

LEE MEMORIAL HEALTH SYSTEM

CONSULTANT AGREEMENT – CLOSURE GROUP, INC.

THIS AGREEMENT is made this 1st day of January, 2006, between Lee Memorial Health System, 2776 Cleveland Avenue; Ft. Myers, Florida 33901, a special purpose unit of local government created by special act of the Florida Legislature (Hereinafter “LMHS”), and Closure Group, Inc., 14101 River Road; Ft. Myers, Florida 33905 (Hereinafter “Consultant”), to provide for the engagement of Consultant to perform certain services for LMHS, in accordance with the following terms and conditions:

1. Purpose. Consultant has the knowledge, experience and expertise to provide LMHS with advice and guidance regarding governmental issues on a State and local level in the State of Florida; and is able to serve as a representative of LMHS to State and local officers and officials, in order to communicate concerns and issues of LMHS regarding actual or proposed actions of government. LMHS wishes to retain Consultant to provide such services.

2. LMHS’ Responsibilities. LMHS shall assign an individual designated “Legislative Contact” who shall be the person to whom Consultant will report for purposes of this Agreement. The Legislative Contact shall be responsible to respond to inquiries of Consultant relative to the services provided hereunder, and to provide direction to Consultant concerning those issues and concerns that Consultant should address with governmental agencies. The Legislative Contact may designate other LMHS employees or Board members to perform the same or similar function with regard to particular issues. LMHS shall be responsible to see that consistent organizational direction is provided, in order to avoid confusion and ambiguity in its position on specific issues.

3. Tax-Exempt Status. It is understood and acknowledged between the parties that LMHS is a tax-exempt governmental agency, and is this prohibited from supporting any candidate for public office or engaging in certain “political activities” defined by federal or State law. Consultant is aware of this issue and shall avoid any action that may compromise LMHS’ tax-exempt status.

4. Consultant's Services. Consultant, through its principal, Keith Arnold, shall perform the following services for LMHS:
- a. Education and consultation concerning health planning and policy analysis;
 - b. Monitoring of health issues nationally and state-wide;
 - c. Advising regarding strategy development regarding public advocacy on health issues and concerns;
 - d. Advising regarding legislative and administrative developments and formulation of responses thereto;
 - e. Assisting LMHS public relations staff in the development of public information and education regarding governmental issues; and
 - f. Addressing the following specific matters:
 - (1) Identify and implement strategies regarding proposed legislation during each legislative session.
 - (2) Identify and implement strategies regarding local governmental action, including proposed ordinances and other actions, and contracts for healthcare services.
 - (3) Prepare timely periodic reports of State legislative and local government initiatives.
 - (4) Assist LMHS financial, development and planning staff in determining the feasibility of obtaining specific line item appropriations for identified LMHS program objectives.
 - (5) Assist LMHS financial, development, planning and legal staff in determining the need for and feasibility of general and special legislation to be filed on behalf of LMHS.
 - (6) Provide LMHS staff and Board members opportunities with regards to interacting and directly communicating with elected officials and other governmental officials.
 - (7) On behalf of LMHS, contact governmental officers and officials, and appear before legislative committees and administrative bodies to provide information regarding the

effect that proposed legislation, rules or other governmental action will have on LMHS, and advocate on behalf of LMHS, that a governmental officer, official or body take or defer specific action.

- (8) Cooperate with professional associations, legal counsel and others designated by LMHS' Legislative Contact as being involved in legislative or administrative efforts on behalf of LMHS.

5. Consultant's Fees. LMHS shall pay Consultant a fee of \$7,500.00 per month pursuant to this Agreement. LMHS shall remit payment of fees to Consultant within 15 days following the end of each month.

6. Consultant's Expenses. Consultant may request reimbursement of reasonable expenses regarding extraordinary expenditures in support of its services to LMHS hereunder, to be approved by LMHS' Chief Executive Officer in accordance with the provisions of section 112.061, Florida Statutes and LMHS policy and procedures governing such reimbursement.

7. Term and Termination. This Agreement shall commence on the date shown above and continue in effect until terminated in accordance with this Agreement.

8. Entire Agreement and Amendments. This instrument constitutes the entire agreement between the parties, supersedes any prior agreements between them, oral or written, and may be amended only by mutual written consent of the parties. The parties may elect to request additional responsibilities to be performed by Consultant, which shall be described and agreed to by written amendment to this Agreement.

9. Assignment. This Agreement may not be assigned without the prior written consent of the non-assigning party.

10. Conflicts of Interest. Consultant is sensitive to the concerns of clients, including LMHS, regarding potential or actual conflicts of interest. Consultant warrants that neither it nor its principal, Keith Arnold, is under any obligation to any person or entity that would create any conflict of interest, or

that in any way conflicts with its obligations to LMHS under this Agreement. In the event Consultant and LMHS identify a potential or actual conflict of interest that is otherwise irreconcilable between the parties hereto, Consultant shall withdraw from providing its services to both LMHS and the other client to the extent required to resolve the conflict satisfactorily to LMHS.

11. Liability. Consultant shall use its best efforts to provide the services described hereunder, but shall not be responsible for the actions, inactions or decisions of any governmental body affecting LMHS. This paragraph is not to be construed as relieving either party of any other duty or responsibility arising from this Agreement or any other liability arising from the acts or omissions of their respective officers, agents or employees. Consultant shall maintain adequate workers compensation coverage for its employees without right of subrogation against LMHS. Consultant shall hold LMHS harmless against any claim for taxes, social security contributions or other charges or assessments arising out of Consultant's employment of its personnel.

12. Independent Contractor Status. The relationship of Consultant to LMHS is that of independent contractor, and this Agreement shall not be construed as creating an employment relationship between LMHS and any of Consultant's personnel.

13. Jurisdiction and Venue. This Agreement is to be construed in accordance with the laws of the State of Florida, and any venue for an action hereon shall be in Lee County, Florida.

SIGNED by the duly authorized representatives of the parties on the date(s) shown below.

For: **Closure Group, Inc.**



J. Keith Arnold

Date: 1-31-06

For: **Lee Memorial Health System**



James R. Nathan, President

Date: 1/26/06

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into and made this 31 day of January, 2006 ("Effective Date") by and between LEE MEMORIAL HEALTH SYSTEM ("Covered Entity") and CLOSURE GOUP, INC. ("Business Associate").

WHEREAS, Business Associate has agreed to provide service to Covered Entity that may require the use and disclosure of Protected Health Information; and

WHEREAS, Covered Entity and Business Associate acknowledge that each Party has certain obligations under the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), and its implementing regulations.

NOW THEREFORE, to the extent that the Covered Entity is not permitted to disclose Protected Health Information to Business Associate without entering into this Agreement, Covered Entity and Business Associate agree as follows:

1.0 Definitions

- (a) *Individual*. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualified as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- (b) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- (c) *Security Rule*. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 164, subpart C.
- (d) *Protected Health Information*. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (e) *Required By Law*. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.501 and 45 C.F.R. 164.103.
- (f) *Secretary*. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- (g) *Destroy*. "Destroy" as used in conjunction with electronic PHI shall mean to make the PHI unreadable and unusable as defined by current industry standards for destruction.
- (h) *Security Incident*. "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- (i) Terms used, but not otherwise defined, in this Agreement, shall have the same meaning as those terms in 45 CFR 160.103 and 45 CFR § 164.103.

2.0 Obligations and Activities of Business Associate

2.1 General Obligations

- (a) Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- (c) Business Associate agrees to report to Covered Entity's Privacy Officer any use or disclosure of the PHI not provided for by this Agreement.
- (d) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

- (e) To the extent Business Associate has PHI in a Designated Record Set, and only to the extent required by HIPAA, Business Associate agrees to provide access, at the request of Covered Entity to PHI in the Designated Record Set, to Covered Entity in order to meet the requirements under 45 C.F.R. § 164.524.
- (f) Business Associate agrees to make any amendment(s) to PHI in its possession contained in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526, provided, however, that Covered Entity makes the determination that the amendment(s) are necessary because the PHI that is subject to the amendment(s) has been, or could reasonably be, relied upon by Business Associate or others to the detriment of the Individual who is the subject of the PHI to be amended.
- (g) Business Associate agrees to make internal practices, policies & procedures, books, and records relating to the use and disclosure of PHI received from or created or received by Business Associate on behalf of, Covered Entity or required by 45 CFR 164.308(b)(1), available to the Secretary, within normal business hours and in the manner designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule and Security Standards.
- (h) Business Associate agrees to document such disclosures of PHI in its possession and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- (i) Business Associate agrees to provide to Covered Entity information collected in accordance with Section 2(h) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

2.2 Security of Electronic Protected Health Information

In addition to its general obligations with respect to PHI, if the PHI is created, received, maintained or transmitted in electronic form, Business Associate will:

- (a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by HIPAA;
- (b) Ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect electronic PHI; and
- (c) To the extent required by the Security Rule, beginning on April 21, 2005 or the enforcement date of the Security Rule, whichever is later, report to Covered Entity any security incident of which it becomes aware.

3.0 Permitted Uses and Disclosures of Protected Health Information by Business Associate

3.1 General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Contract titled Lee Memorial Health System Consultant Agreement – Closure Group, Inc., provided that such use or disclosure complies with HIPAA.

3.2 Specific Use and Disclosure Provisions

- (a) Business Associate may use PHI for the proper and necessary management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- (b) Business Associate may disclose PHI for the proper management and administration of 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (c) "Proper and necessary management and administration of Business Associate," for purposes of this Agreement, includes the creation of de-identified information that may be used and disclosed by Business Associate as Business Associate deems appropriate, provided that the information is de-identified in accordance with the Privacy Rule.
- (d) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

- (e) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, in a manner consistent with the Privacy Rule.

4.0 Obligations of Covered Entity

4.1 Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) At the request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices (the "notice") that Covered Entity produces in accordance with 45 C.F.R. § 164.520, and with any changes or amendments to such Notice. Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) Covered Entity shall notify Business Associate, in writing and in a timely manner, of any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate, in writing and in a timely manner, of any restriction to the use and/or disclosure of PHI to which Covered Entity has agreed, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5.0 Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, unless the underlying contract titled Lee Memorial Health System Consultant Agreement – Closure Group, Inc. permits data aggregation or management and administrative activities of the Business Associate.

6.0 Survival and Termination

(a) **Survival.** The term of this Agreement shall commence on Effective Date. Business Associate's obligation under this Agreement shall survive the termination of this Agreement and shall end when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with this Section 6.

(b) **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall, at its discretion either:

(1) Provide an opportunity for Business Associate to cure the breach or end the violation within twenty (20) business days; or

(2) Immediately terminate this Agreement and the underlying contract, if the Business Associate has breached a material term of either and cure is not possible; or

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

(c) **Effect of Termination.**

(1) Except as provided in paragraph 6(c)(2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(2) In the event that Business Associate reasonably determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible, and Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If it is infeasible for Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, Business Associate must provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Agreement to the subcontractors' and/or agents' use

and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

7.0 Miscellaneous

- (a) **Regulatory Reference.** A reference in this Agreement to a section in the Privacy or Security Rule means the section as in effect or as amended, and for which compliance is required.
- (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 HIPAA. However, no change, amendment, or modification of this Agreement shall be valid unless it is set forth in writing and signed by both Parties
- (c) **Interpretation.** Any ambiguity or inconsistency in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA.
- (d) **No Waiver.** The failure of either party to insist on the strict performance of any term or condition in this Agreement, or to exercise any option in this Agreement, shall not be construed as a waiver of such term, condition, or option in any other instance.
- (e) **Notice.** Any notice called for under this Agreement shall be effective if mailed by certified or registered mail, postage prepaid, or hand delivered with evidence thereof to the Parties at their following addresses:

To Business Associate:

Company Name: Closure Group, Inc.
Contact person: J. Keith Arnold
Address: 14101 River Road
Fort Myers, Florida 33905
Phone No.: _____

To Covered Entity:

Lee Memorial Health System
Patient Information Privacy Officer
Health Information Management
2776 Cleveland Ave
Ft. Myers, FL 33901
239-334-5444

IN WITNESS WHEREOF, the Parties have executed this Agreement

Covered Entity: LEE MEMORIAL HEALTH SYSTEM

By: James R. Nathan
Name: James R. Nathan
Title: President / Chief Executive Officer
Date: 1/26/06

By: _____
Business Associate: CLOSURE GROUP, INC.
By: J. Keith Arnold
Name: J. Keith Arnold
Title: President
Date: 1-31-06

Closure Group, Inc.
14101 River Rd.
Ft. Myers, Fl. 33905

Lee Memorial Health System and Closure Group, Inc. are parties to a certain agreement for Consulting Services dated January 1, 2006. Both parties mutually consent to the assignment of this agreement to the law firm of Buchanan Ingersoll & Rooney, provided however, that J. Keith Arnold shall continue to be the primary consultant responsible for the duties and obligations described in the agreement for Consulting Services dated January 1, 2006. This assignment is effective on the date that J. Keith Arnold joined Buchanan Ingersoll & Rooney, which is March 14, 2014.

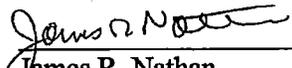
For: Closure Group, Inc.



J. Keith Arnold
President

1-5-17
Date

For: Lee Memorial Health Systems



James R. Nathan,
President

1/5/17
Date