

**MEDICARE NEXT GENERATION ACO
PARTICIPATION AGREEMENT
2021**

THIS AGREEMENT (“Agreement”) is entered into effective January 1, 2021 (the “Effective Date”) by and between Trinity Health ACO, Inc., a Delaware nonprofit corporation (“Company”), and the entity or individual identified on the signature page hereof (“Next Generation Participant”), on behalf of itself and, if applicable, its Professionals (as hereinafter defined). Company and Next Generation Participant are the only parties to this Agreement.

RECITALS

WHEREAS, Company is an accountable care organization ("ACO") and commenced participation in the Next Generation ACO model administered by the Center for Medicare & Medicaid Innovation ("Next Gen Model") on January 1, 2016; and

WHEREAS, Next Generation Participant is an individual provider; or a provider group, hospital, or supplier employing or contracting with primary care physicians and/or other healthcare practitioners; and

WHEREAS, ACO and Next Generation Participant are committed to being accountable for the quality, cost and overall care of Attributed Lives; and

WHEREAS, ACO and Next Generation Participant are committed to implementing and following processes and procedures to support that accountability and to sharing in the savings or other financial benefits that result from those efforts. Next Generation Participant shall not be responsible for any losses incurred by the ACO until such time as the Next Generation Participant signs an addendum hereto that identifies how any ACO losses may be shared.

NOW, THEREFORE, the Parties agree as follows:

SECTION 1 – DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings indicated. These definitions shall apply to the Agreement and to all Attachments, Exhibits and Addendums attached hereto. All terms used herein shall have the same meaning as identified by the Center for Medicare and Medicaid Innovation ("CMMI") from time to time. Any changes to the definitions by CMMI will also be incorporated herein without the need for a written modification to this Agreement.

- 1.1 “Accountable Care Organization” (“ACO”) means Trinity Health ACO, Inc. and more generally refers to a legal entity that is recognized and authorized under applicable State or Federal law, is identified by a Taxpayer Identification Number (“TIN”), and is formed by one or more providers or suppliers that agree to work together to be accountable for the quality, cost and overall care of Attributed Lives.

- 1.2 “Attributed Life” or “Attributed Lives” means a Medicare Beneficiary who is assigned to ACO and that qualifies to be included in the Shared Savings calculation performed under the Next Gen Model.
- 1.3 “Center for Medicare and Medicaid Innovation” or “CMMI” refers to the federal agency that is responsible for administering the Next Gen Model.
- 1.4 “Clinical Model” means the written ACO guidelines, processes and procedures for quality and cost control founded on three inter-related and mutually supporting elements of: (1) quality performance measure management, (2) case management and (3) clinical data sharing.
- 1.5 “Medicare Fee-for-Service Beneficiary” or “Medicare Beneficiary” means an individual who is: (1) enrolled in the original Medicare program under both parts A and B; and (2) not enrolled in any of the following: (i) a Medicare Advantage Plan under Part C; (ii) an eligible Health Maintenance Organization or Competitive Medical Plan under section 1876 of the Social Security Act; or (iii) a PACE program under section 1894 of the Social Security Act.
- 1.6 “Next Gen Model Agreement” means the Next Gen Model Agreement between ACO and CMMI (the “Next Gen Model Agreement”) under which ACO, on behalf of its Next Generation Participants, agrees to be accountable for the quality, cost, and overall care of Medicare Beneficiaries who are enrolled in the traditional Medicare fee-for-service program and who are Attributed Lives in the ACO.
- 1.7 “Next Generation Affiliate” refers to an entity that is not a Next Generation Participant and has a written agreement with the ACO regarding a specific model design element. There are two types of Next Generation Affiliates, including capitation affiliates that contract with the ACO in order to participate in a capitation arrangement and SNF affiliates that are skilled nursing facilities to which Next Generation Professionals or Preferred Providers may admit Next Gen Model Medicare Beneficiaries according to the SNF 3-day rule benefit enhancement.
- 1.8 “Next Generation Participant” means an individual or group of Professionals that is identified by a Medicare-enrolled TIN that alone or together with one or more other Next Generation Participant(s) comprise(s) an ACO, and that is included on the list of Next Generation Participants submitted by ACO to CMMI and updated at the start of each Performance Year and at other times as specified by CMMI.
- 1.9 “Performance Year” shall mean the 12-month period beginning January 1 and ending December 31 of each year during the Agreement period, unless otherwise noted in the Next Gen Model Agreement.
- 1.10 “Physician” shall mean a doctor of medicine or osteopathy.

- 1.11 "Preferred Provider" refers to an ACO selected Medicare provider with whom the ACO has a relationship based upon high quality care and care coordination for Medicare Beneficiaries associated with the ACO. The ACO may allow certain benefit enhancements that are available to aligned beneficiaries when receiving care from Next Generation Participants to also be available through Preferred Providers; provided that the ACO has a written agreement with the Preferred Provider and has supplied CMMI with the Preferred Provider list according to CMMI instructions.
- 1.12 "Professional" refers to an individual or entity that: (1) is a Medicare enrolled provider or supplier other than a DMEPOS supplier; (2) is identified by a National Provider Identifier (NPI) or CMS Certification Number; (3) bills for items and services it or he/she furnishes to Medicare Beneficiaries under a Medicare billing number assigned to the TIN of an Next Generation Participant and (4) is included on the list of Next Generation Participants submitted by ACO to CMMI.
- 1.13 "Quality Measures" means the measures defined by CMMI and applicable to the Next Gen Model.
- 1.14 "Shared Savings" means a specified percentage of total savings achieved, as determined by CMMI. Shared Savings are determined by CMMI through reconciling expenditures against the benchmark.
- 1.15 "Taxpayer Identification Number" ("TIN") means a Federal taxpayer identification number or employer identification number.

SECTION 2 - OBLIGATIONS OF NEXT GENERATION PARTICIPANTS, AND PROFESSIONALS

- 2.1 Accountability. Next Generation Participants, Next Generation Affiliates, Preferred Providers and Professionals agree to become and remain accountable for the quality, cost and overall care of Attributed Lives. Toward that end, Next Generation Participants, Next Generation Affiliates, Preferred Providers and Professionals will comply with and implement the Clinical Model to: (1) promote evidence based medicine; (2) promote patient engagement; (3) develop and implement infrastructure and reporting on quality and cost metrics to enable monitoring and feedback of performance in order to evaluate performance and improve care over time; and (4) coordinate care. Notwithstanding anything to the contrary, until such time as may be determined by the ACO Board of Managers, no Next Generation Participant, Next Generation Affiliate, Preferred Provider, or Professional shall be responsible for any losses incurred by the ACO. Accepting losses associated with the ACO will be documented by an addendum to this Agreement and must be signed by both Parties to be effective.
- 2.2 Authority to Bind Next Generation Participant and Professionals to Next Generation ACO Model Requirements. Next Generation Participant hereby represents and warrants that it

has binding authority on behalf of its Professionals identified on **Exhibit 1** to enter into this Agreement on their behalf and that each Professional identified on Exhibit 1 will participate in the Model. All Professionals are bound by the terms and conditions of this Agreement and materials it incorporates by reference, including but not limited to, all applicable terms and conditions of the Next Gen Model Agreement, duly adopted policies and procedures and all applicable program requirements. By way of example, the Next Gen Model Agreement requires Professionals to participate in ACO Activities (as defined in the Next Gen Model Agreement), participant exclusivity, quality measure reporting, continuous care improvement objectives, voluntary alignment, beneficiary freedom of choice, benefit enhancements, coordinated care reward, participation in evaluation, shared learning, monitoring and oversight activities, the ACO compliance plan and the audit and record requirements. Next Generation Participants will be responsible for, cause and make best efforts to ensure each of its Professional's compliance with the terms of this Agreement and each Professional's performance hereunder.

- 2.3 Current Medicare Enrollment Information. Next Generation Participant will update its Medicare enrollment information (including the addition and deletion of Next Generation Professionals that have reassigned to the Next Generation Participant or Preferred Provider their right to Medicare payment) on a timely basis in accordance with Medicare program requirements. Next Generation Participant shall notify the ACP of any change to its Medicare enrollment information within 30 days after the change.
- 2.4 Program Exclusivity. The Parties acknowledge that CMMI prohibits simultaneous participation in more than one shared savings program, project or demonstration. As a result, Next Generation Participants who participate in the Next Gen Model under this Agreement may not simultaneously participate in other CMS or CMMI shared savings programs, projects or demonstrations, while a party to this Agreement, except as expressly permitted by CMS or CMMI. Next Generation Participant warrant for itself and its Professionals that it is not now participating and will not participate in any CMMI or CMS shared savings programs, projects or demonstrations while party to this Agreement that would violate applicable CMS or CMMI rules or regulations.
- 2.5 Provision of Services. Next Generation Participant will provide Attributed Lives with professional and/or facility services, as appropriate, in accordance with Medicare program statutes, regulations and policies as well as the policies and procedures set forth by CMMI.
- 2.6 Attributed Life Medicare Benefit. As directed by CMMI, Attributed Lives will remain free to use their Medicare benefits as they choose and, to the extent permitted by Medicare, to self-refer to any provider, regardless of Next Generation Participant status. Without limiting this freedom, and in accordance with regulatory authorities, Next Generation Participant will cooperate with ACO's policies and procedures with regard to clinical coordination of care.
- 2.7 Verification of Professional Qualifications of Next Generation Participants and Professionals. Next Generation Participant and Professionals shall be a participating

provider in Medicare, in good standing to provide services to Medicare Beneficiaries and licensed and in good standing to practice their professions in each state in which they practice and provide services to Attributed Lives. Nothing in this Agreement supersedes any of the terms and conditions of Next Generation Participant's enrollment in the Medicare program. ACO, may, in its discretion, require additional reasonable verification of professional qualifications, such as, by way of example and not limitation, validation of licensure in good standing, hospital privileges, and ACO may delegate such functions to a qualified entity.

- 2.8 Nondiscrimination. Next Generation Participant, and Professionals shall not discriminate or differentiate in treatment or access to health care on the basis of race, age, gender, gender identity medical history, religion, marital status, sexual orientation, color, national origin, place of residence, health status, creed, ancestry, disability, veteran status, type of illness or condition, or source of payment for services. Next Generation Participant and Professionals shall not avoid or discriminate against Attributed Lives that may be generally characterized as "at-risk" in any manner.
- 2.9 Cooperation with Case Management. Next Generation Participant shall make reasonable efforts to cooperate with ACO's case management protocols, which may include placing in-office case managers at Next Generation Participant's practice and/or requiring Next Generation Participant to coordinate with hospital or other facility case managers regarding the care of Attributed Lives.
- 2.10 Implementation of Protocols. Next Generation Participant shall make reasonable efforts to implement such cost and quality control protocols or other interventions as may be adopted by ACO regarding the care of Attributed Lives.
- 2.11 Exercise of Professional Judgment. Nothing in the Clinical Model shall be interpreted to interfere in any manner with the exercise of Professional's professional judgment.
- 2.12 Audit and Evaluation. Next Generation Participant acknowledges that CMMI, DHHS, or other federal agencies have the right to monitor, investigate, audit, inspect or evaluate any books, contracts, records, documents or other evidence of the performance of services or functions related to the Next Gen Model, quality, determination of amounts due by CMMI and/or the ability to bear the risk of losses or repay them to CMMI. Next Generation Participant and Professionals agree to cooperate and assist those parties and ACO in conducting such monitoring, investigation, audit, inspection or evaluation. Next Generation Participant agrees to maintain for ten (10) years from the final date of this Agreement all books, contracts, records, documents or other evidence of the performance of services or functions related to Next Gen Model participation. If there is a termination, dispute or allegation of fraud or similar fault against the Next Generation Participant, or Professional, Next Generation Participant agrees to maintain such materials for an additional six (6) years (or sixteen (16) years total).
- 2.13 Compliance with Laws. Next Generation Participant agrees on behalf of itself and its Next Generation Professionals, to participate in the Next Generation ACO Model, engage in

Company clinical integration activities, comply with the terms and conditions identified in that certain Participation agreement between CMMI and Company (the "CMMI Participation Agreement") and to comply with all applicable laws and regulations including but not limited to federal criminal laws; the False Claims Act (31 U.S.C. 3729 et seq., the anti-kickback statute (42 U.S.C. 1320a-7b(b)), the civil monetary penalties law (42 U.S.C. 1320a-7a) and the physician self-referral law (42 U.S. C. 1395nn).

- 2.14 Compliance with CMMI Participation Agreement terms and conditions. By signing below, the undersigned further acknowledges it has received a copy of the CMMI Participation Agreement. By way of example, the CMMI Participation Agreement requires Next Generation Professionals to participant exclusivity, quality measure reporting, continuous care improvement objectives, voluntary alignment, beneficiary freedom of choice, benefit enhancements, coordinated care reward, participation in evaluation, shared learning, monitoring and oversight activities, the Company's compliance plan and the audit and record retention requirements.
- 2.15 HIPAA. Next Generation Participant, and Professionals shall comply with the provisions set forth in the Business Associate Agreement attached hereto as Exhibit 2, implementing the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and shall observe all relevant statutory and regulatory provisions regarding the appropriate use of data and confidentiality and privacy of individual health information as they apply to Next Generation Participant, and Professionals, and which may be modified from time to time. Next Generation Participant, and Professionals will implement all necessary requirements of HIPAA in the manner and time frame required by HIPAA.
- 2.16 Required Disclosures to ACO. In addition to such disclosures as may be required elsewhere in this Agreement, Next Generation Participant shall notify ACO as soon as reasonably possible (but no later than seven days) in writing of the occurrence of, and shall upon request provide ACO with additional documentation or information regarding, any of the events indicated below:
- 2.16.1 The voluntary surrender or termination of any of Next Generation Participant's, or a Professional's licenses, certifications, accreditations; or
 - 2.16.2 Next Generation Participant becoming aware that it is under investigation or has been sanctioned by the government or any licensing authority (including without limitation the imposition of program exclusion, debarment, civil monetary penalties, corrective action plans, and revocation of Medicare billing privileges); or
 - 2.16.3 The occurrence of an act of nature or any event beyond Next Generation Participant's, or a Professional's reasonable control which substantially interrupts all or a portion of Next Generation Participant's, or a Professional's business or practice, or that has a materially adverse effect on Next Generation Participant's, or a Professional's ability to perform its or his/her obligations hereunder; or

2.16.4 Next Generation Participant's, and/or, as applicable, a Professional's, failure to maintain the insurance coverage required under Section 6 of this Agreement.

2.17 Reports to ACO. Next Generation Participant shall make available, upon request, encounter data, medical records and other information specific to Medicare covered services rendered to Attributed Lives as necessary for the administration of this Agreement as required by regulation, CMMI or as reasonably requested by ACO.

2.18 Data Reporting. Next Generation Participant shall provide and report such data from its Electronic Health Records ("EHR") system or medical records as ACO may reasonably require to monitor the cost and quality of services, including care management services, provided to Attributed Lives. Next Generation Participant will cooperate in connecting its information systems to ACO, or ACO's designee, in order to facilitate the exchange of clinical and cost related data in furtherance of the requirements of the Next Gen Model. If requested by ACO, Next Generation Participant agrees to enter into an agreement with a designed health information exchange provider ("HIE"), to forward clinical information from Next Generation Participant's EHR to a data repository, analytics, or case management system provider designated by ACO ("Data Repository"). Next Generation Participant authorizes ACO to direct HIE to forward clinical information to the Data Repository and authorizes Data Repository to de- identify protected health information sent by Next Generation Participant aggregate that de-identified data with other de-identified data and use the aggregated, de- identified data for Data Repository's data reporting, analytics purposes, and other data purposes. Next Generation Participant authorizes ACO to seek individually identifiable health information ("IIHE") regarding Attributed Lives from any sources to be directed through the Data Repository for ACO purposes.

2.19 Notices to Medicare Beneficiaries. Next Generation Participant, and Professionals shall cooperate with ACO to: (1) notify Medicare Beneficiaries at the point-of-care that they are participating with the ACO in the Next Gen Model; (2) post signs in their facilities to notify Medicare Beneficiaries that they are participating with ACO in the Next Gen Model; and (3) make available standard written notices regarding participation in ACO (which may include data use declination.)

Next Generation Participants will cooperate and participate in the patient experience of care survey required by the Next Gen Model as provided by ACO's certified vendor.

2.20 Delegation Prohibited. Next Generation Participant shall not delegate or subcontract any of its duties under this Agreement to a Professional or entity who is not a Next Generation Participant without the approval of ACO which approval shall not be unreasonably withheld.

2.21 Marketing. CMMI requires all marketing materials to be submitted to it for approval and ACO will make all such requests. Next Generation Participant may not create or distribute any marketing or other materials that reference ACO, Next Generation Participant's participation in Next Gen Model. If Next Generation Participant wishes to create, use or

modify such marketing materials, it must submit first to ACO for approval by CMMI and shall not use any materials that do not have CMMI approval as obtained by ACO.

- 2.22 Notice. ACO expects CMMI to provide notification to ACO of Attributed Lives regularly throughout the calendar year. If requested by ACO, Next Generation Participant's Professionals with Attributed Lives will inform Attributed Lives of their attribution to the ACO.
- 2.23 Attributed Lives Data Use Declination. Next Generation Participant with Attributed Lives acknowledges that the Next Gen Model program requires that Attributed Lives be given an opportunity to decline to have personal data shared with ACO. Next Generation Participant with Attributed Lives agrees to provide each Attributed Life, at their first primary care office visit annually, ACO approved information materials to advise such Attributed Life of data sharing and their ability to decline to allow data to be shared with the ACO. If an Attributed Life declines to allow data sharing, Next Generation Participant agrees to maintain and provide proof to ACO that such Attributed Life(ves) has properly opted-out of the data sharing.
- 2.24 Authority. The undersigned has full power and authority to bind the participant to the terms and conditions of this Agreement and further represents he/she has the authority to bind the Professionals who bill pursuant to a Medicare billing number assigned to the ACO Participant to the terms and conditions of this Agreement.
- 2.25 Current Medicare Enrollment Information. ACO Participant acknowledges it is required to and hereby agrees to timely update its Medicare enrollment information, including the addition and deletion of ACO Professionals billing through Participant's TIN, on a timely basis and in accordance with Medicare program requirements and to notify the Company of any such changes within thirty (30) days after the change.

SECTION 3 - ACO OBLIGATIONS

- 3.1 Compliance with ACO Program Rules. ACO will comply with all applicable rules and regulations governing the administration of an ACO program qualified to participate in the Next Gen Model. If, for any reason, ACO ceases to qualify as an eligible participant in the Next Gen Model, ACO shall, as soon as reasonably possible, notify all Next Generation Participants.
- 3.2 Review of Clinical Data. In conjunction with the CMMI review of clinical data collected from Next Generation Participants and provided by ACO to CMMI, ACO shall organize, analyze and review such data to ensure that CMMI distributions of shared savings are accurate given program parameters. Constraints by law on ACO to appeal distribution decisions of CMMI shall also apply to Next Generation Participants and such constraints shall prohibit Next Generation Participants from taking action against ACO that would be prohibited if ACO were to take such action against CMMI.
- 3.3 No Inducement to Forego Medically Necessary Services. Nothing in this Agreement shall be construed to offer an inducement to Next Generation Participant, or a Professional to forego

providing medically necessary services to Attributed Lives.

- 3.4 Compliance. ACO shall comply with and abide by all applicable federal, state and local rules and regulations, as applicable, including but not limited to, federal laws such as the False Claims Act, Anti-Kickback Laws, Civil Monetary Penalties, and Stark.
- 3.5 Privacy and Security of Shared Information. ACO shall manage all data received from Next Generation Participant which includes protected health information, in a manner that is compliant with state and federal privacy and security laws, rules and regulations, as they are applicable and as they may change from time to time. ACO will develop policies and procedures that will require ACO to protect the privacy and security of health information shared with ACO by Next Generation Participant consistent with the Business Associate and Qualified Service Organization Addendum attached hereto as Exhibit 2 and ACO shall comply with that Addendum. ACO also agrees to manage data supplied to Next Generation Participant in accordance with the ACO Data Use Policy(ies) and/or contract amendment as may be implemented at a later date.
- 3.6 Support Services. ACO will provide support services to Next Generation Participants to facilitate efficient participation in the Next Gen Model. Such support may include, but is not limited to, data reporting software and support, training, data analysis, data reporting and clinical leadership.
- 3.7 No ACO Liability for Claims. Next Generation Participant and Professional(s) agree and acknowledges that CMS, and not ACO, has the full and final responsibility and/or liability for payment of claims for services provided to Attributed Lives.

SECTION 4 – RECORDS

- 4.1 Covered Person Records. Next Generation Participant, and Professional shall prepare and maintain, and protect the confidentiality, security, accuracy, completeness and integrity of, all appropriate medical and other records related to the provision of Medicare covered services to Attributed Lives (including, but not limited to, medical, encounter, financial, accounting, administrative and billing records) in accordance with: (i) applicable state and federal laws and regulations including, but not limited to, applicable confidentiality requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”); and (ii) ACO and CMS billing, reimbursement, and administrative requirements. Such records shall include such documentation as may be necessary to monitor and evaluate the quality of care and to conduct medical or other health care evaluations and audits to determine, on a concurrent or retrospective basis, the medical necessity and appropriateness of care provided to Attributed Lives.

Subject to applicable laws regarding confidentiality, Next Generation Participant, and Professionals hereby authorize ACO to release any and all information, records, summaries of records and statistical reports specific to Next Generation Participant, or Professionals, including but not limited to utilization profiles, encounter data, treatment plans, outcome data and other information pertinent to Next Generation Participant’s, or Professional's

performance of services and professional qualifications to federal or state governmental authority(ies) with jurisdiction, or any of their authorized agents, and accreditation agencies, without receiving Next Generation Participant's or Professionals prior consent.

- 4.2 Inspection and Access. Subject to applicable confidentiality laws and within ten (10) business days following a request by ACO, Next Generation Participant, and Professionals shall provide ACO or its designees and, if required by law or contract, authorized state and/or federal agencies, or CMMI, access during regular business hours for: (i) inspection and copying of all records maintained by Next Generation Participant, and Professionals related to Next Generation Participant, or Professional's provision of Medicare covered services to Attributed Lives (including, but not limited to, medical, financial, accounting, administrative and billing records); (ii) assessing the quality of care or investigating grievances and complaints of Medicare Fee-for-Services Beneficiaries that are Attributed Lives; and (iii) inspection of Next Generation Participant, and Professional's facilities for quality assurance, utilization review, verification of professional qualifications, claims payment verification, fraud and abuse investigation and other activities reasonably necessary for the efficient administration of the ACO, and as necessary for compliance with federal and state law or CMMI requirements.
- 4.3 Sharing With Other Professionals. Subject to all applicable state and federal laws and regulations regarding privacy and confidentiality, Next Generation Participant, and Professionals shall also cooperate with ACO in permitting maximum sharing of medical records specific to Medicare covered services with Professionals providing services to Attributed Lives. Next Generation Participant, and Professionals shall make the records available to and communicate as appropriate with each Professional treating the Attributed Life, as needed, for the purpose of facilitating the delivery of appropriate Health Care Services to each Attributed Life and carrying out the purposes and provisions of this Agreement.
- 4.4 Survival. The provisions of this Section 4 shall survive termination of the Agreement.

SECTION 5 - INSURANCE AND INDEMNIFICATION

- 5.1 Professional Insurance. Next Generation Participant who is not a hospital or ambulatory service center or an FQHC enjoying the privileges of Federal Tort Claim Act immunity, at its sole cost and expense, shall procure and maintain such professional liability insurance as is necessary to insure Next Generation Participant, and each of its respective Professionals, employees, agents and representatives. Upon request, Next Generation Participant, or Professional, as appropriate, agree to submit to ACO a certificate of insurance as evidence of such coverage. In the event any such professional liability policy is a "claims made" policy, Next Generation Participant will purchase a "tail" policy, effective upon the termination of the primary policy, or obtain replacement coverage which insures for prior acts, insuring for losses arising from occurrences during the term of this Agreement, which tail policy or prior acts coverage shall have the same policy limits as the primary policy and shall extend the claims reporting period for the longest period for which coverage is available. Next Generation Participant agrees to provide ACO with immediate, and in no event less than

thirty (30) days' prior, written notice of any cancellation, non-renewal or change to such policy.

- 5.2 Hospital Insurance. Next Generation Participant who is a hospital or ambulatory service center, at its sole cost and expense, shall procure and maintain such policies of insurance as are necessary to insure Next Generation Participant and its Professionals, employees, agents and representatives. Upon request, Next Generation Participant agrees to submit to ACO a certificate of insurance as evidence of such coverage. In the event any such liability policy is a "claims made" policy, Next Generation Participant will purchase a "tail" policy, effective upon the termination of the primary policy, or obtain replacement coverage which insures for prior acts, insuring for losses arising from occurrences during the term of this Agreement, which tail policy or prior acts coverage shall have the same policy limits as the primary policy and shall extend the claims reporting period for the longest period for which coverage is available. Next Generation Participant agrees to provide ACO with immediate, and in no event less than thirty (30) days' prior, written notice of any cancellation, non-renewal or change to such policy.

SECTION 6 - TERM & TERMINATION

- 6.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue in effect during the time period ACO participates in the Next Gen Model.
- 6.2 Termination without Cause.
- 6.2.1 This Agreement may be terminated without cause by the mutual written agreement of the Parties.
- 6.2.2 This Agreement may be terminated by either Party by providing not less than ninety (90) days written notice to the other party.
- 6.3 Termination with Cause. Either Party may terminate this Agreement upon a material breach by the other Party, by providing sixty (60) days' prior written notice to the Party alleged to be in breach identifying, with specificity, such breach, but only in the event that the alleged breaching Party fails to cure same within the sixty (60) day notice period.
- 6.3.1 This Agreement shall terminate immediately with cause on the date of notice from the ACO, should CMMI terminate the Next Gen Model Agreement.
- 6.4 Immediate Termination.
- 6.4.1 Notwithstanding the foregoing, ACO may terminate this Agreement, or an individual Professional's participation hereunder, immediately upon written notice to the Next Generation Participant or in the event that Next Generation Participant, or an individual Professional performing services

hereunder who bills under the Next Generation Participant's TIN number, is convicted of a fraud or felony or is suspended, debarred or excluded from participation in a federal health care program (as defined in 42 U.S.C. § 1320a-7b(f)) or if Next Generation Participant's or any Professional's license is suspended or revoked; and

6.4.2 ACO may terminate or suspend any Next Generation Participant's status as a Next Generation Participant, or individual Professional's participation hereunder, upon written notice to Next Generation Participant, or Professional in the event that: (i) the Next Generation Participant does not timely de-link or disassociate a terminated Professional's NPI from their TIN; (ii) a final disciplinary action by a state licensing board or other governmental agency that impairs the Next Generation Participant, or Professional's ability to practice; or (iii) ACO reasonably determines that the Next Generation Participant or Professional's continued participation would jeopardize ACO's fulfillment of its contractual or program obligations; or (iv) CMS notifies ACO that ACO is required to remove the Next Generation Participant and/or Professional from the Model. ACO Participant further acknowledges Company may require participant to take action against its ACO Professionals or ACO Professional/suppliers related to non-compliance with the requirements of the Next Gen Model or other program integrity requirements.

6.5 Effect of Termination. Following the effective date of termination of this Agreement, the provisions of this Agreement shall be of no further force or effect, except as otherwise provided in this Agreement, and except that each Party to this Agreement shall remain liable for any obligations or liabilities arising from the activities carried out by such Party prior to the effective date of termination. In order to receive Shared Savings or financial incentives for any Performance Year, Next Generation Participant or must be actively participating in ACO and no Next Generation Participant will be entitled to Shared Savings or financial incentives for the Performance Year in which notice of termination is given or subsequent Performance Years unless: (1) Next Generation Participant is terminated without cause by ACO; (2) Next Generation Participant provided notice of non-renewal pursuant to Section 6.1; (3) Next Generation Participant provided notice of non-renewal for the following Performance Year pursuant to Section 6.2.2 and actively participated in the ACO until the end of the Performance Year when the notice was provided. Next Generation Participant acknowledges that certain reporting obligations may apply to ACO and Next Generation Participant related to Next Generation Participant participation in the ACO post termination. Accordingly, Next Generation Participant agrees to cooperate in good faith with ACO post termination to satisfy any applicable reporting requirements. This Section shall survive termination of this Agreement. Eligible professionals participating in an accountable care organization like ACO are required by CMS to participate in the Physician Quality Reporting System ("PQRS") through the Medicare Shared Savings Program. All Professionals earn the PQRS incentive as a group practice under the Medicare Shared Savings Program by reporting required clinical quality measures through the ACO Group Practice Reporting Option

("GPRO") web interface and the success of the ACO's remaining professionals depends, in part, on ACO Participant's cooperation with ACO for purposes of reporting PQRS related all years (or portions thereof) in which ACO Participant was participating in the ACO. Accordingly, following termination of this Agreement, ACO Participant hereby agrees to work cooperatively and in good faith with Company regarding any close out processes or procedures that are necessary to submit information required by CMS including the timely and accurate submission of PQRS related to the calendar year in which ACO Participant terminates its participation in ACO and in a manner that will not jeopardize the incentive payments that may be available to other professionals participating in the ACO.

- 6.6 Remedial Actions. When necessary, the Company shall take steps to address non-compliance by Next Generation Participant or any Next Generation Professional with the requirements of this Agreement, including adherence to the Compliance Plan and evidence-based clinical guidelines. Such steps may include program implementation assistance, education, and mentoring to the Next Generation Participant and/or the applicable Next Generation Professional. Next Generation Participant agrees to work in good faith with the Company to improve performance and correct any areas of non-compliance with the requirements of this Agreement. Next Generation Participant understands, however, that, if Next Generation Participant or any Next Generation Professional fails to adhere to the Compliance Plan, the evidence-based clinical guidelines, or the patient-centeredness processes, or is deficient in meeting the CMS quality performance standards, the Company may use progressive remedial processes and sanctions to improve compliance and performance. Such measures may include adoption and implementation of corrective action plans, the assessment of sanctions, the loss of the ability to receive shared savings, and the potential for expulsion from the ACO and corresponding termination of this Agreement. The Governing Body shall adopt specific policies and procedures regarding non-compliance issues. Next Generation Participant acknowledges the remedial action may be taken against Next Generation Participant or Next Generation Professionals. Next Generation Participant further acknowledges Company may require participant to take action against its Next Generation Professionals related to non-compliance with the requirements of the Next Generation Model or other program integrity requirements.

SECTION 7 - GOVERNANCE

- 7.1 Board of Managers. Next Generation Participant acknowledges the ACO is governed by a Board of Managers who are appointed by Trinity Health Corporation but whom comprise a representative from each ACO chapter.

SECTION 8 - SHARED SAVINGS QUALIFICATIONS AND DISTRIBUTIONS

Next Generation Participants will be able to earn a share of the savings achieved by the ACO based on the following terms and conditions:

- 8.1 Qualification. Next Generation Participants must satisfy the qualifications established by the

ACO Board of Managers to be eligible for any distribution.

- 8.2 Distributions. When ACO qualifies for Shared Savings, the ACO Board of Managers will determine the distribution formula which shall include a methodology for recoupment of ACO expenses.

SECTION 9 - GENERAL PROVISIONS

- 9.1 Entire Agreement. This Agreement, including the any Exhibits or other attachments as well as any documents incorporated by reference herein, constitutes the entire agreement of the Parties regarding the subject matter hereof and supersedes any oral or written understandings or agreements prior to the execution of this Agreement.

- 9.2 Confidentiality.

9.2.1 Confidentiality of Proprietary Information. The Parties each acknowledge that each may disclose confidential and proprietary information (by way of example and not limitation, policies and procedures, records, formulas) to the other in the course of performance of this Agreement. All information so disclosed by one Party to the other which is not otherwise publicly available shall be deemed confidential and shall not be disclosed by the receiving Party to any third party without the prior written consent of the Party who disclosed the information to such receiving Party. Upon termination of this Agreement for any reason, each party shall return to the other all electronic and printed materials containing confidential or proprietary information received from the other, that it is not required to retain pursuant to this Agreement or law or certify to the other that those materials have been destroyed.

9.2.2 Survival. The obligations of this Section 9.2 shall survive termination of this Agreement for any reason.

- 9.3 Successors and Assigns. This Agreement shall not be assigned by either Party without the written consent of the other Party, which consent shall not be unreasonably withheld, provided that ACO may assign its rights and obligations under the Agreement to an entity that it controls or is controlled by or is under common control with ACO.

- 9.4 Amendments. This Agreement may be amended or modified in writing as mutually agreed upon by the Parties, or as provided in this Agreement. In addition, ACO may unilaterally modify any provision of this Agreement and its Exhibits, Attachments and Riders upon thirty (30) days prior written notice to Next Generation Participant or immediately upon receipt by Next Generation Participant if such modification is made to comply with federal or state laws or other regulatory bodies.

- 9.5 Independent Contractor Relationship. None of the provisions of this Agreement between or among ACO, Next Generation Participant, Professionals, or CMMI create a relationship other

than that of independent entities contracting solely for the purposes of effecting the provisions of this Agreement. Except as explicitly provided otherwise in this Agreement, neither the Parties, nor CMMI, shall be construed to be the agent, partner, employee, or representative of any of the other Parties or of CMMI. Next Generation Participant, and Professionals hereby agree that while compliance with applicable CMMI and ACO standards, policies and procedures is a condition of participation in the ACO, Next Generation Participant, and Professionals shall at all times render independent medical judgment.

- 9.6 No Third-Party Beneficiaries. Except as specifically provided herein by express language, no person or entity shall have any rights, claims, benefits, or powers under this Agreement, and this Agreement shall not be construed or interpreted to confer any rights, claims, benefits or powers upon any third party.
- 9.7 Section Headings. All Section headings contained herein are for convenience or reference only and are not intended to limit, define or extend the scope of any provisions of this Agreement.
- 9.8 Severability. In the event any part of this Agreement shall be determined to be invalid, illegal or unenforceable under any federal or state law or regulation, or declared null and void by any court of competent jurisdiction, then such part shall be reformed, if possible, to conform with the law and, in any event, the remaining parts of this Agreement shall be fully effective and operative so far as reasonably possible to carry out the contractual purposes and terms set forth herein.
- 9.9 Waiver of Breach. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach or violation of this Agreement.
- 9.10 Notices. Notices and other communications required by this Agreement shall be deemed to have been properly given if mailed by first-class mail, postage prepaid, or hand delivered to the address identified on the signature page.
- 9.11 Counterparts, Signatures: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument and shall be effective when ACO has executed its counterpart. Any signature delivered by facsimile machine, or by .pdf, .tif, .gif, .peg or other similar attachment shall be treated in all manner and respects as an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by the duly authorized officers to be effective as of the Effective Date indicated above.

TRINITY HEALTH ACO, INC.

By: _____
Its: _____
Date: _____

Address: Trinity Health ACO
Attn: President
20555 Victor Parkway
Livonia, MI 48152

NEXT GENERATION PARTICIPANT

Name of Participant:

By: _____
Its: _____
Date: _____

TIN: _____

Address:

TABLE OF EXHIBITS

EXHIBIT 1: List of NPI Numbers

EXHIBIT 2: Business Associate Addendum

E XHIBIT 2

BUSINESS ASSOCIATE AGREEMENT ADDENDUM

This Business Associate Agreement Addendum (“BAA”) is attached to and supplements that certain Medicare Next Generation ACO Participation Agreement (the "Agreement") and documents the business associate obligations of Trinity Health ACO, Inc. ("Business Associate") and the obligations of Next Generation Participant in its capacity as the "Covered Entity."

- A. HIPAA and HITECH Dominance.** In the event of a conflict or inconsistency between the terms of any other agreement between the parties and this language, this BAA language controls. This language is intended to comply with the Health Insurance Portability and Accountability Act of 1996 as well as the Health Information Technology for Economic and Clinical Health Act (found in Title XIII of the American Recovery and Reinvestment Act of 2009), as amended, and all final regulations issued pursuant to such Acts (“HIPAA” and “HITECH”).
- B. Business Associate.** Furthermore, Business Associate acknowledges that to the extent that it is a “Business Associate”, it will comply with the business associate provisions of HITECH in the performance of such services as of the date that compliance is required under HITECH.
- C. Protected Health Information.** This BAA applies to all PHI in the Business Associate's possession and/or under its control that was collected, created, received, maintained by or transmitted to or from the Covered Entity.
- D. Agents and Subcontractors.** Business Associate will require that its agent(s) and subcontractor(s) agree to the same restrictions and obligations as Business Associate. Business Associate also will require its agent(s) and subcontractor(s) to agree to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all the Covered Entity's PHI.
- E. Permissible Uses of PHI.**
 - 1. Using and Disclosing PHI.** Business Associate may use or disclose PHI as permitted by this BAA or as required by law. Business Associate may use PHI to directly perform services pursuant to this BAA, including data aggregation services.

Furthermore, the Business Associate may only use or disclose PHI to the extent that the Covered Entity is permitted to use and disclose PHI and, only if, the Covered Entity has delegated that use or disclosure to the Business Associate.

2. **Minimum Necessary.** The Covered Entity will provide Business Associate with the minimum amount of PHI required by Business Associate to perform services pursuant to this BAA
3. **Business Associate Management Uses of PHI.** Business Associate may use or disclose PHI as necessary for its proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

F. Security and Reporting

1. **Safeguards.** Business Associate agrees to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all PHI.
2. **Reports.** Business Associate will (i) report to Covered Entity any use or disclosure of PHI not permitted by this BAA; (ii) any successful security incident of which Business Associate becomes aware; and (iii) in summary form, upon request of Covered Entity, any unsuccessful security incident of which Business Associate becomes aware. If the definition of “Security Incident” in the HIPAA regulation is modified to remove the requirement for reporting “unsuccessful” security incidents, section (iii) above will no longer apply as of the effective date of such regulation modification.

G. HITECH. Each party will comply with each obligation applicable to such party under HITECH as of the date that compliance with such obligation is required under the same. In furtherance thereof:

1. Each provision that is required to be included in business associate agreements pursuant to HIPAA and HITECH and is not already set forth in this BAA is hereby incorporated into this BAA by reference;
2. Business Associate agrees to notify the Covered Entity promptly if it discovers a breach involving PHI and to comply with the applicable provisions of HITECH with respect to that breach.
3. Business Associate will document certain disclosures of PHI and information related to such disclosures and provide an accounting of such disclosures in accordance with HIPAA and HITECH.

H. Patient Rights With Respect To PHI. To the extent that Business Associate maintains a Designated Record Set on behalf of the Covered Entity, Business Associate acknowledges that under HIPAA patients have the right to access and review their PHI; amend their health records; and request restrictions on the use and disclosure of PHI.

I. Notification of Restrictions to Use or Disclosure of PHI. Covered Entity will notify Business Associate of any restrictions to the use or disclosure of PHI that Covered Entity has agreed to in accordance HIPAA and HITECH to the extent that such restrictions or

confidential communication may affect Business Associate's use or disclosure of such PHI.

J. Notice of Patient Contact. Business Associate will notify the privacy officer of Covered Entity if a patient contacts Business Associate in connection with the patient's PHI.

K. Amendment. Upon enactment of any law, regulation, court decision or relevant government publication and/or interpretive policy affecting the use or disclosure of PHI, the parties agree to amend this BAA to comply with the same.

L. Access for Audit. Business Associate will make its internal practices, books and records relating to the use and disclosure of any PHI available to any authorized government investigators for purposes of determining the Covered Entity's compliance with HIPAA.

M. Termination of Relationship

1. Covered Entity - Termination and Cure. In the event of Business Associate's material failure to comply with this BAA, the Covered Entity may terminate its relationship with Business Associate upon 30-days advanced written notice to Business Associate; provided, however, that Business Associate has not cured the material failure to comply within 30-days after receiving written notice from the Covered Entity.

2. Business Associate - Termination and Cure. In the event of Covered Entity's material failure to comply with this BAA, the Business Associate may terminate its relationship with Covered Entity upon 30-days advanced written notice to Covered Entity; provided, however, that Covered Entity has not cured the material failure to comply within 30-days after receiving written notice from Business Associate.

3. PHI Obligations upon Termination or Expiration. Unless Business Associate is required by law to maintain PHI, Business Associate will return (and not retain any copies of) all PHI in its possession or under its control within 30 days after the termination/expiration of this BAA. If Business Associate is unable to return PHI, then Business Associate will notify the Covered Entity of the reasons for being unable to return PHI in writing and must, at a minimum, maintain PHI as required by this BAA and HIPAA for so long as the Covered Entity's PHI exists.

N. Survival. The respective rights and obligations of the parties under this BAA, including without limitation the obligations of the Business Associate under Section Termination of Relationship, shall survive termination of the BAA to the extent necessary to fulfill their purposes.