

SUBCONTRACTOR BUSINESS ASSOCIATE AGREEMENT

This Subcontractor Business Associate Agreement (“BAA”), dated as of November 28, 2022 (“Effective Date”), is entered into by and between Beth Israel Lahey Health, Inc. (“Business Associate”) and Glykka, LLC d/b/a Signeasy (“Subcontractor”). Subcontractor and Business Associate may be referred to herein collectively as the “Parties” or individually as “Party”.

WHEREAS, Business Associate, as a component of Beth Israel Lahey Health, has among its purposes providing services to or on behalf of Beth Israel Lahey Health’s Covered Entity subsidiaries (collectively “Covered Entity”);

WHEREAS, the Parties have entered into one or more agreements, including but not limited to the online purchase dated November 28, 2022 (each a “Service Agreement”) pursuant to which Subcontractor agrees to provide certain services to or on behalf of Business Associate (the “Services”).

WHEREAS, in the course of providing the Services, Subcontractor may create, receive, maintain, or transmit on behalf of Business Associate, or otherwise receive from Business Associate, certain Protected Health Information (“PHI”).

WHEREAS, the Parties are committed to complying with the Privacy Regulations and the Security Regulations (as such terms are defined below) under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations and guidance issued by the Secretary (as defined below), all as amended from time to time (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations and guidance issued by the Secretary, all as amended from time to time (“HITECH Act”); and

WHEREAS, this BAA sets forth the terms and conditions pursuant to which PHI that is created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate or that is disclosed by Business Associate to Subcontractor shall be handled between and among Business Associate, Subcontractor and third parties during the term of the Service Agreement and following its termination.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions

a) Definitions.

- (i) The following terms used in this BAA shall have the same meaning as those terms have in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information, Health Care Operations, Individual, Minimum Necessary, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- (ii) The following terms used in this BAA shall have the same meaning as those terms have in the Massachusetts Data Security Rules: Breach of Security, and Personal Information.

b) Specific Definitions.

- (i) HIPAA Rules. "HIPAA Rules" shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and its implementing regulations and Subtitle D of the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-005), and its implementing regulations, including, but not limited to, the privacy, security, breach notification, and enforcement rules at 45 CFR Part 160 and Part 164.
- (ii) Massachusetts Data Security Rules. "Massachusetts Data Security Rules" shall mean: Massachusetts General Laws chapter 93H; and 201 Code of Massachusetts Regulations 17.00 et seq.
- (iii) Part 2. "Part 2" shall mean the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2.

2. Obligations and Activities of Subcontractor

Subcontractor agrees to:

- a) Not Use or Disclose PHI other than as permitted or required by this BAA or as Required by Law;
- b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of PHI other than as expressly provided for by this BAA;
- c) Report to Business Associate any Use or Disclosure of PHI not expressly provided for by this BAA, or any Security Incident, of which it becomes aware, including reporting Breaches of Unsecured Protected Health Information. Oral reports shall be made within two (2) business days following discovery and shall be followed promptly by written report (within ten (10) calendar days of discovery). Subcontractor shall cooperate with Business Associate with respect to disclosure of such Breach or Security Incident; provided, however, that Business Associate shall have sole control over the timing and method of providing notice to the affected individual(s). Subcontractor shall reimburse Business Associate for its reasonable costs and expenses in providing notification and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance) for affected individuals;
- d) Mitigate, to the extent practicable, any harmful effect that is known to Subcontractor of a Use or Disclosure of PHI by Subcontractor in violation of the requirements of this BAA;
- e) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Subcontractor agree in writing to the same restrictions, conditions, and requirements that apply to Subcontractor with respect to such information, and third party beneficiary rights to Business Associate in the event the third party breaches such a business associate agreement or otherwise causes harm to Business Associate. Upon request, Subcontractor will provide copies of any such business associate agreements to Business Associate;
- f) Promptly make available PHI in a Designated Record Set to Business Associate as necessary to satisfy Business Associate's obligations under 45 CFR 164.524 and in the event any Individual requests access to PHI directly from Subcontractor, forward such request to Business Associate

within five (5) calendar days so that Business Associate can respond to such Individual in accordance with 45 C.F.R. § 164.524;

- g) To the extent applicable, make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Business Associate pursuant to 45 CFR 164.526 within seven (7) calendar days or take other measures as necessary to satisfy Business Associate's obligations under 45 CFR 164.526;
- h) Maintain and make available the information required to provide an accounting of disclosures to Business Associate as necessary to satisfy Business Associate's obligations under 45 CFR 164.528 within seven (7) calendar days. Alternatively, if Business Associate responds to an individual's request for an accounting of disclosures made through an Electronic Health Record by providing the requesting individual with a list of all business associates acting on behalf of Business Associate, then Subcontractor shall provide such an accounting directly to the requesting individual in the time and manner specified by the HITECH Act;
- i) To the extent Subcontractor is to carry out one or more of Business Associate's or Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to Business Associate and/or Covered Entity in the performance of such obligation(s);
- j) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules in a time and manner designated by Business Associate or the Secretary;
- k) Comply with, and ensure that its Subcontractors (if any) agree to comply with, all the requirements of the HIPAA Rules at all times during the term of this Agreement and during the survival of any provisions hereof, all of which shall be applicable to Subcontractor and which are incorporated herein in their entirety.
- l) Provide training for its employees, agents, representatives, and subcontractors on the requirements of the HIPAA Rules and the Massachusetts Data Security Rules, which includes the permitted uses and disclosures of Protected Health Information and Personal Information.
- m) Protect and maintain the confidentiality, security and integrity of Personal Information in the manner provided for under, and otherwise comply with all applicable provisions of the Massachusetts Data Security Rules. Without limiting the generality of the foregoing, Subcontractor shall implement and maintain appropriate administrative, technical and physical safeguards and other security measures necessary to maintain the confidentiality, security and integrity of Business Associate Personal Information, including but not limited to a comprehensive written information security program that is consistent with industry standards, that reflects the size and type of Subcontractor's business as well as the volume and nature of its stored data. With respect to all Protected Health Information that is Electronically Transmitted or Electronically Maintained by Business Associate or one of its subcontractors will be maintained within the borders of the United States and will not be transmitted or otherwise leave the boundaries of the United States. At all times, Subcontractor shall remain responsible and liable for any act or omission affecting Business Associate Personal Information by any of its affiliates, agents or subcontractors as if such action or omission were performed by Subcontractor. Subcontractor will report to the Business Associate any suspected Breach of Security with respect to any Personal Information created or received by Subcontractor from or on behalf of Business Associate of which Subcontractor becomes aware. Oral reports shall be made within two (2) business days following discovery, and shall be followed

promptly by a written report based on subsequently developed information. This provision shall survive termination of the Agreement.

- n) Subcontractor shall ensure that its activities for Business Associate are conducted in accordance with reasonable policies and procedures, as specified in the Identity Theft Red Flag Rules promulgated under the Fair and Accurate Credit Transactions Act of 2003 (the "Red Flag Rules"), which are designed to detect, prevent and mitigate the risk of identity theft and to detect any relevant pattern, practice, or specific activity that indicates the possible existence of identity theft (each a "Red Flag") that may arise in the performance of services on behalf of Business Associate. Subcontractor shall report to Business Associate any Red Flag incident of which it becomes aware. Such reports shall be made orally within two (2) days from the date that Subcontractor becomes aware of the Red Flag incident, and shall be followed promptly by a written report based on subsequently developed information. Such written report by Subcontractor shall include: (i) a description of the Red Flag incident; (ii) a description of any threat of identity theft that may occur as a result of such incident; and (iii) the steps it has taken to mitigate any potential harm resulting from such incident.
- o) Acknowledge that Covered Entity is a member of an "organized health care arrangement," as that term is defined at by the HIPAA Rules. The current composition of this organized health care arrangement ("OHCA"), which may be amended from time to time, includes the entities listed on Exhibit A hereto (collectively, as amended from time to time, "OHCA Entities"). To the extent Subcontractor creates or receives protected health information from or on behalf of one or more of the OHCA Entities, the terms of this Agreement shall apply unless and until such OHCA Entity opts out of this Agreement, which an OHCA Entity may do at its sole discretion. If this Agreement applies to transactions between an OHCA Entity and Subcontractor, such OHCA Entity shall be considered a third party beneficiary of this Agreement with the right to enforce the terms of this Agreement. If an OHCA Entity opts out of this Agreement, another agreement addressing the privacy and security of the OHCA Entity's information may be required by the OHCA Entity before any further transactions occur between the OHCA Entity and Subcontractor.

3. Permitted Uses and Disclosures by Subcontractor

- a) Subcontractor may Use or Disclose PHI only to perform services on behalf of Business Associate and as otherwise expressly permitted by this BAA. All other Uses and Disclosures are prohibited.
- b) Subcontractor may Use or Disclose PHI as Required by Law.
- c) Subcontractor agrees to make Uses and Disclosures and requests for PHI consistent with Business Associate's Minimum Necessary policies and procedures.
- d) Except for the specific Uses and Disclosures set forth in Sections 3(e), 3(f), and 3(g), below, Subcontractor may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Business Associate.
- e) Subcontractor may Use PHI for the proper management and administration of Subcontractor or to carry out the legal responsibilities of Subcontractor, provided that such uses are permitted under the HIPAA Rules, the Massachusetts Data Security Rules and Part 2.
- f) Subcontractor may Disclose PHI for the proper management and administration of Subcontractor or to carry out the legal responsibilities of Subcontractor, provided the Disclosures are Required by

Law, or Subcontractor has entered into a business associate agreement with the third party which includes reasonable assurances from the person to whom the information is Disclosed that the information will remain confidential and used or further disclosed only as Required by Law or for the purposes for which it was Disclosed to the person, and the person agrees to notify Subcontractor of any instances of which it is aware in which the confidentiality of the information has been breached.

- g) Subcontractor may provide Data Aggregation services relating to the Health Care Operations of Business Associate.

4. Provisions for Business Associate to Inform Subcontractor of Privacy Practices and Restrictions

- a) Business Associate shall notify Subcontractor of any limitations in the Notice of Privacy Practices of Covered Entity under 45 CFR 164.520, to the extent that such limitations may affect Subcontractor's Use or Disclosure of PHI.
- b) Business Associate shall notify Subcontractor of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her PHI, to the extent that such changes may affect Subcontractor's Use or Disclosure of such PHI.
- c) Business Associate shall notify Subcontractor of any restriction on the Use or Disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Subcontractor's Use or Disclosure of PHI.
- d) Upon request, Business Associate will promptly provide Subcontractor with the Covered Entity's notice of privacy practices.

5. Permissible Requests by Business Associate

Business Associate shall not request that Subcontractor Use or Disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Business Associate, except that Subcontractor may Use or Disclose PHI for Data Aggregation and for the proper management and administration of Subcontractor or to carry out the legal responsibilities of Subcontractor, provided that such uses are permitted under the HIPAA Rules, the Massachusetts Data Security Rules and Part 2.

6. Term and Termination

- a) Term. The term of this BAA shall be from the Effective Date until all of the Protected Health Information provided by Business Associate to Subcontractor, or created or received by Subcontractor on behalf of Business Associate is destroyed or returned to Business Associate. If it is infeasible to return or destroy Protected Health Information, protections are extended to such information in accordance with the termination provisions in this Section 6. In addition, certain provisions and requirements of this Agreement shall survive its expiration or other termination.
- b) Termination for Cause.
 - i) Business Associate may terminate this BAA and any related Service Agreements if Business Associate determines Subcontractor has breached or violated a material term of this BAA and Subcontractor has not cured the breach or ended the violation within the time specified by Business Associate; provided that in the event of such a breach or violation, Business Associate may, in its sole discretion, terminate this BAA immediately, without providing Subcontractor an opportunity to cure the breach or end the violation, as applicable.

- ii) If Subcontractor knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, then Subcontractor shall immediately notify Business Associate. With respect to such breach or violation, Subcontractor shall: (i) take reasonable steps to cure such breach or end such violation, if possible; or (ii) if such steps are either not possible or are unsuccessful, upon written notice to Business Associate, terminate its relationship with Business Associate; or (iii) if such termination is not feasible, report the Business Associate's breach or violation to the Secretary.

c) Obligations of Subcontractor Upon Termination.

Upon termination of this BAA for any reason, Subcontractor shall:

- (i) Except as provided in Section 6(c)(ii) below, upon termination of this BAA for any reason, Subcontractor shall return or destroy all Protected Health Information received from Business Associate, or created or received by Subcontractor on behalf of Business Associate. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Subcontractor. Subcontractor shall retain no copies of the Protected Health Information.
 - (ii) In the event that Subcontractor determines that returning or destroying the Protected Health Information is infeasible, Subcontractor shall provide to Business Associate notification of the conditions that make return or destruction infeasible. Upon mutual agreement between the Parties that return or destruction of Protected Health Information is infeasible, Subcontractor 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 Subcontractor maintains such Protected Health Information.
- d) Survival. The obligations of Subcontractor under Section 6(c) shall survive the termination of this BAA.
7. **Indemnification.** The Parties agree to indemnify and hold harmless each other and each other's respective employees, directors, officers, subcontractors, agents or other members of its workforce, (each an "indemnified party") against all actual and direct losses suffered by the indemnified party and all liability to third parties arising from or in connection with any breach of this Agreement or of any warranty hereunder or from any negligence or wrongful acts or omissions in relation to this Agreement, including failure to perform its obligations under the HIPAA Rules, the Massachusetts Data Security Rules and Part 2 by the indemnifying party or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, the indemnifying party shall reimburse any indemnified party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any indemnified party by reason of any suit, claim, action, proceeding or demand by any third party which results from the indemnifying party's breach hereunder. The

Parties' obligation to indemnify any indemnified party shall survive the expiration or termination of this Agreement for any reason

8. **Miscellaneous**

- a) Regulatory References. A reference in this BAA to a section in the HIPAA Rules, the Massachusetts Data Security Rules or Part 2 means the section as in effect or as amended.
- b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law. This BAA may not be modified, nor shall any provision hereof be waived or amended, except in writing duly signed by authorized representatives of both Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.
- c) Interpretation. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules, the Massachusetts Data Security Rules and Part 2.
- d) Conflicts. The terms and conditions of this BAA will override and control any conflicting term or condition of any other agreement entered into between Business Associate and Subcontractor. All non-conflicting terms and conditions of any other agreement entered into between Business Associate and Subcontractor remain in full force and effect.
- e) Limitation of Liability. To the extent the Service Agreements contain a provision limiting the potential liability of Subcontractor, such limitation shall not apply to any damages resulting from a breach of this BAA or otherwise contemplated by this BAA, including but not limited to those contemplated in Section 2 or Section 7.
- f) Insurance. Subcontractor shall procure and maintain during the term of this BAA liability insurance in accordance with industry standards covering claims for breach of confidentiality and violation of the HIPAA Rules, the Massachusetts Data Security Rules and Part 2. Subcontractor shall notify Business Associate immediately in the event of a lapse, cancellation, or material modification of such coverage.
- g) Survival. The respective rights and obligations of Subcontractor and Business Associate under Sections 6 and 7 of this BAA shall survive the termination of this BAA indefinitely. Further, this BAA shall survive with respect to any OHCA Entity, even after termination of the Service Agreements and/or this BAA with respect to Business Associate, until (a) there are no remaining arrangements between Subcontractor and such OHCA Entity pursuant to which Subcontractor creates or receives Protected Health Information from or on behalf of such OHCA Entity, or (b) Subcontractor and such OHCA Entity enter into another agreement addressing the privacy and security of such Protected Health Information.
- h) Independent Relationship. None of the provisions of this BAA are intended to create, nor will they be deemed to create, any relationship between Business Associate and Subcontractor other than that of independent parties contracting with each other as independent contractors solely for the purposes of effecting the provisions of this BAA.

- i) Successor and Assigns. This BAA will inure to the benefit of and be binding upon the successors and assigns of Business Associate and Subcontractor. However, this BAA is not assignable by any Party without the prior written consent of the other Party; provided, however that Business Associate may assign this BAA without consent to any entity controlling, controlled by or under common control with Business Associate or any entity which purchases all or substantially all of the assets of Business Associate.
- j) Severability. If any provisions of this BAA are unenforceable, invalid or violate applicable law, such provisions shall not affect the enforceability of any other provision of this BAA.
- k) Notices. Any notices to given to a Part under this BAA shall be made to the Party as provided below:

To Business Associate:

To Subcontractor:
- l) Counterparts; Facsimiles. For the convenience of the Parties, this BAA may be executed in two or more identical counterparts, all of which together shall constitute one agreement. One or more counterparts of this BAA may be delivered via facsimile, with the intention that they shall have the same effect as an original counterpart.

[signature page follows]

Business Associate:

Signature: _____

Printed Name: Marian Dezelan

Title: Chief Marketing & Communications Officer

Subcontractor:

Signature: _____

Printed Name: _____

Title: _____

EXHIBIT A

OHCA ENTITIES

CAB Health and Recovery Services, Inc.
Concord Specialists, LLC
Lahey Clinic Hospital, Inc.
Lahey Clinic, Inc.
Beth Israel Lahey Health Primary Care, Inc.
Ledgewood Healthcare Corporation
Northeast Behavioral Health Corporation
Northeast Hospital Corporation
Northeast Medical Practice Inc.
Northeast Professional Registry of Nurses, Inc.
Northeast Senior Health Corporation
Seacoast Nursing and Rehabilitation Center, Inc.
Winchester Hospital
Winchester Physician Associates Group, LLC
Winchester Physician Associates, Inc.
Mount Auburn Hospital
Mount Auburn Professional Services, Inc.
CareGroup Parmenter Home Care & Hospice, Inc.
Beth Israel Deaconess Medical Center, Inc.
Beth Israel Deaconess Hospital – Needham, Inc.
Beth Israel Deaconess Hospital – Milton, Inc.
Beth Israel Deaconess Hospital – Plymouth, Inc.
Beth Israel Lahey Health Pharmacy, Inc.
Community Physician Associates
BID – Milton Physicians Associates, Inc.
Medical Care of Boston Management Corp., d/b/a Beth Israel Deaconess HealthCare a/k/a Affiliated Physicians Group
Jordan Physician Associates, Inc.
Anna Jaques Hospital
New England Baptist Hospital
New England Baptist Medical Associates, Inc.
New England Baptist Physician Group, LLC
Seacoast Affiliated Group Practice, Inc.
Harvard Medical Faculty Physicians at Beth Israel Deaconess Medical Center, Inc.