

AN ORDINANCE

2012-01-12-0015

**AUTHORIZING THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT TO EXECUTE AN ELECTRONIC REMITTANCE AGREEMENT WITH AVAILITY L.L.C., TO ALLOW ELECTRONIC BILLING FOR IMMUNIZATION SERVICES PROVIDED TO MEDICAID AND CHILDREN'S HEALTH INSURANCE PLAN ENROLLEES AT CITY IMMUNIZATION CLINICS.**

\* \* \* \* \*

**WHEREAS**, in July 2011, the San Antonio Metropolitan Health District (Metro Health) launched the new enhanced San Antonio Immunizations Registry System (eSAIRS) which now provides direct entry capabilities to immunization providers in the community; and

**WHEREAS**, the purpose of this new system is to improve the immunization status of all Bexar County residents by consolidating immunization information and sharing it directly and securely with health care providers; and

**WHEREAS**, prior to this transition, Metro Health's Immunizations Program utilized an auto billing function in the Texas Wide Integrated Client Encounter System (TWICES) to bill Medicaid and the Children's Health Insurance Plan (CHIP) for immunization services provided at Metro Health immunizations clinics for clients enrolled in these programs; and

**WHEREAS**, in order to continue the electronic billing process under the new eSAIRS system, Metro Health will need to execute an electronic remittance agreement with Availity L.L.C., to prevent a disruption in the ability of Metro Health to receive reimbursement for immunization services provided to Medicaid and Children's Health Insurance Plan (CHIP) enrollees at Metro Health clinics; **NOW THEREFORE:**


**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Manager or her designee or the Director of the San Antonio Metropolitan Health District or his designee is authorized to execute an electronic remittance agreement with Availity L.L.C., to allow electronic billing for immunization services provided to Medicaid and Children's Health Insurance Plan enrollees at City immunization clinics. A copy of the agreement in substantially final form is attached hereto and incorporated herein for all purposes as **Attachment I.**

MH/vv  
01/12/12  
Item #21

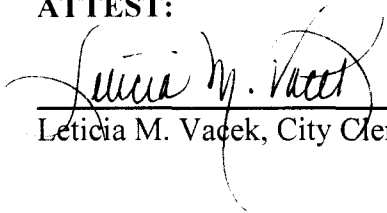
**SECTION 2.** This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 12th day of January, 2012.



M A Y O R  
Julián Castro


**ATTEST:**



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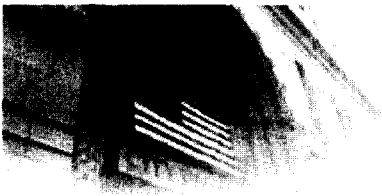
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**



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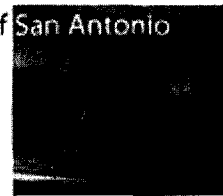
for Michael Bernard, City Attorney



Request for

# COUNCIL ACTION

City of San Antonio



## Agenda Voting Results - 21

<b>Name:</b>	7, 8, 9, 10, 11, 12, 13, 14, 15, 17A, 17B, 17C, 17D, 17F, 17G, 17H, 17I, 19, 20, 21, 22, 23, 24, 25A, 25B						
<b>Date:</b>	01/12/2012						
<b>Time:</b>	02:12:48 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing the San Antonio Metropolitan Health District to execute an electronic remittance agreement with Availity L.L.C. to allow electronic billing for immunization services provided to Medicaid and Children's Health Insurance Plan enrollees at City immunization clinics. [Sharon De La Garza, Assistant City Manager; Dr. Thomas L. Schlenker, Director of Public Health]						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				x
Carlton Soules	District 10		x				

This Agreement (this "Agreement") is made and entered into as of this day of \_\_\_\_\_, \_\_\_\_\_ by and between the City of San Antonio on behalf of the San Antonio Metropolitan Health District, ("Customer") a government entity, and Availity, L.L.C. ("Availity"), a Delaware limited liability company.

WHEREAS, Customer and Availity are parties to an agreement (the "Customer Agreement"), pursuant to which the fulfillment of the Parties' obligations thereunder necessitates the exchange of, or access to, data including individually identifiable health information,

WHEREAS, Availity and Customer are required to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, inappropriate use and disclosure of PHI and electronic PHI under HIPAA and the HITECH Act under the ARRA of 2009.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the Parties agree as follows:

#### ARTICLE 1 DEFINITIONS

Terms used, but not otherwise defined, in this Agreement shall have the meanings set forth below.

1.1 "Breach" shall have the same meaning as "Breach" in § 13400(1) of the HITECH Act and shall include the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.

1.2 "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR §164.501.

1.3 "Electronic PHI" means PHI transmitted by or maintained in electronic media.

1.4 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any amendments and final rules promulgated thereunder from time to time by the US Department of Health and Human Services, including but not limited to the HITECH Act under the American Recovery and Reinvestment Act (ARRA) of 2009.

1.5 "HIPAA Administrative Simplification Rules" means Rules adopted by the Department of Health and Human Services pursuant to Title II of HIPAA, including, but not limited to, the Transactions Rule, the Privacy Rule, and the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

1.6 "HITECH Act" shall mean the Health Information Technology for Economic Clinical Health Act, Title VIII of Division A and Title VI of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub.L.111-5).

1.7 "Individual" shall mean the subject of PHI or his or her personal representative.

1.8 "Parties" shall mean Availity and Customer. (Availity and Customer, individually, may be referred to as a "Party".)

1.9 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

1.10 "PHI" shall have the same meaning as the term "protected health information" in 45 CFR §164.501, limited to the information created or received by Availity from or on behalf of the Customer.

1.11 "Required By Law" shall have the same meaning as "required by law" in 45 CFR §164.103.

1.12 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

1.13 "Security Rule" shall mean the Standards for Security of electronic PHI at 45 CFR, Parts 160 and 164, Subparts A and C.

1.14 "Transactions Rule" means the Code of Federal Regulations ("CFR") at Title 45, Sections 160 and 162.

1.15 "Unsecured PHI" shall mean PHI that is not secured through the use of technology or methodology specified by the Secretary in guidance or is otherwise defined in §13402(8)(h) of the HITECH Act.

#### ARTICLE 2 CONFIDENTIALITY

##### 2.1 Obligations and Activities of Availity.

Availity agrees as follows:

(a) not to use or further disclose PHI other than as permitted or required by this Agreement or as Required By Law;

(b) to establish, maintain, and use appropriate safeguards to prevent use or disclosure of the PHI other than as permitted herein;

(c) to 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 Customer;

(d) to report to Customer within a reasonable time and in writing any suspected or actual breach of security, intrusion or unauthorized use, or disclosure of Unsecured PHI of which Availity

becomes aware. Availity shall take (i) prompt corrective action to cure any such deficiencies; and (ii) any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations;

(e) to report to Customer in writing any of the following incidents of which Availity becomes aware: (A) unauthorized access, use, disclosure, modification, or destruction of Customer's Electronic PHI, or (B) unauthorized interference with system operations in Availity's information systems that contain or provide access to Customer's Electronic PHI;

(f) to mitigate, to the extent practicable, any harmful effect that is known to Availity of a use or disclosure of PHI by Availity in violation of the requirements of this Agreement;

(g) to report upon Customer's request any of the following incidents of which Availity becomes aware: (A) unsuccessful unauthorized attempts to access, use, disclose, modify, or destroy Customer's Electronic PHI, or (B) unsuccessful unauthorized attempts to interfere with system operations in Availity's information systems that contain or provide access to Customer's Electronic PHI;

(h) to enforce and maintain appropriate policies, procedures, and access control mechanisms to ensure that any agent, including a subcontractor, to whom it provides PHI agrees to the same restrictions and conditions that apply through this Agreement to Availity with respect to such information;

(i) at the request of Customer and in the time and manner reasonably designated by Customer, furnish access to PHI in a Designated Record Set, to Customer or, as directed by Customer, to an individual in order to meet the requirements under 45 CFR §164.524, provided that Availity will not be required to furnish access to PHI that is maintained in more than one Designated Record Set or at more than one location, as provided in 45 CFR §164.524(c)(1);

(j) to make any amendment(s) to PHI in a Designated Record Set that Customer directs or agrees to pursuant to 45 CFR §164.526 at the request of Customer or an individual, and in the time and manner reasonably requested by Customer;

(k) subject to Availity's reasonable confidentiality and security practices, to make internal practices, books, and records relating to the use and disclosure of PHI available to Customer or, at the request of Customer, to the Secretary, in a time and manner reasonably requested by Customer or designated by the Secretary, for purposes of the Secretary

determining Customer's compliance with the Privacy Rule;

(l) to document such disclosures of PHI and information related to such disclosures as would be required for Customer to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;

(m) to provide to Customer or an individual, in a time and manner reasonably requested by Customer, information collected in accordance with Section 2.1(k) above to permit Customer to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;

## 2.2 Specific Use and Disclosure Provisions.

(a) Except as otherwise limited in this Agreement, Availity may use PHI only (i) to transmit electronic transactions, as defined in the Customer Agreement, directly or indirectly between Customer and payers, (ii) for the proper management and administration of Availity or (iii) to carry out Availity's legal responsibilities.

(b) Except as otherwise limited in this Agreement, Availity may only disclose PHI for the purposes set forth in (a)(ii) and (a)(iii) above (i) as Required By Law, or (ii) provided that Availity has first obtained (A) reasonable assurances from the person to whom the information is disclosed that the PHI 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 (B) reasonable assurances from the person to whom the information is disclosed that such person will notify Availity of any instances of which it is aware in which the confidentiality of the information has been breached.

## 2.3 Obligations of Customer

(a) Customer shall notify Availity of any limitations in its notice of privacy practices in accordance with 45 CFR §164.520, to the extent that such limitation may affect Availity's use or disclosure of PHI.

(b) Customer shall notify Availity of any changes in, or revocation of, permission by an individual to use or disclose PHI, to the extent that such changes may affect Availity's use or disclosure of PHI.

(c) Customer shall notify Availity of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Availity's use or disclosure of PHI.

## 2.4 Permissible Requests by Covered Entity.

Customer shall not request Availity to use or disclose PHI in any manner that would not be permissible under the Privacy Rule. If done by Customer.

## MISCELLANEOUS

### ARTICLE 3

#### EXCHANGE OF STANDARD TRANSMISSIONS

##### 3.1 Obligations of the Parties.

Each of the Parties agrees that it will not enter into a trading partner agreement that affects the Transactions Rule's implementation specifications by:

- (a) changing the definition, data condition, or use of a data element or segment.
- (b) adding any data elements or segments to the maximum defined data set.
- (c) using any code or data elements that are either marked "not used" or are not contained in the implementation specifications.
- (d) changing the meaning or intent of any of the implementation specifications.

##### 3.2 Additional Specifications.

Availity shall, from time to time, inform Customer of acceptable formats in which to transmit data. Customer shall only transmit data in such formats and in accordance with the Availity Electronic Data Interchange Guidelines, as applicable.

##### 3.3 Costs.

Customer shall assume all costs associated with its establishment and operation of electronic data interchange including, but not limited to, the costs of terminals, connections, telephone charges and modems. Customer shall assume all costs associated with security authentication or encryption software/hardware located at Customer.

##### 3.4 Backup.

Customer shall maintain adequate back-up files to recreate transmissions in the event that such recreations become necessary.

##### 3.5 Incorporation of Modifications to HHS Transaction Standards.

Each of the Parties agrees and understands that from time-to-time, HHS may modify and set compliance dates for the Transactions Rule. Each of the Parties agrees to incorporate by reference into this Agreement any such modifications or changes.

### ARTICLE 4

#### 4.1 Term and Termination.

(a) **Term.** The Term of this Agreement shall be effective as of the date first written above, and shall terminate when all of the PHI provided by Customer to Availity, or created or received by Availity on behalf of Customer is destroyed or returned to Customer, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) **Termination without Cause.** Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party.

(c) **Termination for Cause.** Upon a material breach by either Party of its obligation hereunder, the other Party may terminate this Agreement and the Customer Agreement or report the violation to the Secretary.

#### (d) Effect of Termination.

(i) Except as provided in paragraph 4.2(d)(ii), upon termination of this Agreement, for any reason, Availity shall return or destroy all PHI received from Customer or created or received by Availity on behalf of Customer. This provision shall apply to PHI that is in the possession of subcontractors or agents of Availity. Availity shall retain no copies of the PHI.

(ii) In the event that Availity determines that returning the PHI is infeasible, Availity shall provide to Customer notification of the conditions that make return or destruction infeasible. In such case, Availity 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 Availity maintains such PHI.

#### 4.3 Disputes.

Both Parties agree to meet and confer in good faith to resolve any dispute, controversy or claim arising out of or relating to this Agreement.

#### 4.4 Regulatory References.

A reference in this Agreement to a section in the HIPAA Administrative Simplification Rules means the section as in effect or as amended.

#### 4.5 Amendment.

The Parties agree to take such action as is reasonably necessary to amend this Agreement from time to time to the extent necessary for each Party to comply with the requirements of HIPAA and the HIPAA Administrative Simplification Rules. All amendments to this agreement shall be in writing and signed by both Parties. The City Manager or designee shall have authority to amend this agreement on behalf of the City without additional City Council action pertaining to standards and requirements of HIPAA or other applicable laws relating to the security of protected health information.

4.6 Survival.

The respective rights and obligations of the Parties under Sections 4.1 and 4.2(c) of this Agreement shall survive the termination of this Agreement.

4.7 [this section intentionally left blank]

4.8 No Third Party Beneficiaries.

Nothing in this Agreement will create any right in any third party as against Availability or Customer or be construed for the benefit of any third party.

4.9 Interpretation.

Any ambiguity in this Agreement shall be resolved to permit the Parties to comply with the HIPAA Administrative Simplification Rules.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first stated above.

**AVAILITY, L.L.C.**

\_\_\_\_\_  
Signed

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Availity, L.L.C.  
Organization Name

\_\_\_\_\_  
P.O. Box 550857  
Address

\_\_\_\_\_  
Jacksonville, FL 32255-0857  
Address

\_\_\_\_\_  
904-470-4900 or 800-282-4548  
Phone

**CUSTOMER**

\_\_\_\_\_  
Signed

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
The City of San Antonio on behalf of the San  
Antonio Metropolitan Health District  
Organization Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Tax Identification Number



# Application ID #2927662

Date: 07/15/2011

## Completion Checklist

1. Have the Primary Controlling Authority (PCA) sign the application.
2. Have the signature of the PCA witnessed by someone other than the PCA or PAA named below.
3. Verify all signature dates match.
4. Fax the completed agreement to the Fax number **904.470.4770** and keep a copy for your records.

## Overview

The following is an application to access the Availity secured Web portal. The person entrusted to sign legal documents for your organization (Availity refers to this person as the Primary Controlling Authority or PCA) must sign and date the application. A person not otherwise named on the form must observe the PCA signing the application, and then sign and date it as a witness. *The witness should NOT be the Primary Access Administrator (PAA).* You may submit the completed application to Availity by fax, at 904.470.4770, or by mail to Availity, LLC, Registration Department, PO Box 550857, Jacksonville, FL 32255-0857. Availity will review the application for completeness and accuracy, and then notify the PAA for your organization by e-mail once we have activated your account. This process usually takes three to five business days.

## APPLICATION INFORMATION

### Organization Name and Address

Business Type: Non-Physician Provider  
Geography: Texas  
Organization Name: CITY OF SAN ANTONIO METROPOLITAN  
HEALTH DISTRICT  
Tax ID Type: Employer Identification Number  
Tax ID: 746002070  
NPI: 1972661270

Notice (Notification) Address:  
332 W. COMMERCE STE. 305  
345 W. COMMERCE STE.  
SAN ANTONIO, Texas 78205  
Phone: (210) 207-8749  
Fax: (210) 207-6359

### Primary Access Administrator

Name: GEORGE JAUREGUI  
E-Mail Address: GEORGE.JAUREGUI@SANANTONIO.GOV  
User ID: GJ04248  
Phone: (210) 207-8749

### Mailing Address

332 W. COMMERCE STE. 305  
345 W. COMMERCE STE.  
SAN ANTONIO, Texas 78205

### Primary Controlling Authority

Name: Thomas Schlenker, M.D., M.P.H.  
E-Mail Address: @SANANTONIO.GOV  
Phone: (210) 207-8749

### Applicant

Name: Thomas Schlenker, M.D.  
E-Mail Address: @SANANTONIO.GOV  
User ID: GJ04248

**AGREEMENTS.** Organization Access Agreements This Organization Access Agreement ("Agreement") is entered into by and

between Availity, L.L.C. ("Availity", "We", "Us", or "Our") and the Organization ("Organization", "You", or "Your" means a Provider or Provider group) named on this Application to Access Availity's secured web site functions ("Application"). Availity and You are sometimes hereinafter referred to individually as the "Party" or collectively as the "Parties". This Agreement governs Your use of Availity's secured web site ("Site") including, without limitation, all content and self-service functions ("Services") made available to You through the Site. This Agreement include the Terms and Conditions set forth below. I, \_\_\_\_\_, the undersigned Primary Controlling Authority, do hereby attest to the accuracy and completeness of the information provided by Organization in this document and attest that I have the authority to, and hereby do, enter into this Agreement on behalf of Organization (including all providers included in any provider group).

**Primary Controlling Authority**

Name: Thomas Schlenker, M.D., M.P.H.

Signature: \_\_\_\_\_

DATE: \_\_\_\_\_

**Witness: (no Notary required)**

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

DATE: \_\_\_\_\_

## Application ID #2927662

### Terms and Conditions

#### Definitions.

A. Controlling Authority is a person who has legal authority to sign agreements for Organization and who has been identified as such on page 1 hereof or such other person You may designate from time to time in the manner prescribed by Availity.

B. Access Administrator is a person designated by the Controlling Authority to set up and to maintain Users and has been identified as such on page 1 hereof or such other person You may designate from time to time in the manner prescribed by Availity.

C. A User is a person who has registered to use the Site and that You have authorized to access or use the Services.

Use. Your access to and use of the Services are permitted solely for Your internal use and benefit; any other access or use is strictly prohibited.

User Access. You must register each User through the online registration process or other process established by Availity. In addition, each User must execute an agreement ("User Agreement") before receiving access to the Services. The Access Administrator may disable access to the Services by a User at any time by revoking the User's access online or by a written request to Us. You must immediately disable or request that we disable access to the Services by a User when You have security concerns, including but not limited to lost or stolen User ID or Password, disclosure of confidential information, or fraudulent activity. In addition, you must immediately disable access by any terminated employee. If We at any time discover any error or omission in the information provided to Us, We may, at Our option, terminate Organization's or any User's right to access and use the Site and the Services. Organization shall not use Availity's Site in a manner which may violate the laws and regulations of the United States or any other nation, or the laws and regulations of any state, city, province, or other jurisdiction in any fashion and shall not transmit any information using the Site unless it has proper consent from the subject of such information to so transfer the information. Availity may deny Your access to the Site in the event You breach this Agreement or at any time with or without cause. We are not responsible for all acts or omissions by Users, and for any liabilities, losses, damages, injunctions, suits, actions, fines, penalties, claims, or demands of any kind or nature by or on behalf of any person, party, or government authority incurred by Us as a result of any User's use of the Site. .

Confidential Information. Payers, including Blue Cross and Blue Shield of Florida (BCBSF) and Humana, labs, and other health care intermediaries (collectively, "Intermediaries"), may make certain claims and other medical information ("Patient Health Information") available to You through the Site solely for the purpose of You providing treatment (as defined by the Health Insurance Portability and Accountability Act) to Your patients who are the subject of such Patient Health Information (the "Treatment Only Use"). The Patient Health Information is provided to You only as a secondary source of information and You acknowledge that because such information is coming only from certain sources and that certain information may not be provided (including, without limitation, because it may be particularly sensitive information), the Patient Health Information that may be provided to You is not intended to be and will not be complete. In addition, You acknowledge that such information may contain errors and agree that, before using any such information, You will verify its accuracy. You agree that You will access and use such Patient Health Information solely for the Treatment Only Use. You further acknowledge and agree that (i) Availity is only acting as a connector between You and the providers of such information and that Availity is not responsible for the content of the Patient Health Information, (ii) You will abide by any additional requirements of which You are notified and accept while on the Site with respect to such Patient Health Information, (iii) You will maintain the strict confidentiality of the Patient Health Information and will maintain the security of the Patient Health Information and otherwise treat the Patient Health Information in accordance

with all requirements of federal, state and local laws, rules and regulations.

Security. We require each User to have unique information to identify himself/herself when accessing or using the Services. Currently this unique information is a User ID and Password and later may be a digital certificate. You are solely responsible for (1) maintaining the strict confidentiality of the IDs and Passwords assigned to You and Your Users, (2) instructing Your Users to not allow another person to use their IDs or Passwords to access the Site or the Services, and (3) any charges, damages, or losses that may be incurred or suffered as a result of Your or Your Users' failure to maintain the strict confidentiality of their IDs and/or Passwords. If Organization becomes aware of or suspects fraudulent activity or any other activity that threatens the security of the Site, Organization must immediately report the activity to Availity.

Intellectual Property Ownership. You agree that We (or third parties providing content or services for the Site) own all worldwide rights, titles and interests in and to the Site and all intellectual property rights therein. You may print a copy of the information contained on the Site for Your personal use only, but You may not reproduce or distribute the text or graphics to others or substantially copy the information on Your own server, or link to the Site, without prior written permission of Availity. All rights not expressly granted in this Agreement are reserved to Us. No other rights or licenses are conveyed or intended by this Agreement.

General Disclaimers. THE SITE AND THE SERVICES ARE PROVIDED TO YOU ON AN "AS IS, WITH ALL FAULTS" BASIS, AND YOUR USE THEREOF IS AT YOUR OWN RISK. IN NO EVENT WILL AVAILITY BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THE SITE, OR ANY OTHER HYPER LINKED WEB SITE. THIS INCLUDES, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR DATA ON YOUR EQUIPMENT, OR OTHER DAMAGES OF ANY NATURE, EVEN IF AVAILITY IS EXPRESSLY ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

Waiver. It is understood and agreed that no failure or delay by a Party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

Delegation. It is understood and agreed that any and all persons or entities that You delegate functions or User access to this Site or the Services shall execute a separate Organization Access Agreement with Availity prior to access to the Site.

Miscellaneous. Availity reserves the right to access, read, copy, delete, and disclose information on Availity systems and equipment. Availity reserves the right to inspect any and all files stored on Availity equipment. Third Party Software. You agree to use any third-party software Availity may provide to You solely for the purposes of using the Site to transmit transactions to payers. You agree to comply with all of the terms and conditions of any licenses relating to such third-party software. Availity may, but shall have no obligation to assist in the installation of such software. You agree not to, or to attempt to, reverse engineer disassemble, copy, modify, decompile, or prepare derivative works of any part of Availity's system or any such third-party software. Upon Availity's request, You shall return all copies of such third-party software to Availity and remove, and certify to Availity such removal, of any electronic copies of such third-party software stored or residing on Your systems.

Governing Law; Venue. This Agreement shall be governed by the laws of the State of Texas, without regard to its conflicts of laws provisions. Any dispute relating to this Agreement, the Site, or the Services shall be brought only in a federal or state court sitting in Bexar County, Texas.

**Application ID #2927662**