate on behalf of, a

Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to PHI.


- e. **Access to Records To Fulfill Request by Individual.** Business Associate shall not respond to requests from Individuals for access to their PHI. Business Associate will refer such Individuals to the relevant Covered Entity so that the Covered Entity can coordinate and prepare a timely response to the Individual.
- f. **Access to Records by HHS Secretary.** Business Associate shall make its records, books, agreements and policies, and procedures relating to the administrative, physical and technical safeguards and the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the HHS Secretary for purposes of determining Covered Entity's or Business Associate's compliance with HIPAA and HITECH.
- g. **Amendments to PHI.** Business Associate shall have no obligation to initiate or make PHI amendments. Business Associate shall not respond to requests from Individuals for amendments to their PHI. Business Associate will refer such Individuals to the relevant Covered Entity so that the Covered Entity can coordinate and prepare a timely response to the Individual.
- h. **Accounting of Disclosures.** Business Associate shall have no obligation to prepare accounting of disclosures. Business Associate shall not, and shall not be required to accept and respond to inquiries from a Covered Entity's patient or their legal representative. Business Associate shall refer all inquiries from individuals to their known Covered Entity's for response.
- i. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure by Business Associate in violation of the requirements of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

**COVERED ENTITY**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Date: \_\_\_\_\_

**BUSINESS ASSOCIATE**

By:  \_\_\_\_\_  
Title: CEO  
Address: 2625 Redwing Rd., Suite 330; Fort Collins, CO 80526  
Date: Aug 22, 2014

