

**ACS EDI GATEWAY, INC.
TRADING PARTNER AGREEMENT**

THIS TRADING PARTNER AGREEMENT (“Agreement”) is by and between **TRADING PARTNER** (“Trading Partner”) and ACS EDI GATEWAY INC. (“EDI Gateway”) collectively “the parties”.

WHEREAS, Trading Partner desires to transmit Transactions to EDI Gateway for the purpose of submitting data to a Health Plan;

WHEREAS, EDI Gateway desires to receive such transactions for this purpose recognizing the EDI Gateway performs such services on behalf of the Health Plan; and

WHEREAS, Trading Partner is subject to the Transaction and Code Set Regulations with respect to the transmission of such transactions.

Now, therefore, the Parties agree as follows:

1. Definitions

EDI Gateway means ACS EDI Gateway, Inc.

Trading Partner means the party identified as “Trading Partner” on the signature line of this Agreement who is a Health Care Provider or Health Care Clearinghouse as defined in 45 CFR 160.103.

Standard is defined in 45 CFR 160.103.

Transaction and Code Set Regulations means those regulations governing the transmission of certain health claims transactions as published by DHHS under HIPAA.

2. Obligations of the Parties Effective Upon Execution of this Agreement by Trading Partner

A) The Parties agree, in regard to any electronic Transactions between them:

- 1) They will exchange data electronically using only those Transaction types as selected by Trading Partner on the ACS EDI Gateway Trading Partner Enrollment Form (TPEF).

- 2) They will exchange data electronically using only those formats (versions) as specified on the TPEF.
- 3) They will not change any definition, data condition, or use of a data element or segment in a Standard transaction they exchange electronically.
- 4) They will not add any data elements or segments to the Maximum Defined Data Set.
- 5) They will not use any code or data elements that are not in or are marked as “Not Used” in a Standard’s implementation specification.
- 6) They will not change the meaning or intent of a Standard’s implementation specification.
- 7) EDI Gateway may reject a Transaction submitted by Trading Partner if the Transaction is not submitted using the data elements, formats or Transaction types set forth in the TPEF. EDI Gateway may refuse to accept any claims from Trading Partner if Trading Partner repeatedly submits Transactions that do not meet the criteria set forth in TPEF or if Trading Partner repeatedly submits inaccurate or incomplete Transactions to EDI Gateway.

B) Trading Partner understands that EDI Gateway or others may request an exception from the Transaction and Code Set Regulations from DHHS. If an exception is granted, Trading Partner will participate fully with EDI Gateway in the testing, verification, and implementation of the modification to a Transaction affected by the change.

C) EDI Gateway understands that DHHS may modify the Transaction and Code Set Regulations. EDI Gateway will modify, test, verify, and implement all modifications or changes required by DHHS using a schedule mutually agreed upon by Trading Partner and EDI Gateway.

D) Neither Trading Partner nor EDI Gateway accepts responsibility for technical or operational difficulties that arise out of third party service providers’ business obligations and requirements that undermine Transaction exchange between Trading Partner and EDI Gateway.

- E) Trading Partner and EDI Gateway will exercise diligence in protection of the identity, content, and improper access of business documents exchanged between the two parties. Trading Partner and EDI Gateway will make reasonable efforts to protect the safety and security of individually assigned identification numbers that are contained in transmitted business documents and used to authenticate relationships between the parties.

EDI Gateway may publish data clarifications (“Xerox EDI Companion Guides”) to complement each Implementation Guide. Trading Partner should use Xerox EDI Companion Guides in conjunction with the HIPAA Implementation Guides available at <http://store.x12.org/store/healthcare-5010-consolidated-guides>.

- F) Transactions are considered properly received only after accessibility is established at the designated machine of the receiving party. Once transmissions are properly received, the receiving party will properly transmit an electronic acknowledgement that conclusively constitutes evidence of properly received transactions. Each party shall use commercially reasonable efforts to ensure that a Virus is not sent to the other party. Each party agrees that it maintains anti-virus software on its system, which is updated on a regular basis. For the purposes of this Agreement, “Virus” shall mean any "back door", "time bomb", "Trojan horse", "worm", "drop dead device", "virus", "malicious logic", software routines, devices, computer codes, program or hardware components or other undisclosed feature or file which is designed to permit unauthorized access to software, hardware or data, unintentionally or intentionally disrupts, disables, harms, erases, or otherwise impedes the other party's systems, or would disable such software or technology."
- G) Each party will implement and maintain appropriate policies and procedures and mechanisms to protect the confidentiality and security of PHI transmitted between the parties.
- H) The parties acknowledge that any person, who knowingly and with intent to defraud an insurance company or other person, files a statement of claim containing materially false information or conceals, with intent to mislead, information concerning any fact material to a statement of claim, commits a fraudulent insurance act, which may involve violations of civil and/or criminal law.

3. Miscellaneous

- A) This Agreement is effective on the date set forth in Section 3.H, below. This Agreement shall continue until such time as either party elects to give reasonable written notice of termination to the other party or termination of Transaction services provided by EDI Gateway to Trading Partner, whichever is earlier.
- B) This Agreement incorporates, by reference, any written agreements between the parties relating to the subject matter hereof.
- C) This Agreement shall be interpreted consistently with all applicable federal and state privacy laws. In the event of a conflict between applicable laws, the more stringent law shall be applied. This Agreement and all disputes arising from or relating in any way to the subject matter of this Agreement shall be governed by and construed in accordance with New York law, exclusive of conflicts of law principles. THE EXCLUSIVE JURISDICTION FOR ANY LEGAL PROCEEDING REGARDING THIS AGREEMENT SHALL BE IN THE COURTS OF THE STATE OF New York AND THE PARTIES HEREBY EXPRESSLY SUBMIT TO SUCH JURISDICTION.
- D) Unless otherwise prohibited by statute, the parties agree that this Agreement shall not be affected by any state's enactment or adoption of the Uniform Computer Information Transaction Act, Electronic Signature or any other state or federal law. Each party agrees to comply with all other applicable state and federal laws in carrying out its responsibilities under this Agreement. This Agreement shall not be construed as to impute the application of any law onto a party or require compliance by a party, if such law does not already apply to or require compliance by the party, including but not limited to, the designation of a party as a “covered entity” under HIPAA if such status does not already apply under the law.
- E) This Agreement is entered into solely between, and may be enforced only by Trading Partner and EDI Gateway. This Agreement shall not be deemed to create any rights in third parties or to create any obligations of Trading Partner or EDI Gateway to any third party.
- F) NO WARRANTIES, EXPRESS OR IMPLIED, ARE PROVIDED BY EDI GATEWAY UNDER THIS AGREEMENT. EDI GATEWAY'S MAXIMUM AGGREGATE LIABILITY FOR

DAMAGES FOR ANY AND ALL CAUSES WHATSOEVER ARISING OUT OF THIS AGREEMENT, REGARDLESS OF THE MANNER IN WHICH CLAIMED OR THE FORM OF ACTION ALLEGED, IS LIMITED TO THE AMOUNT(S) PAID TO EDI GATEWAY BY TRADING PARTNER UNDER THIS AGREEMENT.

- G) EDI Gateway may provide proprietary software to Trading Partner to allow Trading Partner to submit transactions to EDI Gateway. Trading Partner will protect the software as it protects its own confidential information, but in no event shall this protection be less than pursuant to a reasonable standard, and will not directly or indirectly, allow access to or the use of the software or any portion thereof, on any computer, server, or network, by any person, corporation, or business entity other than Trading Partner. Trading Partner may permit use of the software by contractors or agents of Submitter provided that any such contractor or agents are not competitors of EDI Gateway and further provided that any such persons agree to protect the confidentiality of the software. Trading Partner and its contractors and agents are not permitted to use the software for any purpose other than submitting Transactions solely to EDI Gateway.

- H) Trading Partner may elect to execute either a hard copy or an electronic copy of this Agreement. Hard Copy Execution: Trading Partner will sign a hard copy of this Agreement and mail to EDI Gateway at the address indicated below. EDI Gateway will return a copy of the fully executed Agreement to Trading Partner. The effective date of the hard copy Agreement is the date on which the Agreement is signed by EDI Gateway. Electronic Copy Execution: Trading Partner should execute this Agreement by clicking on the "I Agree" button that appears at the bottom of the Agreement. The effective date of the electronic copy agreement is the date EDI Gateway receives the electronic transmission of Trading Partner's Acceptance to the terms of this Agreement.

TRADING PARTNER

Signature

Printed Name and Title

Address

XEROX EDI Attention: Technical Support/Enrollment
P.O. Box 34734
Washington, DC 20043-4761

Signature

Printed Name and Title