

## TRANSPORTATION PROGRAM SERVICES AGREEMENT

by and between:

**SEDGWICK COUNTY, KANSAS**

and

**Rita's Rides LLC, Inc.**

This Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between Sedgwick County, Kansas ("County") and Rita's Rides LLC, a Kansas company/a company licensed to do business in the State of Kansas ("Contractor").

WITNESSETH:

**WHEREAS**, County wishes to make available transportation services to residents of Sedgwick County, Kansas; and

**WHEREAS**, Contractor warrants that it is fully competent and capable of providing the services hereinafter described in a safe and efficient manner.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and Contracts set forth herein, the parties hereto agree as follows:

### SECTION 1: SCOPE OF SERVICES

**1.1 Purpose and Scope of Work.** Contractor shall provide a program of specialized transportation services to eligible persons in order to maintain ability to reside in the community as long as possible ("Sedgwick County Transportation" or "SCT").

**1.2 Term.** The initial term of this Agreement shall be for one year, commencing January 1, 2018, and ending December 31, 2018. This Agreement may continue for a reasonable time after December 31, 2018, if both parties agree to continue operating under the terms of this Agreement while they are actively developing a contract for 2019.

### SECTION 2: CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

Contractor represents and warrants the following:

- a. All rides must have prior authorization by SCT. Rides scheduled directly with Contractor that do not receive prior authorization are subject to denial of payment.
- b. Contractor shall ensure through individual trip planning, coordination of trips, and time management that:
  - a. passengers are picked up no later than 30 minutes after requested pick up time. If this is not possible, Contractor must notify SCT immediately; and

- b. a backup system is in place and rides are managed in such a way that no SCT passenger is left without a ride.
- c. Contractor shall, at SCT's request, ask and punch/initial passenger's ride card at time of loading passenger. Should a passenger not have his or her ride card, Contractor is to contact SCT immediately for instruction. An additional passenger identified by SCT as an attendant may accompany the eligible passenger at no charge or additional punch. With direction from SCT; guests or additional riders that are not an attendant will require Contractor to punch/initial passenger's ride card according to number of one-way rides provided.
- d. SCT may adjust trip assignments based on passenger's needs, Contractor availability, or other unforeseen factors.
- e. Contractor shall comply with all policies and procedures set forth by SCT, and shall post or keep in each contracted vehicle the SCT Driver Assistance Guidelines and the Consumer Rules of Conduct. SCT passengers are not to be provided assistance beyond the door and their bags/packages are not to be carried beyond the threshold of a structure or facility.
- f. SCT customers shall be given priority service.
- g. Contractor shall maintain proof on file of a Kansas Bureau of Investigation (KBI) criminal background check within the last three (3) or less years of current contract and a Kansas Department of Motor Vehicle driving record check on each driver within the last three (3) or less years of current contract.
- h. The Federal Transit Administration (FTA) requires by law that in order to receive FTA Section 5311 reimbursement for general public transportation, the Contractor must have either a contract with TMHC Services, Inc. or other recognized drug and alcohol agency, and all safety-sensitive employees per FTA regulations are in a FTA drug and alcohol testing pool and that measures are performed by TMHC standards or recognized drug and alcohol agency guidelines. Contractor must provide proof in driver's personnel file of annual United States Department of Transportation (DOT) driver physical performed by a physician that can administer this type of driver's physical if they meet the definition for required DOT physicals. For a new driver, a pre-employment drug screening is required prior to administration of a driver's physical. Noncompliance with participation in a drug and alcohol testing pool will result in nonpayment of 5311 funded transportation services.
- i. A new Contractor shall attend a one-time Contractor training session on customer service, passenger assistance, and billing procedures provided by SCT.
- j. Contractor shall provide a Certificate of Insurance to SCT as proof of insurance coverage at levels described herein and shall place County as an additional insured.
- k. Contractor shall perform preventive maintenance on all vehicles per OEM and to have an annual vehicle inspection by an ASE certified (or equivalent) mechanic, Kansas Department of Transportation (KDOT) inspector, or City of Wichita inspector on each of Contractor's vehicles. If inspected by an ASE certified (or equivalent) mechanic, SCT's Annual Vehicle Mechanical & Safety Inspection Report form dated May, 2017 shall be completed and submitted; if inspected by a KDOT inspector or City of Wichita inspector, KDOT's or City of Wichita's completed form(s) shall be submitted.

- I. Contractor shall label vehicle(s) and identify with Contractor's name and phone number on exterior of vehicle with lettering and numbers at least 4" high.

### **SECTION 3: COMPENSATION AND BILLING INFORMATION**

**3.1 Compensation.** Payments made to Contractor pursuant to the terms of this Agreement shall be on a fee-for-service basis according to the rates set forth in Exhibit B, attached hereto and incorporated by reference as if fully set forth herein, and also according to the method of billing and payment as set forth in this Agreement. These fees include all of the Contractor's time, labor, insurance and equipment for any and all services performed under this Agreement.

**3.2 Billing Procedures.** Upon receipt of progress and/or completion reports, as required herein, County will pay Contractor in accordance with the following terms:

- a. **Monthly Billing.** A monthly billing system will be used and all billings will need to be remitted no later than the third (3<sup>rd</sup>) of each new month with an exception if the date falls on a weekend or holiday; to be provided before or on and no later than the next business day.
- b. **Billing Content.** All billings from Contractor to SCT/County shall include an itemization of each ride provided with units of service, date of ride, passenger name, funding code, and summary. Template provided to contractor by SCT. Funding codes will be updated regularly by SCT and Contractors will be notified as new funding sources are secured.
- c. **Billing Procedure.** County will process the billings, SCT will verify information, and County will issue a check or electronic deposit to Contractor pursuant to the County's standard purchasing procedures.
- d. **Submission of Bills.** Contractor must submit a billing statement to SCT/County for services provided within thirty (30) days of having provided such services. Failure to submit a timely billing statement will result in extended delays in receiving payment from County for such services. County has 30 days to process payment from the date a billing statement is received.

**3.3 Budget.** All funds provided to Contractor under this Agreement are intended to subsidize the cost of providing transportation to the passenger. The passenger and County will compensate Contractor for the services provided as described below.

- a. Contractor will not collect any co-pays from the passenger, passenger's attendant or guests. Passengers who owe a co-pay will pay SCT directly.
- b. Compensation shall be provided to Contractor based on the mileage rates as set forth in Exhibit B, attached hereto and incorporated by reference as if fully set forth herein.
- c. Contractor shall not be compensated for rides that leave passengers waiting over 30 minutes after scheduled pick-up time with exceptions made for extenuating circumstances for which Contractor should have alerted SCT of circumstances in accordance with guidelines set forth herein. Not applicable to will call/on demand (unset time) returns.

- d. Contractor shall not be compensated for a trip to pick up a passenger due to a Contractor scheduling error and/or not pre-authorized by SCT.
- e. No-show trips shall be compensated as a courtesy cost to Contractor at a flat rate of \$2.00. Documentation/alert must be provided prior to compensation of this cost.
- f. If two or more SCT passengers are picked up from the same location (home, apartment complex, etc.) at the same time and are transported to the same destination(s), Contractor shall be compensated as if this were a single SCT passenger.
- g. If two or more SCT passengers are picked up with one vehicle from different locations and are transported to the same or different destination(s), Contractor shall be compensated a courtesy cost of \$1.00 for the second, third, etc. passenger(s) picked-up within route plus mileage from the first SCT passenger's origination. Any trip that deviates with mileage for a non-SCT passenger using same vehicle will not be reimbursed mileage in the route to SCT passenger destinations and must be billed as if the non-SCT passenger was not included..
- h. Transfers, or transporting an SCT passenger to two or more different destinations, will be based on mileage rate.
- i. One SCT attendant may ride with Contractor at no additional charge by Contractor and no compensation will be paid to Contractor.
- j. SCT will not reimburse for wait time, should driver's/Contractor opt to accommodate requests.

**3.4 Services Not Performed.** Contractor shall not be entitled to receive payments for any program services Contractor is failing or has failed to perform.

**3.5 Non-Supplanting Existing Funds.** Contractor agrees that funds made available under this Agreement will not be used to supplant existing funds or other funding sources, but will rather be used to increase the amounts of those other funding sources.

#### **SECTION 4: CONTRACTOR'S PERSONNEL**

**4.1 Qualified Personnel.** Contractor has, or shall secure at its own expense, personnel who are fully qualified in accordance with all applicable state and federal laws to provide the program services described in this Contract. Such personnel shall not be County employees or have any other contractual relationship with the County. All of Contractor's personnel engaged, directly or indirectly, in the provision of program services shall meet the requirements of this Contract, all applicable federal laws, and all applicable laws of the State of Kansas.

**4.2 Minimum Wage.** Contractor shall comply with the minimum wage and maximum hour provisions of the Fair Labor Standards Act (29 U.S.C. § 201 *et seq.*).

**4.3 Employee Conflict of Interest.** Contractor shall establish written safeguards to prevent its employees from using their position with Contractor for a purpose that is, or gives rise to the perception that it is, motivated by a desire for private gain for themselves or others (particularly those with whom they have family, business, or other ties).

**4.4 Participant Safeguards.** Persons convicted of the following types of crimes during the consecutive ten (10) year period immediately preceding execution of this Agreement or, at any time during the pendency of this Agreement, are restricted as follows:

- a. persons convicted of any felony, drug or drug-related offense, crime of falsehood or dishonesty, or crime against another person are prohibited from performing SCT Services, administering this Agreement, or handling any funds conveyed hereunder;
- b. persons convicted of any crimes of moral turpitude, including without limitation, sex offenses and crimes against children are prohibited from performing SCT Services or otherwise interacting in any way with persons served pursuant to this Agreement; and
- c. persons convicted of a serious driving offense, including without limitation, driving under the influence of alcohol or a controlled substance, are prohibited from operating a vehicle in which a person served pursuant to this Agreement is a passenger. For purposes of this section, "serious traffic offense" shall not include any offense deemed a "traffic infraction" under K.S.A. §§ 8-2116 and 8-2118.
- d. The terms "convicted" and "conviction" shall include: (i) convictions from any federal, state, local, military or other court of competent jurisdiction; (ii) nolo contendere ("no contest") pleas; and (iii) being placed into a diversion or deferred judgment program in lieu of prosecution.
- e. Any issues concerning the interpretation of this Section 4.4 or its application to an individual shall be referred to the SCT Transit Manager who will then confer with the Director of the Sedgwick County Department on Aging. The Director's decision shall be final for purposes of compliance with this Agreement.

## **SECTION 5: RECORDS, REPORTS, INSPECTIONS AND AUDITS**

**5.1 Internal Review and Corrective Action.** Internal review and corrective action shall be carried out pursuant to the Department on Aging's Policies and Procedures Manual. An individual who feels that she or he has been treated in an unfair or discriminatory manner by employees, contractors or providers should contact County within sixty (60) days of the occurrence. An incident report will be completed and forwarded to the Director of the Sedgwick County Department on Aging for review. The Director will issue a timely written response to the individual, addressing his or her concern and detailing any actions taken to correct the inappropriate treatment. The decision by the Director is considered to be the final action on the issue. Identities of individuals filing a grievance shall be kept confidential to the extent possible.

**5.2 Notice of Action-Including Notice of Appeal Rights.** To the extent permitted by law, Contractor shall retain the right to appeal any final order or decision rendered at the administrative agency level which adversely affects the Contractor's interests, pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (K.S.A. 77-601 *et seq.*).

**5.3 County Audit.** County may request an audit for all funds received by Contractor from County as part of this Agreement. Any such audit shall be performed in accordance with the provisions of this Agreement. The audit shall cover Contractor's Accounting Information and other financial records which apply to this Agreement only. A copy of the audit requested by County shall be provided to Department on

Aging within twenty (20) days after receipt thereof. The audit may be requested by County at any time throughout the duration of this Agreement.

**5.4 Audits by State or Federal Agencies.** Contractor shall assist County in any audit or review of the SCT Program which might be performed by the Kansas Division of Legislative Post Audit or by any other local, state or federal agency by making persons or entities, documents, and copies of documents subject to Contractor's control available for the auditors or their representatives.

**5.5 Documentation of Costs.** All costs incurred by Contractor for which Contractor purports to be entitled to reimbursement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation (hereinafter collectively referred to as "Expense Information") evidencing in proper detail the nature and propriety of the costs charged to the County.

**5.6 Reports.** During the term of this Agreement, Contractor shall furnish to County, in such form as County may require and upon County's request, such statements, records, reports, data and information pertaining to matters covered by this Agreement. Payments to Contractor may be withheld by County if Contractor fails to provide all required reports in a timely, complete and accurate manner. Any payments withheld pursuant to this Section 5.2 shall be submitted to Contractor when all requested reports are furnished to County in an acceptable form. All records and information used in preparation of reports are subject to review by County to ensure the accuracy and validity of the information reported.

Without limiting the foregoing, Contractor shall report the following information to Department on Aging on a monthly basis no later than the eighth (8th) day of the month following the month in which program services were provided:

- a. an unduplicated count of program customers served; and
- b. such other data necessary to evaluate the program's effectiveness and efficiency.

**5.7 Retention of Records.** Unless otherwise specified in this Agreement, Contractor agrees to preserve and make available at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of expiration or termination of this Agreement.

Matters involving litigation shall be kept for one (1) year following termination of litigation, including all appeals, if the litigation exceeds five (5) years.

**5.8 Access to Records.** At any time during which records are retained by Contractor pursuant to Section 5.5 herein, Contractor shall make any and all of its records, books, papers, documents and data available to County (or an authorized representative of a State agency with statutory oversight authority) for the purposes of:

- a. assisting in litigation or pending litigation; or
- b. any audits or examinations reasonably deemed necessary by the Department on Aging.

## **SECTION 6 : PUBLICATION OF CONTRACT RESULTS**

**6.1 Contract- Related Publications.** If this Agreement results in a book or other material which may be copyrighted, the author is free to copyright the work. However, the Department on Aging hereby

reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all such copyrighted material and all material which can be copyrighted.

**6.2 Documentation of Originality or Source.** All published material and written reports submitted under this Agreement or in conjunction with any third party agreements under this Agreement will be originally developed material unless specifically provided for otherwise. Material not originally developed that is included in reports shall have the source identified either in the body of the report or in a footnote (regardless of whether the material is verbatim or in an extensive paraphrase format). All published material and written reports shall give notice that funds were provided by a grant from the Department on Aging.

## **SECTION 7: CONFLICTS OF INTEREST**

**7.1 Interest of Contractor.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of program services pursuant to this Agreement.

**7.2 Interest of Public Officials and Others.** No officer or employee of the County or any member of its governing body or other public official shall have any interest, direct or indirect, in this Agreement or the proceeds hereof.

**7.3 Employment Conflicts.** Contractor shall submit written notice to County in the event Contractor becomes aware that:

- a. an employee of the Department on Aging is also be an employee of Contractor at time this Agreement is executed;
- b. an employee of Contractor seeks additional/alternate employment with Department on Aging during the term of this Agreement;
- c. an employee of the Department on Aging seeks additional/alternate employment with Contractor during the term of this Agreement.

The Department on Aging shall have the sole discretion to determine what actions need to be taken to resolve the conflict. The Department on Aging may immediately terminate this Agreement without any further liability to Contractor if Contractor fails to adhere to the Department on Aging's decision.

**7.4 Advisory Council Members.** If any Contractor staff or board members serve on any County advisory councils, they shall not be present during nor participate in any discussion (inside or outside of the advisory council's meeting) relating to the program and may not vote in person or by proxy on any matter related to, affecting or affected by the program.

**7.5 Gratuities and Favors.** Contractor shall not directly or indirectly offer to any of County's officers, employees, or agents anything having monetary value including, without limitation, gratuities and favors.

## **SECTION 8: SUSPENSION & TERMINATION**

**8.1 Suspension of Services.** County may, in its sole discretion, indefinitely suspend Contractor's performance of SCT Services pursuant to this Agreement by providing a two (2) day notice to Contractor. Contractor shall resume performance of services within three (3) days after receipt of notice from County.

### **8.2 Termination.**

A. Termination for Cause. In the event of any breach of the terms or conditions of this Agreement by Contractor, or in the event of any proceedings by or against Contractor in bankruptcy or insolvency or for appointment of receiver or trustee or any general assignment for the benefit of creditors, County may, in addition to any other remedy provided it by law or in equity or other right reserved to it elsewhere in this Agreement, without any liability to Contractor on account thereof, by written notice, terminate immediately all or any part of this Agreement, procure the goods, equipment and/or services provided for herein elsewhere, on such terms and under such conditions as are reasonable in the sole discretion of County, and Contractor shall be liable to pay to County any excess cost or other damages caused by Contractor as a result thereof.

B. Termination for Convenience. County shall have the right to terminate this Agreement for convenience in whole, or from time to time, in part, upon thirty (30) days' written notice. Upon receipt of such termination notice, Contractor shall not incur any new obligations and shall cancel as many outstanding obligations as reasonably possible. In such event, County's maximum liability shall be limited to payment for goods or equipment delivered and accepted and/or services rendered.

C. Reduction in Funds. It is understood that funding may cease or be reduced at any time. In the event that adequate funds are not available to meet the obligations hereunder, either party reserves the right to terminate this Agreement upon thirty (30) days' written notice.

## **SECTION 9: MISCELLANEOUS**

**9.1 Contractual Relationship.** It is agreed that the legal relationship between Contractor and County is of a contractual nature. Both parties assert and believe that Contractor is acting as an independent contractor in providing the goods and services and performing the duties required by County hereunder. Contractor is at all times acting as an independent contractor and not as an officer, agent, or employee of County. As an independent contractor, Contractor, or employees of Contractor, will not be within the protection or coverage of County's worker's compensation insurance, nor shall Contractor, or employees of Contractor, be entitled to any current or future benefits provided to employees of County. Further, County shall not be responsible for the withholding of social security, federal, and/or state income tax, or unemployment compensation from payments made by County to Contractor.

**9.2 Authority to Contract.** Contractor assures it possesses legal authority to contract these services; that resolution, motion or similar action has been duly adopted or passed as an official act of Contractor's governing body, authorizing the signing of this Agreement, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of Contractor to act in connection with the application and to provide such additional information as may be required.



**9.3 Notification.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

**County:** Sedgwick County Department on Aging  
Attn: Transportation Contract Notification  
2622 W. Central, Suite 500  
Wichita, Kansas 67203

and

Sedgwick County Counselor's Office  
Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 359  
Wichita, Kansas 67203 3790

**Contractor:** Rita's Rides LLC  
2451 S Victoria Ave  
P.O. Box 13233  
Wichita, KS 67216

**9.4 Hold Harmless.** Contractor shall indemnify County, and its elected and appointed officials, officers, managers, members, employees and agents, against any and all loss or damage to the extent such loss and/or damage arises out of Contractor's negligence and/or willful, wanton or reckless conduct in the provision of goods and equipment or performance of services under this Agreement. This indemnification shall not be affected by other portions of the Agreement relating to insurance requirements.

**9.5 Liability Insurance.** Contractor agrees to maintain the following minimum limits of insurance coverage throughout the term of this Agreement:

<b>Worker's Compensation</b> Applicable State Statutory Employer's Liability	
<b>Employer's Liability Insurance:</b>	\$100,000.00
<b>Contractor's Liability Insurance:</b> Form of insurance shall be by a Comprehensive General Liability and Comprehensive Automobile Liability	
<b>Bodily Injury:</b> Each occurrence Aggregate	 \$500,000.00 \$500,000.00
<b>Property Damage:</b> Each occurrence Aggregate	 \$500,000.00 \$500,000.00
<b>Personal Injury:</b> Each person aggregate General aggregate	 \$500,000.00 \$500,000.00

<b>Automobile Liability – Owned, Non-Owned, and Hired:</b>	
Bodily injury each person	\$500,000.00
Bodily injury each occurrence	\$500,000.00

Liability insurance coverage indicated above must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County listed as an additional insured, except for professional liability, workers' compensation and employer's liability. Certificate shall be provided with bid/proposal submittals. Certificate shall remain in force during the duration of the project/services and will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A- and licensed to do business in the State of Kansas. It is the responsibility of Contractor to require that any and all approved subcontractors meet the minimum insurance requirements. Contractor shall obtain the above referenced certificate(s) of insurance, and in accordance with this Agreement, provide copies of such certificates to County.

**9.6 Entire Agreement.** This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

**9.7 Assignment.** Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

**9.8 Amendments.** Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

**9.9 Subcontracting.** None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of County. In the event subcontracting is approved by County, Contractor shall remain totally responsible for all actions and work performed by its subcontractors. All approved subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

**9.10 Severability Clause.** In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

**9.11 Waiver.** Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

**9.12 Force Majeure.** Contractor shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes.

**9.13 Order of Preference.** Any conflict to the provisions of this Agreement and the documents incorporated by reference shall be determined by the following priority order:

- a. Sedgwick County Mandatory Contractual Provisions Attachment
- b. Written modifications and addenda to the executed Agreement
- c. This Agreement document

**9.14 Environmental Protection.** Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

**9.15 Nondiscrimination and Workplace Safety.** Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violation of applicable laws, rules or regulations may result in termination of this Agreement for cause.

**9.16 Confidentiality.** Both parties will comply with the provisions of State and federal regulations in regard to confidentiality of eligible participant records.

**9.17 Required Certifications.** If Contractor is organized as a business entity of any sort, it shall furnish evidence of good standing in the form of a certificate signed by the Kansas Secretary of State. If Contractor is not officially organized in Kansas, it shall furnish evidence of authority to transact business in Kansas in the form of a certificate signed by the Kansas Secretary of State. The applicable certificate shall be provided to County on or before execution of this Agreement.

**9.18 Certificate of Tax Clearance.** Annually, Contractor shall provide County with a certificate of tax clearance from the State of Kansas certifying Contractor has paid all state taxes. The statement of tax clearance must be provided before contract renewal/initiation and be dated no more than thirty (30) days prior to beginning date of the contract term.

**9.19 Open Meetings.** By accepting funding from County, Contractor agrees that all administrative meetings at which the management or distribution of such funding is a topic will be open to County officials and/or employees.

**9.20 Drug Free Work Place Act of 1988 (49 CFR Part 32).** Contractor is required to provide a drug-free workplace and comply with the Drug Free Work Place Act of 1988 as prescribed in 49 CFR Part 32.

**9.18 Incorporation of Documents.** Exhibit A (Sedgwick County Mandatory Contractual Provisions Attachment), Exhibit B (Fees for Services) and Exhibit C (Sedgwick County HIPAA Business Associate Addendum) are attached hereto and are made a part hereof as if fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

\_\_\_\_\_  
David Unruh, Chairman  
Commissioner, First District

RITA'S RIDES LLC

\_\_\_\_\_  
Rita Minton, Owner

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Michael L. Fessinger  
Assistant County Counselor

ATTESTED TO:

\_\_\_\_\_  
Kelly B. Arnold  
County Clerk

**EXHIBIT A**  
**SEDGWICK COUNTY MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT**

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

**"The Provisions found in the Sedgwick County Mandatory Contractual Provisions Attachment, which is attached hereto, are hereby incorporated in this Agreement and made a part thereof."**

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Choice of Law:** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.
3. **Termination Due To Lack of Funding Appropriation:** If, in the judgment of the Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to Contractor at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.
4. **Disclaimer of Liability:** County shall not hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
5. **Acceptance of Agreement:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Jury Trial and Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has consented to a jury trial to resolve any disputes that may arise hereunder. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any Agreement and/or this Contractual Provisions Attachment will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
7. **Representative's Authority to Contract:** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.
8. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. County is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, County shall provide to the Contractor a certificate of tax exemption.  
  
County makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.
9. **Insurance:** County shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
10. **Conflict of Interest:** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the County and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the County. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any County employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the County.
11. **Confidentiality:** Contractor may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to

its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.

12. **Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.
13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

Parties to this Agreement understand that the provisions of this paragraph 13 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the County in relation to this Agreement prohibits the County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the County in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify County within the same five (5) business days, with the County reserving the same right to terminate for breach as set forth herein.
15. **HIPAA Compliance.** Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); the Genetic Information Nondiscrimination Act of 2008 ("GINA"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as "HIPAA"), to the extent that the Contractor uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, Contractor may be required to enter into a Business Associate Agreement pursuant to HIPAA.
16. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.
17. **Tax Set-Off.** If, at any time prior to or during the term of any executed agreement, Contractor is delinquent in the payment of real and/or personal property taxes to Sedgwick County, and the delinquency exists at the time payment is due under the agreement, County will offset said delinquent taxes by the amount of the payment due under the agreement and will continue to do so until the delinquency is satisfied, pursuant to K.S.A. 79-2012.

**Exhibit B**  
**Fees for Services**

0 – 2 miles:	\$4.00	one-way
2.1 – 4 miles:	\$8.00	one-way
4.1 – 6 miles:	\$10.00	one-way
6.1 – 8 miles:	\$13.00	one-way
8.1 – 10 miles:	\$16.00	one-way
10.1 – 12 miles:	\$19.00	one-way
12.1 – 14 miles:	\$22.00	one-way
14.1 – 16 miles:	\$25.00	one-way
16.1 – 18 miles:	\$28.00	one-way
18.1 – 20 miles:	\$31.00	one-way
20.1 – 22 miles:	\$34.00	one-way
22.1 – 24 miles:	\$37.00	one-way
24.1 – 26 miles:	\$40.00	one-way
26.1 – 28 miles:	\$43.00	one-way
28.1 – 30 miles:	\$46.00	one-way
30.1 – 33 miles:	\$50.00	one-way
33.1 – 37 miles:	\$56.00	one-way
37.1 – 40 miles:	\$60.00	one-way
40.1 – 43 miles:	\$64.00	one-way
43.1 – 47 miles:	\$68.00	one-way
47.1 – 50 miles:	\$72.00	one-way
50.1 – 55 miles:	\$76.00	one-way
55.1 – 60 miles:	\$80.00	one-way

**EXHIBIT C**  
**BUSINESS ASSOCIATE ADDENDUM**

**SECTION 1: DEFINITIONS**

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103.
- b. **Covered Entity.** "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Sedgwick County.
- c. **HIPAA Rules.** "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

**SECTION 2: OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

**Business Associate agrees to:**

- 2.1 not Use or Disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law;
- 2.2 Use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent Use or Disclosure of Protected Health Information other than as provided for by this Agreement;
- 2.3 report to covered entity any Use or Disclosure of Protected Health Information not provided for by the Agreement of which it becomes aware, including Breaches of Unsecured Protected Health Information as required at 45 CFR 164.410, and any Security Incident of which it becomes aware, as further provided for in Par. 12.1, *et seq.*;
- 2.4 mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement;
- 2.5 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 Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- 2.6 make available Protected Health Information in a Designated Record Set to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;



- 2.7 make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526 or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;
- 2.8 make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules; and
- 2.9 maintain and make available the information required to provide an accounting of Disclosures to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528.

### **SECTION 3: PERMITTED USES AND DISCLOSURES BY ASSOCIATE**

Except as otherwise limited in this Agreement, Business Associate may only Use or Disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for the purposes of the contractual relationship, if such Use or Disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity or the Minimum Necessary policies and procedures of the Covered Entity.

### **SECTION 4: SPECIFIC USE AND DISCLOSURE PROVISIONS**

- 4.1 Except as otherwise limited in this Agreement, Business Associate may Use Protected Health Information for the proper management and administration of the Business Associate or to carry out the contractual or legal responsibilities of the Business Associate.
- 4.2 Business Associate may Use or Disclose Protected Health Information as Required By Law.
- 4.3 Business Associate agrees to make Uses and Disclosures and requests for Protected Health Information consistent with Covered Entity's Minimum Necessary policies and procedures.
- 4.4 Business Associate may Disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the Disclosures are Required By Law, or Business Associate obtains 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 notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- 4.5 Business Associate may provide Data Aggregation services relating to the Health Care Operations of the covered entity.
- 4.6 Business Associate may Use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

## **SECTION 5: OBLIGATIONS OF COVERED ENTITY**

- 5.1 Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of Protected Health Information.
- 5.2 Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to Use or Disclose Protected Health Information, to the extent that such changes may affect Business Associate's Use or Disclosure of Protected Health Information.
- 5.3 Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of Protected Health Information.

## **SECTION 6: PERMISSIBLE REQUESTS BY COVERED ENTITY**

Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity. If necessary in order to meet the Business Associate's obligations under the Agreement, the Business Associate may Use or Disclose Protected Health Information for Data Aggregation, management and administrative activities, or contractual or legal responsibilities of Business Associate.

## **SECTION 7: TERM**

The Agreement shall be effective as of date of execution of the Agreement by the parties, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, has been returned to Covered Entity or, at Covered Entity's option, is destroyed, or, if it is infeasible to destroy Protected Health Information, the protections are extended to such information, in accordance with the termination provisions in this Agreement.

## **SECTION 8: MISCELLANEOUS**

- 8.1 A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 8.2 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 the HIPAA Rules.
- 8.3 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.
- 8.4 In addition to any implied indemnity or express indemnity provision in the Agreement, Business Associate agrees to indemnify, defend and hold harmless the Covered Entity, including any employees, agents, or Subcontractors against any actual and direct losses suffered by the Indemnified Party(ies) and all liability to third parties arising out of or in connection with any breach of this Agreement or from any negligent or wrongful acts or omissions, including failure to perform its obligations under the HIPAA Rules, by the Business Associate or its employees, directors, officers, Subcontractors, agents, or other members of its workforce. Accordingly, upon demand, the Business Associate shall reimburse the

Indemnified Party(ies) for any and all actual expenses (including reasonable attorney's fees) which may be imposed upon any Indemnified Party(ies) by reason of any suit, claim, action, proceeding or demand by any third party resulting from the Business Associate's failure to perform, Breach or other action under this Agreement.

**SECTION 9: SECURITY RULE REQUIREMENTS**

Business Associate agrees, to the extent any Protected Health Information created, received, maintained or transmitted by or in electronic media, also referred to as electronic protected health care information, as defined by 45 CFR § 160.103, that it will only create, maintain or transmit such information with appropriate safeguards in place.

Business Associate shall therefore: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health care information; ensure that any agent, including Subcontractors, to whom it provides such information shall agree to also implement reasonable and appropriate safeguards to protect the information; and report to the Covered Entity any Security Incident, as that term is defined by 45 CFR § 164.304, of which it becomes aware.

**SECTION 10: TERMINATION**

Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.

**SECTION 11: EFFECT OF TERMINATION**

Upon termination of this Agreement for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.

Provided however, Business Associate may retain Protected Health Information if necessary for management and administration purposes or to carry out its legal responsibilities after termination of the Agreement.

Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:

retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form;

continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for in this Section, for as long as Business Associate retains the Protected Health Information;

not Use or Disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at in this Agreement which applied prior to termination;

return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities; and

provided, however, that nothing in this section 11.1 shall apply in the case of PHI remaining in its possession which Business Associate determines it is not feasible to return or destroy. Business Associate shall extend the protection of this Agreement to such PHI and limit further uses and disclosure of such PHI.

The obligations of Business Associate under this Agreement shall survive the termination of this Agreement.

## **SECTION 12: NOTIFICATION OF BREACH**

- 12.1 To the extent Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, Uses, or Discloses Unsecured Protected Health Information, it shall, following the discovery of a Breach of such information, notify the Covered Entity of such Breach. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, Used, accessed, acquired, or Disclosed during such Breach. The Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in notification to the Individual under 45 C.F.R. §164.404(c) at the time of the required notification to the Covered Entity, or as promptly thereafter as the information is available.
- 12.2 For purposes of this section, a Breach shall be treated as discovered by the Business Associate as of the first day on which such Breach is known to such Business Associate (including any person, other than the Individual committing the breach, that is an employee, officer, or other agent of such associate) or should reasonably have been known to such Business Associate (or person) to have occurred by the exercise of reasonable diligence.
- 12.3 Subject to section 12.4, all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a Breach by the Business Associate involved in the case of a notification required under section 12.2. The Business Associate involved in the case of a notification required under section 12.2, shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.
- 12.4 If a law enforcement official determines that a notification or notice required under this section would impede a criminal investigation or cause damage to national security, such notification or notice shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a Disclosure covered under such section.

If a law enforcement official states to the Business Associate that any notification or notice would impede a criminal investigation or cause damage to national security, the Business Associate shall:

(a) If the statement is in writing and specifies the time for which a delay is required, delay such notification or notice for the time period specified by the official; or

(b) If the statement is made orally, document the statement, including the identity of the official making the statement, and delay the notification or notice temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in (a) is submitted during that time.

**SECTION 13: PROHIBITION ON SALE OF ELECTRONIC HEALTH RECORDS OR PROTECTED HEALTH INFORMATION.**

13.1 Except as provided in section 13.2, the Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual unless the Covered Entity has obtained from the Individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that Individual.

13.2. Section 13.1 shall not apply in the following cases:

- a. The purpose of the exchange is for public health activities (as described in section 164.512(b) of title 45, Code of Federal Regulations).
- b. The purpose of the exchange is for research (as described in sections 164.501 and 164.512(i) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.
- c. The purpose of the exchange is for the treatment of the Individual, subject to any regulation that the Secretary may promulgate to prevent Protected Health Information from inappropriate access, Use, or Disclosure.
- d. The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.
- e. The purpose of the exchange is for remuneration that is provided by the Covered Entity to the Business Associate for activities involving the exchange of Protected Health Information that the Business Associate undertakes on behalf of and at the specific request of the Covered Entity pursuant to the Agreement.
- f. The purpose of the exchange is to provide an Individual with a copy of the Individual's Protected Health Information pursuant to section 164.524 of title 45, Code of Federal Regulations.
- g. The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (a) through (f).