AdventHealth

ACO PARTICIPATION AGREEMENT

THIS ACO PARTICIPATION AGREEMENT (this "**Agreement**") is made and entered into as of the Effective Date, as defined on the Execution Page, by and between **AHS Florida Division ACO, LLC dba AdventHealth ACO** , a Florida limited liability company ("**ACO**") and _____ ("Participant"), operating under Tax Identification Number _____(**TIN**) (ACO and Participant are sometimes collectively referred to as "**Parties**" or individually as a "**Party**"). If Participant is a group practice and not an individual, then: (i) the term Participant herein shall refer to the group practice entity itself as well as all of the healthcare Providers/Suppliers who are employees or partners of the group practice entity who bill under the TIN of the group practice entity; and (ii) the group practice and the signatory for the group practice below represent that they have authority to bind the Provider/Supplier members of the group to this Agreement. Further, each Provider/Supplier employee or partner of the group practice shall execute the Individual Provider/Supplier Addendum set forth in Exhibit 1. ACO and Participant are the only Parties to this Agreement.

RECITALS

A. ACO has been established to serve as an accountable care organization whose mission and primary objective as a provider-based organization is to achieve the goals of: (i) placing Beneficiaries and their families at the center of all activities; (ii) ensuring coordination of care regardless of time or place; (iii) attending carefully to care transitions; (iv) managing resources carefully and respectfully; (v) proactively reaching out to Beneficiaries with reminders and advice; (vi) being innovative in improving care and health while lowering costs; and (vii) investing continually in the development and pride of its workforce, including affiliated clinicians, while simultaneously improving care for individuals, improving health of populations and lowering growth in health care expenditures.

B. ACO has applied for participation in the Medicare Shared Savings Program ("**MSSP**").

C. ACO and Participants have determined that their participation in the MSSP through ACO is reasonably necessary to achieve ACO's potential efficiencies because otherwise it would not be feasible to require Participants to comply with the evidence-based medical practice or clinical guidelines, disease management programs or other quality improvement programs developed, implemented and enforced by ACO.

D. Participant desires to participate in the MSSP Participation Agreement through ACO, and ACO wishes to include Participant and to secure Participant services, in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and mutual covenants and conditions set forth herein, the Parties mutually agree as follows:

ARTICLE 1
DEFINITIONS

For the purpose of this Agreement and of the Exhibits attached hereto, the following terms shall, unless otherwise stated, be defined as follows:

1.1.ACO Care Initiatives. The evidence-based medical practice or clinical guidelines, disease management programs and other quality improvement programs adopted and implemented by ACO, as ACO may amend from time to time.

1.2.ACO Payment. Has the meaning set forth in Section 3.1.

1.3.ACO Payment Formula. Has the meaning set forth in Section 3.1.

1.4.ACO Policies. ACO's requirements, policies and procedures, as ACO may amend from time to time.

1.5.Beneficiary. Any person entitled to Medicare Fee-for-Service benefits.

1.6.CMS. The U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services.

1.7.CMS Policies. CMS's rules, requirements, policies and procedures as they pertain to participation in Medicare and the MSSP, as CMS may amend from time to time.

1.8.Covered Services. Services that Participants are required to provide or arrange for Beneficiaries and for which CMS is required to pay.

1.9.Governing Body. The governing body of ACO.

1.10. HIPAA. Health Insurance Portability and Accountability Act.

1.11. HITECH. Health Information Technology for Economic and Clinical Health Act.

1.12. MSSP. Has the meaning set forth in Recital B.

1.13. MSSP Participation Agreement. The MSSP Participation Agreement entered into between CMS and ACO which governs ACO's participation in the MSSP and describes the other terms of the relationship among CMS, ACO, and Participants.

1.14. NPI. National Provider Identifier.

1.15. Participant. An entity identified by a Medicare-enrolled billing TIN through which one or more ACO providers/suppliers bill Medicare, that alone or together with one or more other ACO participants compose an ACO, and that is included on the list of ACO participants that is required under §425.118.

1.16. Provider/Supplier. Licensed providers or suppliers who have entered into contracts, directly or indirectly, with ACO to provide Covered Services to Beneficiaries, such as physicians and mid-level providers.

1.17. Primary Care Services. The following CPT and HCPCS codes: 99201 through 99215, 99304 through 99340, 99341 through 99350, G0402 (the code for the Welcome to Medicare visit), G0438 and G0439 (codes for the annual wellness visits), 99495, 99496, 99490, and additional codes designated by CMS as primary care services for purposes of the MSSP.

1.18. TIN. Tax identification number.

1.19. Voluntary Alignment. CMS provision that allows a Beneficiary to designate a Provider or Supplier as responsible for coordinating the Beneficiary's overall care and to process the designation electronically. This designation will supplement the claims-based assignment methodology as defined in 42 C.F.R. Part 425.

ARTICLE 2
PARTICIPANT RESPONSIBILITIES

2.1.MSSP Participation. Participant agrees to participate in the MSSP through ACO, and to be bound by and comply with all terms and conditions of participation in the MSSP and the MSSP Participation Agreement, including, without limitation, the provisions set forth in Exhibit 2, which may be amended from time to time as necessary to comply with CMS requirements related to the MSSP and the MSSP Participation Agreement. Participant hereby appoints ACO as Participant's agent for the purpose of negotiating, accepting or rejecting the MSSP Participation Agreement and hereby grants ACO an irrevocable power of attorney and appoints ACO as Participant's true and lawful attorney in fact with an irrevocable power to execute, on behalf of Participant, the MSSP Participation Agreement, for so long as this Agreement is in effect. Participant will execute such other documents as may be reasonably necessary from time to time to evidence or confirm the delegation of contracting authority to ACO or to otherwise implement this Agreement. The terms of Exhibit 2 are incorporated herein by reference and shall govern the provision of Covered Services by Participant to fee-for-service Medicare Beneficiaries effective during the term of ACO's MSSP Participation Agreement. Participant grants ACO the authority to bind Participant to the terms of the MSSP Participation Agreement. Participant shall comply with all requirements and conditions of 42 C.F.R. Part 425 and of the MSSP Participation Agreement. Participant shall make all necessary amendments to existing agreements with any individual or entity performing functions or services related to Participants activities under ACO's MSSP Participation Agreement to ensure compliance with applicable requirements and conditions of 42 C.F.R. Part 425 and shall ensure that all future agreements with such individuals or entities comply with applicable requirements and conditions of 42 C.F.R. Part 425 and of the MSSP Participation Agreement.

2.2.Coverage. Participant shall ensure that coverage is available for Participant on a twenty-four (24) hours per day, seven (7) days per week basis.

2.3. Non-Discrimination; Closing of Practice. Participant shall accept Beneficiaries for services without regard to race, color, religion, gender, sexual orientation, national origin, age, marital status, health status, disability, source of payment for services, or any other basis prohibited by state or federal law or CMS Policies. Participant may close his/her practice to new Beneficiaries only if Participant closes his/her practice to all new patients.

2.4. Compliance with CMS and ACO Requirements. Participant shall comply with and agrees to be bound by CMS Policies and ACO Policies. Without limiting the foregoing, Participant agrees to be bound by all decisions of the Governing Body, ACO Chief Medical Officer or ACO Executive Director, as applicable, applying the ACO Policies to Participant. Participant acknowledges CMS Policies and ACO Policies may be added or amended at any time during the term of this Agreement and that Participant will be given notice of any such amendments that may affect ACO's or Participant performance under this Agreement.

2.5. Control of Practice. The operation and maintenance of the offices, facilities, and equipment of Participant, and the provision of all Covered Services provided by Participant, shall be solely and exclusively under the control and supervision of Participant. ACO shall have no right, authority, or control over the selection of the staff, the supervision of the personnel, the operation of the practice, or the provision of any of Participant's services.

2.6. Medical Records. Participant shall establish and maintain a medical record in accordance with generally accepted standards for each Beneficiary who is seen by Participant. Subject to applicable laws regarding confidentiality of patient records, Participant shall provide CMS or its designee with reasonable access to such records during Participant normal business hours as may be necessary for compliance with the provisions of federal, state or local law or regulation, or as required for purposes of utilization management, quality assessment, and claims payment. To the extent required by law, Participant shall cooperate with ACO and CMS to obtain Beneficiary authorization for access to such records.

2.7. Practice Sites. Covered Services under this Agreement shall be provided by Participant at the location(s) set forth on the Execution Page to this Agreement. Should Participant open any other office for the care of Beneficiary hereunder, Participant shall provide written notice to ACO of the location of such office prior to providing Covered Services at such office.

2.8. Credentialing Requirements; Notice to ACO.

(a) Participation Requirements. At all times during the term of this Agreement each Provider/Supplier shall: (1) maintain a current license to practice medicine in the State of Florida; and (2) maintain compliance with all other credentialing and re-credentialing criteria established by ACO, and Provider/Supplier hereby warrants and represents that such information is correct, and that Provider/Supplier shall promptly notify ACO of any change therein.

(b) Notice to ACO of Certain Events. Participant shall notify ACO promptly upon Participant's participation in or termination from any MSSP ACO, other than pursuant to this Agreement, or upon receiving notice of: (1) any modification, restriction (including being subject to terms of probation), suspension (other than a temporary suspension resulting solely from Provider/Supplier's failure to complete medical records), or termination of Provider/Supplier's

medical staff membership or clinical privileges by a hospital; (2) any modification, restriction, suspension, or revocation of Provider/Supplier's license to practice medicine; (3) any modification, restriction, suspension, or revocation of Provider/Supplier's authorization to prescribe or to administer controlled substances; (4) the imposition of any sanctions against Provider/Supplier under the Medicare or Medicaid programs or any other governmental program; (5) commencement of a medical malpractice action against Provider/Supplier; or (6) any other professional disciplinary action or criminal action against Provider/Supplier involving a felony, a crime of moral turpitude, or a controlled substance, which is either initiated, in progress, or completed as of the Effective Date of this Agreement and at all times during the term of this Agreement; or (7) failure of a Provider/Supplier to comply with ACO credentialing or recredentialing criteria.

(c) Authorization to Provide Credentialing Information. Upon reasonable request by ACO, Participant shall authorize any other person to provide to ACO accurate and complete information about Provider/Supplier's that might relate to patient care. Participant releases ACO and its agents and employees from any and all liability in connection with ACO's review or evaluation of Provider/Supplier's and agrees to execute a release form as requested by ACO to evidence such release.

2.9. Insurance. Provider/Supplier shall maintain at all times during and after the term of this Agreement (for so long as Provider/Supplier continues to practice medicine) such a) policies of professional liability insurance or "financial responsibility coverage for Florida practice" as the latter is defined by Florida law, and b) policies of general liability insurance as shall be necessary to insure Provider/Supplier and his/her employees and agents against any claim or claims for damages arising by reason of personal injuries, death or property damage occasioned directly or indirectly in connection with the performance of any service by or under the direction of Provider/Supplier or persons under Provider/Supplier's control. Upon request by ACO, Provider/Supplier shall cause its insurer or insurers to issue evidence of such coverage to ACO. Provider/Supplier shall provide prior written notice to ACO of the cancellation or proposed cancellation thereof for any cause. The requirements of this Section 2.9 shall survive termination of this Agreement.

2.10. Advertising. ACO and CMS may use the name, address, and specialty of Participant or Provider/Supplier in Provider/Supplier rosters, promotional materials, directory listings and other materials used to promote ACO and Provider/Supplier to Beneficiaries and potential Beneficiaries. Participant agrees to afford ACO and CMS the same opportunity to display signs, brochures, or advertisements in Participant's office as Participant affords other third parties.

2.11. ACO Committees. Provider/Supplier may be asked to serve as a member of ACO's committees. Provider/Supplier shall make reasonable efforts to serve on such committees for the benefit of the ACO.

2.12. Clinical Data Collection. Subject to the right of individual Beneficiaries assigned under the MSSP Participation Agreement to opt out of data sharing, Participant shall submit all patient clinical data to ACO as soon as practicable following the date of service, but in all cases by no later than thirty (30) days of the date of service. Participant thereby authorizes ACO to act on behalf of Participant to collect clinical data about Participant's Beneficiaries from Participant, other Participants, and other sources for the purposes of developing a data warehouse and repository, exchanging clinical data between and among Participant and other Participants, and supporting the

other clinical integration, quality management, quality improvement, quality reporting, process improvement, utilization management, and health management activities and programs of ACO. As required by HIPAA and HITECH, the privacy and security of all protected health information will be protected through a Business Associate Agreement between Participant and ACO in the form attached as Exhibit 3.

2.13. Data Warehouse and Repository. Participant shall make available all applicable Beneficiary health data in a format that is consistent with industry accepted standards and compatible with ACO's management information systems. Participant shall comply with ACO's policies and procedures for collection and storage of Beneficiary health data.

2.14. Clinical Protocols and Care Management Activities. Participant hereby acknowledges that ACO has developed or will develop a process for the development, implementation and enforcement of ACO Care Initiatives. ACO will administer the evidence-based medical practice or clinical guidelines, disease management programs, and other quality improvement programs of ACO. Participant understands and acknowledges that Participant will be expected to comply with the evidence-based medical practice or clinical guidelines, disease management programs and other quality improvement programs of ACO. ACO has developed a performance improvement process for Participants to assist with such compliance, and if necessary, Participant will participate in such process.

2.15. Monitoring and Enforcement. Participant understands and acknowledges that compliance with ACO's Care Initiatives, MSSP requirements, CMS Policies, ACO Policies and the MSSP Participation Agreement will be monitored, and that the failure to comply could result in corrective action from the ACO against Participant and from the Participant against the ACO Provider/Suppler, including imposition of a corrective action plan and denial of shared savings payments and termination of the ACO Participant Agreement to address non-compliance, including those identified by CMS. Persistent non-compliance with ACO Care Initiatives will be considered in connection with re-credentialing of Participant and will be a sufficient basis for termination of Participant's participation in ACO. Participant further agrees to abide by all final decisions of ACO regarding quality improvement activities.

2.16. Maintenance and Updating of Provider/Supplier Identification Data. Participant shall provide ACO with all TINs and NPIs used by Participant and all individual or organizational health care Provider/Suppliers associated with Participant. Participant shall provide ACO with access to such list of TINs and NPIs whenever so requested by ACO, and to notify ACO whenever a change occurs to the TINs and NPIs used by Participant or in Participant's practice. Specifically, Participant will update its enrollment information, including the addition and deletion of individuals billing through the TIN of Participant, on a timely basis in accordance with Medicare program requirements and will notify ACO of any such changes within 30 days after the change.

2.17. Exclusivity. Any ACO Participant, as identified by the taxpayer identification number (TIN), that has a specialty used in assignment and bills Medicare for primary care services must be exclusive to a single Shared Savings Program ACO. However, Provider/Suppliers, identified by individual National Provider Identifiers (NPI's), are free to participate in multiple ACO's if they bill under several different TIN's.

2.18. Other Medicare Initiatives. During the term of this Agreement, Participant and ACO Provider/Supplier shall not participate in any CMS initiative that involves shared savings other than the MSSP.

2.19. Compliance with Laws. Participant shall comply, agree, and ensure that each ACO Provider/Supplier billing through the TIN of the ACO participant agrees, to participate in the Shared Savings Program and to comply with the requirements of the Shared Savings Program and all other applicable laws and regulations (including, but not limited to, those specified at § 425.208(b):(a) federal criminal law; (b) the federal False Claims Act (31 U.S.C. § 3729 *et. seq.*); (c) the federal anti-kickback statute (42 U.S.C. § 1320a-7b(b)); (d) the federal civil monetary penalties law (42 U.S.C § 1320a-7a); and (e) the federal physician self-referral law (42 U.S.C. § 1395nn).

ARTICLE 3
BILLING AND PAYMENT FOR SERVICES

3.1.ACO Payments. ACO shall distribute, or cause to be distributed, to Participant any shared savings distributions ACO receives from CMS ("**ACO Payment**") pursuant to a formula adopted by the Governing Body and in accordance with the performance-based outcomes and criteria established by ACO ("**ACO Payment Formula**"). The ACO Payment Formula is set forth in Exhibit 4, as ACO may amend from time to time. Participant shall accept the ACO Payment as payment in full for Participant's participation in the ACO and for all services provided under this Agreement in connection therewith. Payments to Participants pertain to a given reporting period and are not a total payment in full for the length of this agreement. The Parties acknowledge that the opportunity to earn ACO Payments will encourage Participant to comply with the ACO Care Initiatives.

3.2.Base Fees. Participant shall continue to bill and collect fee-for-service base fees directly from CMS or the applicable CMS contractor; ACO shall not undertake this responsibility and has no obligation to compensate Participant for fee-for-service base fees. CMS or the applicable CMS contractor is solely responsible for compensating Participant for Covered Services. Participant shall send all invoices for fees for Covered Services on a CMS Form 1500 (or electronic equivalent). Such invoices must be submitted within the time period required by the CMS or the applicable CMS contractor. Participant agrees that Participant's invoices must comply with all applicable CMS Policies. The Beneficiaries medical record must substantiate the Covered Service provided.

ARTICLE 4
TERM, TERMINATION, AND DEFAULT

4.1.Term. The initial term of this Agreement shall commence on January 1, 2020 and end on December 31, 2020 and remain in effect for the entire performance year. Thereafter, this Agreement shall be automatically renewed for successive one (1) year terms, beginning each January 1st, unless either Party gives the other written notice of its intent not to renew at least ninety (90) days prior to the end of the then-current term, subject, however, to the provisions of this Article 4.

4.2.Termination Not for Cause. On or after January 1 2021, either Party may terminate this Agreement, for any reason or no reason, upon ninety (90) days prior written notice to the other Party

4.3.Termination for Cause. Either Party may terminate this Agreement at any time with at least thirty (30) days prior written notice to the other Party (the "**Defaulting Party**") upon the failure

of the Defaulting Party to perform any material covenants or conditions set forth in this Agreement. Such termination will not become effective if the non-defaulting Party, in its reasonable discretion, deems such default to be cured within the thirty (30) day notice period. The rights granted hereunder shall not be in substitution for, but shall be in addition to, any and all other rights and remedies for breach of contract available to the non-defaulting party under applicable law.

4.4. Immediate Termination by ACO. ACO may terminate this Agreement immediately, upon written notice to Participant, upon the occurrence of any of the following events:

(a) Provider/Supplier's license to practice his/her profession in the State of Florida or license to prescribe or administer controlled substances, is denied, modified, reduced, restricted, suspended, or terminated (either voluntarily or involuntarily).

(b) Provider/Supplier's medical staff privileges at a hospital are denied, modified, reduced, restricted (including being subject to terms of probation), suspended, or terminated (either voluntarily, if in response to threatened adverse actions with regard to Provider/Supplier's privileges, or involuntarily) other than temporary suspensions (*i.e.*, of fewer than fifteen (15) days duration).

(c) Provider/Supplier's professional liability coverage as required by this Agreement is reduced below the amounts set forth in this Agreement or is no longer in effect.

(d) Provider/Supplier's, or any employee or independent contractor of Provider/Supplier's suspension, termination, debarment, exclusion or other ineligibility from participation in the Medicare or Medicaid programs, or any other federal or state health care program; or the existence of any investigation of Provider/Supplier by federal, state or local officials relating to participation in a federal or state health care program. ACO shall have the discretion to require that any such suspended, terminated, debarred, excluded or otherwise ineligible employee or independent contractor be terminated by Provider/Supplier as an alternative to termination of this Agreement.

(e) Provider/Supplier's conviction (including a plea of *nolo contendere*) of a felony or a crime involving moral turpitude. Provider/Supplier shall be removed from service under this Agreement following Provider/Supplier's indictment for any such felony or crime until such charges are dismissed.

(f) Provider/Supplier's incapacity such that Provider/Supplier is unable to perform the services required hereunder.

(g) Provider/Supplier fails to notify ACO of any of the events listed in, and in accordance with, Section 2.8(b).

Notwithstanding anything contained within this Section 4.4, ACO may terminate any contract of a Provider/Supplier for the provision of Covered Services to Beneficiaries based on any of the factors enumerated in subsections (a) through (g) herein.

4.5. Rights and Obligations Upon Termination. Upon termination of this Agreement, the rights and obligations of each Party hereunder shall terminate, except as expressly provided in Sections 2.9 (Insurance), 4.7 (Confidentiality), 5.4 (Record Maintenance) and Exhibit 2, *provided,*

however, that such action shall not relieve the Parties of obligations imposed with respect to services furnished prior to such termination or the obligations of Participant with respect to Beneficiaries then hospitalized, or with respect to continuing obligations to Beneficiaries, as provided in Section 4.6. Upon termination and for a reasonable period of time thereafter, Participant shall cooperate with CMS in making other arrangements for the health care of Beneficiaries affected by such termination. In the event of termination by ACO, with or without cause, ACO shall have no obligation to refund to Participant any payments made to ACO by Participant. In the event that Participant breaches this Agreement and terminates this Agreement early not in accordance with its terms, Participant shall forfeit any payments earned under this Agreement. Upon termination, Participant shall complete a close-out process that includes provision of all data necessary to complete the annual assessment of the ACO's quality of care and addresses other relevant matters.

4.6. Services After Termination. In the event of termination of this Agreement for any reason other than under Section 4.4, or unless otherwise directed or agreed to by CMS, this Agreement shall remain in full force and effect to the extent necessary to comply with the requirements of the MSSP Agreement, with respect to termination of individual Provider/Supplier's. Participant understands that ACO will make every effort to keep such continuing obligation to a minimum, which generally will be no more than thirty (30) days.

4.7. Confidentiality. Except as otherwise required by law or court order or pursuant to a release executed by the appropriate Party, each Party agrees to keep confidential the confidential and proprietary information of the other Party and shall not intentionally utilize or allow its agents and employees to intentionally utilize any such information to the competitive disadvantage of, or in any other way which is detrimental to, the other Party.

ARTICLE 5
GENERAL PROVISIONS

5.1. Organized Health Care Arrangement Designation. As part of its activities, ACO and Participant agree and understand that ACO will engage in utilization review activities and quality assessment and improvement activities. ACO and Participant acknowledge that their participation in ACO includes participation in an Organized Health Care Arrangement ("OHCA"), as defined in the Health Insurance Portability and Accountability Act ("HIPAA") regulations, 45 C.F.R. § 160.103. Participants hereby designate that ACO shall be deemed an OHCA and the Participants affiliated with ACO shall be Participants in the OHCA. As part of an OHCA, Participants may disclose protected health information to other Participants in ACO and to ACO as a HIPAA business associate (as defined in 45 C.F.R. § 160.103) (see Section 7(K)), for any health care operations (as defined in 45 C.F.R. § 164.501) of ACO, except as otherwise prohibited by HIPAA or any other state or federal law or regulation.

5.2. Independent Contractor. ACO and Participant are separate and independent entities. Except as specifically provided in this Agreement, neither Party is granted any express or implied right or authority by the other Party to assume or create any obligation or responsibility on behalf of or in the name of the other Party or to bind the other Party in any manner whatsoever. Each party retains its own authority and responsibility for its respective organization.

5.3. Waiver. The waiver by either Party to this Agreement of any one or more defaults, if any, on the part of the other, shall not be construed as a waiver of any other future defaults, either under

the same or different terms, conditions, or covenants contained in this Agreement, in its Exhibits, or in written notice hereunder.

5.4. Entire Agreement. This Agreement and the Exhibits which are attached hereto constitute the entire understanding between ACO and Participant with respect to the subject matter hereof. Participant agrees that the provisions contained herein supersede any oral or written agreement now existing or hereafter entered into between Participant and a Beneficiary insofar as such contrary agreement relates to liability for payment or continuation of Covered Services.

5.5. Record Maintenance. Each Party shall maintain, for such periods as required by applicable law, such records and provide such information to the other Party as is reasonably required to affect the terms of this Agreement. All records, books, and papers of a Party pertaining to Beneficiary as well as a Party's office facilities, shall be open to inspection by the other Party, CMS, and authorized state and federal authorities, for purposes of quality assurance and utilization review and as otherwise required by state and federal laws and the MSSP Agreement. Such disclosure shall be subject to and limited by all pertinent state and federal laws relating to the privacy and confidentiality of patient records.

5.6. Severability. If any part, term, or provision of this Agreement is adjudged by any court or administrative agency to be illegal or in conflict with any applicable law or regulation, the particular part, term, or provision held to be invalid, if mutually agreed by the parties, may be deleted or amended to conform to the minimum requirements of such law or regulation. If the parties do not so mutually agree, such particular part, term, or provision shall be ineffective to the extent of its invalidity. The invalidity of any part, term, or provision shall not affect the validity or enforceability of the remaining provisions of this Agreement, provided that the remaining provisions shall be construed and enforced to preserve to the fullest permissible extent the parties' intent and agreements set forth herein.

5.7. Amendments. This Agreement may be amended at any time by the written agreement of the Parties; provided, however, that amendments may be made unilaterally by ACO, upon notice to Participant, as may be required by CMS for continued compliance with federal and state laws and regulations, or as necessary for participation in the MSSP ACO, as long as the rights and responsibilities of the Parties hereunder are not materially affected and provided that Participant may reject any clauses that are inconsistent with the terms of this Agreement or that are not required by CMS. ACO also may propose an amendment by written notice to Participant and such amendment shall become effective on the date set forth in the notice, unless Participant notifies ACO in writing, within thirty (30) days of such notice, that Participant objects to the proposed amendment, in which case the amendment will not become effective.

5.8. Governing Law. This Agreement shall be governed in all respects by the law of the State of Florida.

5.9. Third-Party Beneficiaries. This Agreement confers no rights or remedies on any third party to this Agreement.

5.10. Assignment and Delegation. No Party may assign or transfer any right or interest in this Agreement without the written permission of the other Party, and no Party may delegate any obligation owed by that Party without the written permission of the other Party. Notwithstanding the

foregoing, ACO may unilaterally assign this Agreement to any other entity that is owned or controlled by Adventist Health System Sunbelt Healthcare Corporation.

5.11. Notices. All notices, requests, consents and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth below, or to such other address as a party may designate by notice hereunder, and shall be (i) delivered by hand, (ii) made by facsimile transmission, (iii) sent by overnight delivery service, or (iv) sent by certified or registered mail, return receipt requested.

ACO: **AHS Florida Division ACO, LLC, dba AdventHealth ACO**
101 Southhall Lane, Ste 150
Maitland, FL 32751
Attn: Government Programs

Participant: To the address set forth on the Execution Page

All notices, requests, consents and other communications hereunder shall be deemed to have been given (i) if by hand, at the time of the delivery to the receiving party, (ii) if by facsimile, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, (iii) if sent by overnight delivery service, on the next business day following the day such mailing is made, or (iv) if sent by certified or registered mail, on the third (3rd) business day following the day of such mailing.

EXECUTION PAGE

In consideration of the mutual covenants and promises stated herein and other good and valuable consideration, the undersigned Participant agrees to be bound by the ACO Participation Agreement attached hereto along with any exhibits and attachments thereto, all of which are incorporated herein by reference as of the effective date set forth below ("**Effective Date**"). If Participant is a group practice, the undersigned represents and warrants that he or she is authorized to bind his or her respective organization and all of its individual participants.

PARTICIPANT NAME:
_____

TAX IDENTIFICATION NUMBER:
_____

ACO: **AHS Florida Division ACO, LLC dba AdventHealth ACO**

_____
(Signature)

_____
(Print Name and Title)

Date: _____

_____
(Signature)

_____
(Print Name and Title)

Date: _____

EFFECTIVE DATE: 1/1/2022

Office Address(es):

1.

(Primary Address for Notices and Payments)

2.

AdventHealth

EXHIBIT 1
INDIVIDUAL PROVIDER/SUPPLIER ADDENDUM

This Individual Provider/Supplier Addendum ("**Addendum**") supplements and is made a part of the ACO Participation Agreement ("**Agreement**") by and between **AHS Florida Division ACO, LLC dba AdventHealth ACO**, ("**ACO**") and the Provider/Supplier whose name is set forth below.

The undersigned, signing in an individual capacity only, hereby agrees to the following, as a condition to participating in the ACO. Capitalized terms used in this Addendum, but not defined herein, shall have the respective meanings specified in the Agreement.

1. The undersigned represents, warrants, and covenants, now and throughout the term of the Agreement, that the undersigned:

(a) maintains a license to practice medicine in Florida;

(b) is enrolled as a participating Provider/Supplier in the Medicare program;

(c) maintains compliance with participation criteria and all other credentialing and re-credentialing criteria established by ACO; and

(d) is not excluded from participation in any federal health care program.

2. The undersigned agrees to comply fully with all provisions of both Article 2 and Exhibit 2 of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Addendum as of the date written below.

INDIVIDUAL Provider/Supplier**:**
Signature: _____
Name (print): _____
National Provider Identifier (NPI): _____
Practice: _____
Date: _____

EXHIBIT 2
MSSP PARTICIPATION

A. **Meaningful Commitment to ACO Mission**. Participant shall demonstrate a meaningful commitment to the mission of ACO in order to ensure the likely success of ACO in achieving such stated mission.

B. **Accountability**. Participant agrees to be accountable, in a manner consistent with the MSSP Participation Agreement and this Agreement, for the quality, cost and overall care of fee-for-service Medicare Beneficiaries assigned to ACO.

C. **Adherence to Quality Assurance and Improvement Programs and Evidence-Based Clinical Guidelines**. Participant acknowledges that the opportunity to receive shared savings as set forth in Exhibit 4 and other financial arrangements are intended to encourage adherence to ACO's quality assurance and improvement programs and evidence-based clinical guidelines.

D. **Patient Centered Care**. Participant acknowledges that ACO shall define, establish, implement and periodically update processes for delivery of care to fee-for-service Medicare Beneficiaries in a patient-centered manner. Participant shall comply with such patient-centered care processes of ACO including, but not limited to:

(1) Promoting evidenced-based medicine, including diagnoses with significant potential for the ACO to achieve quality improvements, taking into account the circumstances of individual fee-for-service Medicare Beneficiaries served by the ACO;

(2) Promoting patient engagement, including through:

(a) administration of a patient experience of care survey to be determined by ACO;

(b) implementation of:

(i) Processes for evaluating the health needs of ACO's fee-for-service Medicare Beneficiaries, including consideration of diversity in the patient population; and

(ii) A plan to address the needs of ACO's fee-for-service Medicare Beneficiaries that describes how the Participant will partner with community stakeholders to improve the health of the Medicare ACO population;

(c) Communication of clinical knowledge and evidence-based medicine to fee-for-service Medicare Beneficiaries served by ACO in a way that is understandable to them;

(d) Beneficiary engagement and shared decision making that takes into account the unique needs, preferences, values and priorities of ACO's fee-for-service Medicare Beneficiaries; and

(e) Written standards for Beneficiary access and communication, and a process for fee-for-service Medicare Beneficiaries to access their medical record;

(3) Developing an infrastructure for internal reporting on quality and cost metrics that enables the ACO to monitor, provide feedback and evaluate performance and use the results to improve care over time; and

(4) Coordinating care across and among primary care Provider/Supplier's, specialists, and acute and post-acute Providers/Suppliers through methods and processes established to coordinate care throughout an episode of care and during its transitions (both inside and outside ACO).

E. Participant Responsibilities. Participant shall carry out the following activities with respect to health care services provided to fee-for-service Medicare Beneficiaries:

(1) Complying with the Beneficiary notification requirements set forth in 42 C.F.R. § 425.312:

(a) Notifications to fee-for-service beneficiaries. (1) An ACO shall ensure that Medicare fee-for-service beneficiaries are notified about all of the following in the manner set forth in paragraph (a)(2) of this section:

(i) That each ACO participant and its ACO providers/suppliers are participating in the Shared Savings Program.

(ii) The beneficiary's opportunity to decline claims data sharing under §425.708.

(iii) Beginning July 1, 2019, the beneficiary's ability to, and the process by which, he or she may identify or change identification of the individual he or she designated for purposes of voluntary alignment (as described in §425.402(e)).

(2) Notification of the information specified in paragraph (a)(1) of this section must be carried out through the following methods:

(i) By an ACO participant posting signs in its facilities and, in settings in which beneficiaries receive primary care services, making standardized written notices available upon request.

(ii) During the performance year beginning on July 1, 2019 and each subsequent performance year, by an ACO or ACO participant providing each beneficiary with a standardized written notice prior to or at the first primary care visit of the performance year in the form and manner specified by CMS.

(iii) The beneficiary notifications under this section meet the definition of marketing materials and activities under §425.20 and therefore must meet all applicable marketing requirements described in §425.310.

(3) Meeting applicable quality performance or reporting requirements in each of following four (4) domains: (i) patient/care giver experience; (ii) care coordination/patient safety; (iii) preventative health; and (iv) at-risk population/frail elderly health.

(4) Meeting applicable quality performance standards and reporting as outlined in 42 CFR Subpart F.

(5) Complying with ACO's policies and procedures for allowing Medicare Beneficiaries to access their medical records.

(6) Participant shall take all reasonably practicable actions to transition to an electronic medical record system compatible and capable of sharing data with the information technology system in use by ACO, preferably one of ACO's designated electronic medical record systems.

(7) Participant shall refrain from engaging in any activity that could be construed as avoidance of provision of health care services to at-risk Beneficiaries (as defined at 42 C.F.R. § 425.20) or creates a pattern of avoidance of provision of health care services to at-risk Beneficiaries.

F. Audit Rights and Access to Records. Participant agrees to allow ACO, CMS, the U.S. Department of Health and Human Services, the Comptroller General, the Federal Government or their designees, the right to audit, inspect, investigate, and evaluate any books, contracts, records, documents and other evidence pertaining to Participant's activities related to involvement in ACO's MSSP ACO activities. Participant shall retain all books, contracts, records documents or other evidence pertaining to Participant's activities related to involvement in ACO's MSSP activities for: (a) at least ten (10) years from the end of any MSSP Participation Agreement between ACO and CMS or audit of activities or payments under such agreement, whichever is later; (b) at least six (6) years from the date of any final resolution of any termination, dispute or allegation related to fraud or similar fault; and (c) any longer period as required by ACO following receipt by Participants of notice from ACO at least thirty (30) days before the otherwise applicable final disputation date. The requirements of this Section F shall survive termination of this Agreement.

AdventHealth

EXHIBIT 3

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("BAA") is by and between _____("**Participant**"), as the Covered Entity, and **AHS Florida Division ACO, LLC dba AdventHealth ACO** (ACO), as the Business Associate. Covered Entity and ACO mutually accept the terms of agreement set forth below in accordance with the requirements of the Privacy, Security and HIPAA Breach Notification Rules, HITECH and State Law Breach Notification Rules so that ACO may acquire, access, use, maintain and disclose Covered Entity's Protected Health Information in connection with furnishing services for and on behalf of Covered Entity.

TERMS OF AGREEMENT

1. **Definitions.** Unless otherwise defined or specified herein, terms used in this BAA have the meanings as those terms are defined in the Privacy, Security and HIPAA Breach Notification Rules and HITECH.

   a) HIPAA Breach means the unauthorized acquisition, access, use or disclosure of Unsecured Protected Health Information which compromises the security or privacy of such information, subject to the exceptions set forth in 45 C.F.R. § 164.402.

   b) HIPAA Breach Notification Rule means the federal regulation promulgated at 45 C.F.R. Part 164, Subpart D.

   c) Business Associate has the meaning ascribed to that term by 45 C.F.R. § 160.103 and, for purposes of this BAA, is ACO.

   d) C.F.R. means the Code of Federal Regulations.

   e) Covered Entity has the meaning ascribed to that term by 45 C.F.R. § 160.103 and, for purposes of this BAA, is the party other than ACO.

   f) Data Aggregation has the meaning ascribed to that term by 45 C.F.R. § 164.501.

   g) Designated Record Set has the meaning ascribed to that term by 45 C.F.R. § 164.501 and, for purposes of this BAA, is a Designated Record Set maintained by ACO on behalf of Covered Entity.

   h) DHHS means the U.S. Department of Health and Human Services, its Secretary and its various components.

   i) Electronic Protected Health Information or ePHI has the meaning ascribed to that term in 45 C.F.R. § 160.103 and, for purposes of this BAA, is ePHI that ACO creates, receives, maintains or transmits for or on behalf of Covered Entity.

   j) Health Care Operations has the meaning ascribed to that term by 45 C.F.R. § 164.501, as clarified by HITECH § 13406(a).

   k) HITECH means the Health Information Technology for Economic and Clinical Health Act (which is part of Public Law 111-005).

   l) Individual means the person who is the subject of the PHI.

m) Organized Health Care Arrangement or OHCA has the meaning ascribed to that term by 45 C.F.R. § 160.103.

n) Privacy Rule means the federal regulation promulgated at 45 C.F.R. Part 164, Subpart E.

o) Protected Health Information or PHI has the meaning ascribed to that term by 45 C.F.R. § 160.103 and, for purposes of this BAA, is PHI that ACO creates, receives, maintains or transmits for or on behalf of Covered Entity and includes ePHI and Unsecured PHI.

p) Required By Law has the meaning ascribed to that term by 45 C.F.R. § 164.103.

q) State Law Breach means the unauthorized acquisition, access, use and/or disclosure of certain health information as defined and prescribed by applicable State law.

r) State Law Breach Notification Rules means any applicable State law that prescribes the processes and procedures for required notifications in the event of a State Law Breach.

s) Security Rule means the federal regulation promulgated at 45 C.F.R. Part 164, Subpart C.

t) Subcontractor has the meaning ascribed to that term by 45 C.F.R. § 164.103.

u) Unsecured Protected Health Information or Unsecured PHI has the meaning ascribed to that term by 45 C.F.R. § 164.402 and, for purposes of this BAA, is Unsecured PHI that ACO creates, receives, maintains, or transmits for or on behalf of Covered Entity.

2. Independent Contractor. ACO is an independent contractor with respect to Covered Entity in that ACO furnishes, pursuant to a services arrangement with Covered Entity, such services as specified by that arrangement for and on behalf of Covered Entity but does not and is not authorized to represent or otherwise serve as agent of Covered Entity.

3. OHCA Participant. ACO's Participants have designated ACO as an OHCA pursuant to the individual's respective ACO Participation Agreement. Covered Entity participates in the OHCA as part of Covered Entity's participation in ACO's clinical integration program.

4. Privacy of Protected Health Information.

a) Permitted Uses and Disclosures. ACO is permitted to use, disclose and request PHI for the following functions and activities:

i) As Required by Law.

ii) To perform and assist with the performance of the functions, activities and services specified by the services arrangement between Covered Entity and ACO.

iii) To perform and assist with the performance of Health Care Operations for or on behalf of Covered Entity or on behalf of the OHCA as part of ACO's clinical integration program.

iv) To perform and assist with the performance of Health Care Operations for or on behalf of another covered entity (not participating in the OHCA) that involves any of the quality assessment and improvement or performance evaluation activities identified in paragraphs (1) and (2) of the definition of Health Care Operations at 45 C.F.R. § 164.501, *provided that* both Covered Entity and the other covered entity have or had a relationship with the Individual who is the subject of the PHI to be used or disclosed and that PHI pertains to that relationship.

v) To provide Data Aggregation services relating to the Health Care Operations of Covered Entity.

vi) To assist with the performance of treatment activities (as defined by 45 C.F.R. § 164.501) of Covered Entity or of another health care Provider/Supplier.

vii) To assist with the performance of payment activities (as defined by 45 C.F.R. § 164.501) of Covered Entity, of another covered entity, or of another health care Provider/Supplier.

viii) To de-identify PHI to create de-identified health information in accordance with the requirements of Privacy Rule § 164.514(b), and to create Limited Data Sets from PHI in accordance with the requirements of Privacy Rule § 164.514(e)(2).

ix) As authorized by an Individual pursuant to an authorization that complies with the requirements of Privacy Rule § 164.508.

x) For ACO's proper management and administration or to carry out ACO's legal responsibilities other than described above, *provided that* with respect to disclosure of PHI either:

A) The disclosure is Required By Law; or

B) ACO obtains reasonable assurance from any person or entity to which ACO will disclose the PHI that the person or entity will—

1) Hold the PHI in confidence and use or further disclose the PHI only for the purposes for which ACO disclosed the PHI to the person or entity or as Required By Law; and

2) Promptly notify ACO of any instance of which the person or entity becomes aware in which the confidentiality of the PHI was breached.

b) Minimum Necessary. ACO will, in its performance of the functions, activities and services involving PHI permitted by this BAA, make reasonable efforts to use, disclose, or request only the minimum PHI that ACO determines is reasonably necessary to accomplish the intended purpose of the use, disclosure or request as required by Privacy Rule § 164.502(b)(1) and HITECH § 13405(b), except with respect to those uses and disclosures to which the minimum necessary limitation does not apply as specified in Privacy Rule § 164.502(b)(2).

c) Prohibition on Unauthorized Use or Disclosure.

i) ACO will neither use nor disclose PHI except as permitted or required by this BAA or in writing by Covered Entity, or as Required By Law.

ii) Except as set forth in Section 4(a) above regarding Data Aggregation and ACO's proper management and administration, this BAA cannot authorize ACO to use or disclose PHI in a manner that will violate the Privacy Rule if done by Covered Entity. Accordingly, except for Data Aggregation and ACO's proper management and administration as permitted by Section 4(a) above, Covered Entity does not and will not authorize or otherwise direct ACO to use or disclose PHI in a manner that will violate the Privacy Rule if done by Covered Entity.

d) Covered Entity's Obligations Under the Privacy Rule. To the extent that ACO is to carry out one or more of the Covered Entity's obligations under the Privacy Rule, ACO agrees to comply with the requirements of the Privacy Rule that apply to the Covered Entity in the performance of such obligations.

5. **Safeguards.** ACO will implement, maintain, and use appropriate administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the PHI it creates, receives, maintains or transmits on behalf of Covered Entity, and that reasonably prevent the use or disclosure of the PHI except as described in this BAA. ACO shall comply, as applicable, with the requirements of the Security Rule.

6. **Subcontractors and Agents.** ACO will require any Subcontractor or agent, to which ACO discloses PHI, to execute a business associate agreement with terms at least as restrictive as those contained in this BAA.

7. **Individual Rights**.

a) Access. ACO will forward any access requests from Individuals to Covered Entity for processing according to the Privacy Rule § 164.524 and cooperate with the Covered Entity in complying with such requirements, if applicable.

b) Amendment. ACO will forward any amendment requests from Individuals to Covered Entity for processing according to Privacy Rule § 164.526 and cooperate with the Covered Entity in complying with such requirements, if applicable.

c) Disclosure Accounting. ACO will record and retain for at least six (6) years the disclosure information specified by Privacy Rule § 164.528 for each PHI disclosure that ACO makes that is accountable under Privacy Rule § 164.528 so that Covered Entity may meet its disclosure accounting obligations under Privacy Rule § 164.528 and, if applicable, HITECH § 13405(c). ACO will, within thirty (30) days following Covered Entity's request, report to Covered Entity the disclosure information retained by ACO that is pertinent to an Individual's request for disclosure accounting.

d) Restriction Agreements. Covered Entity agrees not to provide to ACO any PHI subject to restrictions that Covered Entity has agreed upon pursuant to Privacy Rule § 164.522(a).

e) Confidential Communications. ACO will comply with any requirement to use confidential communication about PHI pursuant to Privacy Rule § 164.522(b), *provided that* Covered Entity notifies ACO in writing of the confidential communication requirement that ACO must follow. Covered Entity will promptly notify ACO in writing of the termination of any such confidential communication requirement.

8. **Reporting to Covered Entity.** Business Associate will report to Covered Entity any security incident (except that, for purposes of this BAA, the term "security incident" does not include inconsequential incidents that occur on a frequent basis such as scans or "pings" that are not

allowed past ACO's firewall) or use or disclosure of PHI of which it becomes aware that is not permitted or required by this BAA.

9. **Mitigation.** ACO agrees to mitigate, to the extent practicable, any harmful effect known to it or resulting from ACO's use or disclosure of PHI in violation of the terms of this BAA.

10. **HIPAA Breach Notification.**

a) Notification to Covered Entity. ACO shall, following the discovery of a HIPAA Breach of Unsecured PHI, notify Covered Entity of such HIPAA Breach without unreasonable delay and in no event later than ten (10) days after discovery of the HIPAA Breach. ACO's notice shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or that ACO reasonably believes has been, acquired, accessed, used or disclosed during the HIPAA Breach and provide as much of the information specified in 45 C.F.R. ,§ 164.404(c) as is available to ACO at the time of its notice, and promptly thereafter as such information may become available to ACO.

b) Notification to Individuals, DHHS and/or the Media. ACO shall be financially responsible for all reasonable and documented costs and expenses for any HIPAA Breach to the extent directly caused by ACO, including without limitation, costs and expenses related to: (i) drafting, printing and mailing any required notice to Individuals impacted by the HIPAA Breach, (ii) setting up and manning a hotline, (iii) mitigating potential harm to such Individuals by providing credit monitoring and/or identity theft restoration services if necessary due to the nature of the HIPAA Breach, (iv) attorney's fees, (v) computer forensic reports, and (vi) penalties or fines assessed against Covered Entity on account of the HIPAA Breach, by any administrative entity authorized to enforce the Privacy Rule, Security Rule and HITECH. Both parties agree to mutually agree to the terms of all press releases, frequently asked questions for the hotline, reports or notifications to the Secretary, and letters sent to Individuals in the event of a HIPAA Breach, prior to issuance of same.

11. **State Law Breach Notification**. While complying with the HIPAA Breach Notification Rule, ACO shall simultaneously comply with applicable requirements set forth in State Law Breach Notification Rules and shall, following the discovery of a State Law Breach, notify Covered Entity of such State Law Breach as required by the State Law Breach Notification Rules. The financial responsibilities and obligations set forth herein shall apply to processing the State Law Breach simultaneously with the HIPAA Breach.

12. **Termination.**

a) Termination for Cause.

i) Covered Entity may terminate this BAA, if feasible, upon learning of a pattern of activity or practice by ACO that constitutes a material breach of this BAA that ACO fails to cure within thirty (30) days after receipt of written notice from Covered Entity identifying the material breach. Covered Entity may exercise this termination right by providing ACO written notice of termination, stating the failure to cure the material breach of the BAA that provides the basis for the termination. Any such termination shall be effective on the date specified in Covered Entity's notice of termination to ACO.

ii) ACO may terminate this BAA, if feasible, upon learning of a pattern of activity or practice by Covered Entity that constitutes a material breach of this BAA that Covered

Entity fails to cure within thirty (30) days after receipt of written notice from ACO identifying the material breach. ACO may exercise this termination right by providing Covered Entity written notice of termination, stating the failure to cure the material breach of the BAA that provides the basis for the termination. Any such termination will be effective on the date specified in ACO's notice of termination to Covered Entity.

b) Right to Terminate on Change in Law. Either party may terminate this BAA if a statute or regulation or amendment to a statute or regulation affects the obligations of a party under this BAA as provided by Section 17 below. A party may exercise this termination right by giving the other party written notice of such termination at least sixty (60) days before the compliance date for such statute or regulation or amendment to statute or regulation.

c) Termination on Conclusion of Services Arrangement. This BAA will terminate upon termination or other conclusion of the services arrangement between Covered Entity and ACO.

d) Obligations on Termination.

i) Return or Destruction of PHI. ACO will, within thirty (30) days following termination of this BAA, return to Covered Entity or destroy all PHI, other than the data elements of PHI for which return, or destruction is not feasible for the reasons explained in Section 12(d)(ii) below or for any other reason agreed to by Covered Entity.

ii) Return or Destruction of Certain PHI Not Feasible. The data elements of PHI that ACO has arranged with a Subcontractor to incorporate into the Subcontractor's registries and other quality assessment and improvement products, services and support offerings that cannot feasibly be returned or destroyed upon termination of this BAA or otherwise without compromising the integrity and effectiveness of such registries and such quality assessment and improvement products, services and support offerings and the system operations of the Subcontractor's information systems shall not be returned or destroyed. Upon termination of this BAA, ACO will limit further use or disclosure of such data elements of PHI to the purposes that make their return or destruction infeasible, and such data elements of PHI will continue to be subject to the same privacy protection and security safeguard obligations with respect to PHI applicable under this BAA for as long as such data elements of PHI remain in ACO's or its Subcontractor's custody. The obligations of ACO under this section shall survive the termination of this BAA.

13. De-Identified Health Information. ACO may retain, use and disclose de-identified health information it creates from PHI in accordance with the requirements of Privacy Rule § 164.514 and such retention, use and disclosure shall not be subject to this BAA.

14. DHHS Audit and Inspection of Internal Practices, Books, and Records.

a) Inspection. ACO will make its internal practices, books, and records relating to its use and disclosure of PHI available to DHHS to determine Covered Entity's compliance with the Privacy Rule.

b) Audit. ACO will submit to audit by DHHS with respect to ACO's compliance with the applicable requirements of the Privacy, Security and HIPAA Breach Notification Rules and HITECH.

15. **Mutual Indemnity.** Each party shall indemnify, hold harmless and, at the Indemnified Party's request, defend Indemnified Party from and against any and all costs, fines, penalties, liabilities, losses, judgments and expenses (including, but not limited to, reasonable attorneys' fees and court costs) (collectively, "Losses") resulting from any claim, suit, action, or proceeding ("Claim") brought by any regulatory agency or third party against Indemnified Party to the extent the Claim arises directly from the Indemnifying Party or Indemnifying Party's employees, officers, agents or contractors: (i) non-compliance with the Privacy Rule, Security Rule or HITECH; (ii) breach of any of its obligations under this BAA; or (iii) acts or omissions that cause a security incident, HIPAA Breach or State Law Breach. For any Claim for which Indemnified Party is entitled to indemnification hereunder, Indemnified Party shall: (a) provide Indemnifying Party prompt written notice of the existence of any such Claim upon Indemnified Party's receipt or knowledge of it and; (b) defend such Claim or permit Indemnifying Party to control the defense of the Claim. If Indemnified Party requests Indemnifying Party to defend such Claim, Indemnifying Party shall not enter into any settlement or other agreement with respect to any Claim that imposes any duty or obligation on Indemnified Party, or provides for an admission of fault on the part of Indemnified Party, without Indemnified Party's prior written consent. Indemnifying Party's obligation to indemnify shall survive the expiration or termination of this BAA regarding any Claim brought under this BAA.

16. **Notices.** Any notice that a party is required or desires to give under this BAA shall be delivered by U.S. certified mail return receipt requested, express delivery service with written acknowledgement of receipt or email with confirmation receipt, addressed—

If to Covered Entity:	If to ACO:
_____ _____ _____ _____ Email: _____	**AHS Florida Division ACO, LLC, dba AdventHealth ACO** **101 Southhall Lane, Ste 150** **Maitland, FL 32751** Attn: **Network Operations** Email: PHSO.Network.Operations@flhosp.org

17. **Amendment.** Upon the compliance date of a statute or regulation or amendment to statute or regulation that affects either party's obligations under this BAA, this BAA will automatically amend such that the obligations imposed on the parties by this BAA remain in compliance with all applicable statutes and regulations then in effect, unless a party elects to terminate this BAA in accordance with Section 12(b) above.

18. **Conflicts.** The terms and conditions of this BAA will override and control any conflicting term or condition of the services arrangement or other agreement or understanding between Covered Entity and ACO.

19. **References to Law.** Unless the context otherwise requires, references in this BAA to a statute, regulation or other law means such statute, regulation or other law as amended or modified from time to time.

20. **Counterparts**. This BAA may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

21. **Interpretation.** Any ambiguity in this BAA shall be resolved in favor of a meaning that permits both Covered Entity and ACO to comply with the Privacy, Security and HIPAA Breach Notification Rules, HITECH and State Law Breach Notification Rules to the extent applicable.

22. **Severability.** The provisions of this BAA shall be deemed severable and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of the BAA shall be effective and binding upon the parties.

23. **Waiver.** A waiver of any provision of this BAA must be in writing, signed by the parties hereto. The waiver by either party of any provision of this BAA or the failure of any party to insist on the performance of any of the terms or conditions of this BAA shall not operate as, nor be construed to be, a waiver or the relinquishment of any rights granted hereunder and the obligation of the parties with respect thereto shall continue in full force and effect.

24. **Remuneration Statement**. Except as otherwise allowed in this BAA and the Privacy Rule, Security Rule and HITECH, ACO shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual unless the Individual has provided a valid authorization compliant with the Privacy Rule and State law.

IN WITNESS WHEREOF, the undersigned have caused this Business Associate Agreement to be duly executed, to be effective on the last date written below.

COVERED ENTITY	**ACO**
By: _____	By: _____
Its: _____	Its: _____
Date: _____	Date: _____

EXHIBIT 4
ACO PAYMENT FORMULA

The ACO Payment Formula is structured so that sixty (60%) percent of the amount of the net shared savings payments that may be made by CMS to the ACO under the MSSP Participation Agreement, shall be paid to eligible Participants. The remaining forty percent (40%) shall be reinvested in the ACO. Payments to Participants shall be based on the overall performance of the ACO and on each Participant's performance of their attributed Beneficiaries in relation to quality standards, cost savings objectives, patient care experience, and citizenship criteria. The amount of shared savings payments otherwise payable to each Participant based on cost savings attributable to such Participant shall be increased or decreased to reflect the Participant's compliance with applicable quality, patient care experience and citizenship measures. Participant's eligibility and portion of shared savings will be based on an attribution methodology approved by the AdventHealth ACO Board of Managers.

Participants must be active and in good standing under this Agreement at the time that shared savings payments are to be made by ACO to eligible Participants or must have held this Agreement for the entire MSSP performance year for which a shared savings payment is made and termination was not based on quality, care, compliance concerns, or any of the factors listed in Section 4.4 of this Agreement related to Participant's or Provider/Supplier's moral turpitude, in order to receive any shared savings payments..

The ACO's Board of Managers may adjust the distribution methodology in this Exhibit 4 annually and provide written notification of such adjustment to all Participants. Any such change in distribution methodology shall apply prospectively only (e.g., if the Board of Managers changes the distribution methodology in February, such change shall not become effective until January 1st of the following calendar year). Any change in this Exhibit 4 shall be irrespective of the amendment process outlined in Section 5.7.