

PARTICIPATING SITE BASED REGISTRY PARTICIPATION AGREEMENT

THIS PARTICIPATING SITE BASED REGISTRY PARTICIPATION AGREEMENT (this “Participation Agreement”) is made and entered into as of _____ (Date) by and between THE OUTPATIENT ENDOVASCULAR AND INTERVENTIONAL SOCIETY, INC., a California not-for-profit corporation (the “Society”), _____ (“Participating Site”) and the Participating Physicians executing this Agreement (the “Participating Physicians”).

RECITALS

WHEREAS, the Society is a not-for-profit corporation whose mission is to serve the public and the medical profession by improving the quality of healthcare through setting and adhering to these professional quality standards (the “Mission”);

WHEREAS, the Society has developed the Outpatient Endovascular and Interventional Society National Registry (the “Registry”), to collect and report on standardized national clinical data (the “Data”) in connection with different endovascular and interventional procedures and conditions;

WHEREAS, the Society offers Participating Physicians practicing in the area of vascular surgery, interventional radiology, interventional cardiology and other qualified specialties the opportunity to participate in the Registry; and

WHEREAS, the Participating Site is a medical Participating Site that desires to participate in the Registry to improve the quality of its endovascular and interventional care; and

WHEREAS, the Participating Physicians are employed by or contracted with the Participating Site to perform professional medical services; and

WHEREAS, the Participating Site and the Participating Physicians desire to become members of the Registry on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

2. Participation. The Participating Site hereby agrees to become a Participating Site (“Participating Site”). Any Participating Physicians who enter data into the Registry at a Participating Site shall be known as “Participating Physician(s)”. A Participating Site shall have a single unique Federal Tax Identification Number (TIN). For purposes of this agreement, each separate TIN shall constitute a separate Participating Site. Each Participating Site shall be individually bound to the conditions of this agreement including any per site charges assessed as part of Registry Participation.

As a condition of participation, the Participating Site, on behalf of itself and its Participating Physicians hereby agree to:

a) Submit or input any and all patient data as defined by the Registry minimum data requirements into the Registry in the form and in accordance with the protocols of the Society.

b) Comply with all Registry administrative & financial requirements and which may be updated from time to time). In the event of a change in the Registry requirements, the Participating Site shall be notified and all of the Participating Site's Participating Physicians are expected to review changes to the program requirements prior to further use of the Registry.

3. Registry Fee(s).

- a) As a condition of Registry participation, the Participating Site shall pay to the Society the Registry fee listed in Exhibit "A."
- b) Additional fees may be assessed for additional and/or optional services (example, MIPS submission) and shall be separately promulgated and charged to the Participating Site and/or the Participating Physician(s) as applicable and determined by the Society.
- c) The Society reserves the right to change the mode of Registry Fee from a per Participating Site to a per Participating Physician fee schedule with an effective date of January 1 of the next calendar year following notification of this change to Participating Sites. The Participating Site(s) shall be notified of such change no later than 90 days prior to the proposed January 1 implementation date.
- d) Should Participating Site and/or any and all Participating Physician(s) desire to use any module or functionality of Software other than those listed in Exhibit A, Participating Site and/or any and all Participating Physician(s) may do so only after reaching agreement in writing with Society concerning the terms and conditions for their use. Addition of such modules or functionalities shall result in additional license fees for both Initial End Users and Additional End Users and shall be negotiated and agreed to in writing.

4. Limitation on Liability. Society shall have no liability whatsoever to the Participating Site and/or any and all Participating Physician(s) related to the failure of the Participating Site and/or any and all Participating Physician(s) to receive any incentive payment, payment adjustment, imposition of payment penalty or penalties, or other payment modification from any third-party, federal or state, or commercial payor related to the Data and/or Registry. Society does not make any representations, warranties or guarantees whatsoever about the Participating Site's or the Participating Physicians' qualification for or receipt of any such payments. Further, the Participating Site and the Participating Physicians acknowledge and agree that they are solely responsible for obtaining, interpreting and complying with any and all standards and requirements associated with any such payments.

5. Term; Termination. This Agreement shall commence on the date of execution of both parties, and shall continue until terminated as provided herein.

a. Termination for Breach. Either party may terminate this Agreement upon the other party's material breach of this Agreement by providing the breaching party with written notice of its intention to terminate for a material breach. The breaching party shall have fifteen (15) days from receipt of such notice to cure the breach. If, after the foregoing fifteen (15) day period, the breach is not cured to the satisfaction of the non-breaching party, this Agreement shall terminate automatically effective at the end of the fifteen (15) day cure period. Notwithstanding the foregoing, the non-breaching party may determine, in its sole discretion that the breach cannot be reasonably cured within the foregoing fifteen (15) day period and may extend the cure period by written notice to the breaching party. "Notice," as used in this section and any other section of this Agreement providing for notice shall be sent by email, followed by dispatch by overnight mail on the next business day, where overnight mail shall mean via the "next business day" service of the United States Post Office, UPS or Federal Express.

b. Termination Without Cause. Either party may terminate this Agreement without cause or penalty by providing the other with at least thirty (30) days written notice, provided that any such termination by the Participating Site shall be effective at the end of the calendar quarter in which Society receives the notice.

c. Termination for Failure to Meet Data Submission Requirements. Society may immediately terminate this Agreement with respect to a Physician or Participating Physicians participation in the Registry if it determines that such Physician(s)'s data submission for any two (2) calendar quarters within a rolling twelve (12) month calendar year is noncompliant with the Registry's data quality requirements or otherwise unacceptable for inclusion in the Registry's national averages. Society may, in its sole discretion, provide the relevant Physician(s) with the opportunity to cure the inadequate data as stated in the Registry program requirements without affecting Society's rights to terminate this Agreement under this Section or otherwise.

6. Protected Health Information. The parties acknowledge that the data in the Registry contains "protected health information," as defined in The Health Information Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinic Health Act (collectively, "HIPAA"). The parties further acknowledge that the Society is a "Business Associate" of the Participating Physicians, as defined in such laws. The parties shall execute a Business Associate Agreement in the form attached hereto as Exhibit "B."

7. Representations and Warranties of the Participating Site and the Participating Physicians. The Participating Site and the Participating Physicians hereby represent and warrant, jointly and severally, that (a) this Agreement represents a binding obligation of the Participating Site on behalf of itself and its Participating Physicians; (b) their execution of this Agreement, and their performance of their obligations hereunder shall not conflict with, result in the breach of any provision of, or the termination of, or constitute a default under any agreement to which any of them are a party, or by which any of them are or may be bound; (c) no authorization or consent of any third party is required for them to share the Data with the Registry and the Society; and (c) the Data is complete and accurate in all respects.

8. Ownership of the Data. The Participating Site, on behalf of itself and its Participating Physicians acknowledge and agree that the Society will aggregate the patient information

submitted by the Participating Site and the Participating Physicians in creating the Data and, therefore, the Society shall be the owner of the Data and the Participating Site and the Participating Physicians shall have no right, title or interest in and to the Data after it has been inputted into the Registry. The data for individual patients submitted by the Participating Site or a Participating Physician shall be the exclusive property of the Participating Site or the Participating Physician, subject to the rights, if any, of the Participating Physician's patients in Individually Identifiable Health Information (as defined by HIPAA), and subject to the rights granted to the Society in this Agreement and the Business Associate Agreement. The Participating Site, on behalf of itself and its Participating Physicians hereby agree that the return of that information is infeasible, as it will have been integrated into the Registry and the related, proprietary databases of Society. The Participating Site, on behalf of itself and its and Participating Physicians hereby grant to Society a worldwide, perpetual, enterprise-wide, royalty-free license, in all forms and all media (including derivative works), to use the data of or relating to individual patients, including Individually Identifiable Health Information submitted by the Participating Site and the Participating Physicians in such manner that is consistent with this Agreement. To the extent Society de-identifies Individually Identifiable Health Information from the data submitted by the Participating Site and the Participating Physicians for individual patients in accordance with the standards set forth in the HIPAA Privacy Rule or to the extent a Physician submits information that is not Individually Identifiable Health Information, Society shall exclusively own such data and information and any derivative works from it, as Intellectual Property Rights (as defined below) owned by Society.

9. Intellectual Property Rights. All Intellectual Property Rights and title to all proprietary information in and rights to any software provided by or used by Society in connection with the Registry, all Society databases and the information contained in such databases, any de-identified aggregated data submitted and accepted by Society for use in the Registry or developed by Society from Individually Identifiable Health Information submitted by a Physician pursuant to this Agreement and de-identified of all patient identifiers, and any derivative works prepared by or for Society from all of the foregoing including, without limitation, any reports, calculations and models based thereon including without limitation all copyrights, patent rights, trademarks, trade secret rights, and any other rights and interest in any of the foregoing shall be and remain at all times for all purposes with and owned solely by Society.

For purposes of this Agreement, "Intellectual Property Rights" means and includes all, or any intermediate version or portion, of any formulas, processes, outlines, algorithms, ideas, inventions, know how, techniques, intangible, proprietary and industrial property rights and all intangible and derivative works thereof, including without limitation any and all now known or hereafter existing, in and to (i) trademarks, trade name, service marks, slogans, domain names, uniform resource locators or logos; (ii) copyrights, moral rights, and other rights in works of authorship, including, but not limited to, compilations of data, (iii) patents and patent applications, patentable ideas, inventions and innovations; (iv) know-how and trade-secrets; and (v) registrations, applications, renewals, extensions, continuations, divisions or reissues of the foregoing. Society reserves the right to use de-identified data and protected health information ("PHI") in electronic or other format whether or not contained in a Limited Data Set as discussed more fully in the Business Associate Agreement, including without limitation to support ongoing improvements and enhancements to the Registry. Once the Data is accepted by Society into the

Registry for analysis and reporting, the Data becomes part of the Registry's aggregate data and cannot be retracted from the Registry by the Participating Site or any Participating Physician. Information to which Society has ownership under this Section 9 shall not be considered Confidential Information to be returned to the Participating Site or a Participating Physician under Section 10.

10. Confidentiality. The parties agree as follows:

a. Confidentiality. For the purposes of this Agreement, "Confidential Information" means any software, material, data or business, financial, operational, customer, vendor and other information disclosed by one party to the other, specifically including, without limitation, the terms of this Agreement and the reports or other benchmarking quality assurance or improvement data or information furnished by Society to the Participating Site or its Participating Physicians pursuant to this Agreement. Each party shall maintain all of the other party's Confidential Information in strict confidence and will protect such information with the same degree of care that such party exercises with its own Confidential Information, but in no event with less than a reasonable degree of care. Except as provided in this Agreement, a party shall not use or disclose any Confidential Information of the other party in any manner without the express prior written consent of such party. Access to and use of any Confidential Information shall be restricted to those employees and persons within a party's organization with known discretion and with a need to know about or use the information to perform such party's obligations under this Agreement. A party's consultants shall be included within the meaning of "persons within a party's organization," but shall be held to the same standards of confidentiality. Notwithstanding anything herein to the contrary, Confidential Information shall not include information that is: (a) already known to or otherwise in the possession of a party at the time of receipt from the other party and that was not known or received as the result of violation of any obligation of confidentiality; (b) publicly available or otherwise in the public domain prior to disclosure by a party; (c) rightfully obtained by a party from any third party having a right to disclose such information without restriction and without breach of any confidentiality obligation by such third party; (d) developed by a party independent of any disclosure hereunder, as evidenced by detailed written records made in the normal course of a party's business during the development process; or (e) disclosed pursuant to the order of a court or administrative body of competent jurisdiction or a government agency, provided that the party receiving such order shall notify the other prior to such disclosure and shall cooperate with the other party in the event such party elects to legally contest, request confidential treatment, or otherwise avoid such disclosure.

b. Return of Confidential Information. Except as otherwise provided herein, all of a party's Confidential Information disclosed to the other party, and all copies thereof, shall be and remain the property of the disclosing party. All such Confidential Information and any and all copies and reproductions thereof shall, upon the expiration or termination of this Agreement for any reason, or within fifteen (15) days of written request by the disclosing party, be promptly returned to it, or destroyed, at the disclosing party's direction, unless such information has been integrated into a data base or other product in such a fashion that it is not reasonably feasible to extract it and either return or destroy it. In the event of such requested destruction, the party receiving such request shall provide to the other party written certification of compliance therewith within fifteen (15) days of such written request. Notwithstanding the provisions of this Section 10, any

information governed by Section 9 shall be governed by Section 9, or the provisions of the Business Associate Agreement shall be governed by the Business Associate Agreement.

c. Equitable Relief. The Parties agree that the provisions of this Section 10 are reasonable and necessary to protect the business, interests and properties of each of the Parties; that any breach or threatened breach of this Section 10 by the party that receives Confidential Information is a material breach of this Agreement which would cause irreparable injury to the party that disclosed the Confidential Information; and that the disclosing party's remedy at law for any such breach would be inadequate. Accordingly, each party agrees that temporary and permanent injunctive relief may be granted in any proceeding which may be brought to enforce any provision of Section 10 without necessity of proof that a remedy at law is inadequate; provided, however that nothing contained herein shall be deemed to preclude the disclosing party from seeking damages or any other remedy at law or in equity, including compensatory and punitive damages, as may be appropriate, for a breach of this Section 10 by the recipient party.

11. Covenants Regarding the Data. The Participating Site and its Participating Physicians shall not access or attempt to access any patient information submitted by other members of the Registry and shall take commercially reasonable steps to ensure that all of the Participating Site's employees and independent contractors do not access or attempt to access any patient information belonging to the other members of the Registry. The Participating Site shall be liable for any breach of this provision by any of their employees or independent contractors.

12. Compliance with Laws. Each party shall perform its obligations in accordance with all applicable laws, rules and regulations.

13. Miscellaneous. Each party agrees that the covenants and promises contained in this Agreement shall survive the termination of this Agreement. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of the Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. No failure or delay in exercising any right hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. This Agreement may be modified only by separate writing signed by all the parties hereto. This Agreement shall be binding on the parties as well as their respective parents, subsidiaries, affiliated entities, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. The jurisdiction and venue for any action or proceeding under this Agreement will be exclusively the state and federal courts having jurisdiction over Cook County, Illinois and each of the parties consent to the exclusive jurisdiction of such courts in any such action or proceeding and waives any objection to venue laid therein. In the event of any dispute over the terms of this Agreement or their enforcement, the prevailing party shall have its attorneys' fees and costs (whether before trial, during trial, on appeal, or otherwise) paid by the other party. This Agreement may be signed in any number of counterparts, including facsimile and .pdf copies, and as executed will constitute one and the same Agreement.

Signature Page Follows

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SOCIETY:

THE OUTPATIENT ENDOVASCULAR AND
INTERVENTIONAL SOCIETY,
a California not-for-profit corporation

By: _____

Name: _____

Title: _____

PARTICIPATING SITE:

Business Name: _____

DBA (if applicable): _____

Business Entity: _____

By: _____

Name: _____

Title: _____

EXHIBIT “A” Registry Fees

Registry Participating Site- **OEIS Member Rate****: One Hundred Seventy Five Dollars (\$175) per month

Registry Participating Site- **OEIS Non-member Rate**: Nonmembers: Two Hundred Ninety Five Dollars (\$295) per month

*****To qualify for the OEIS Member Rate, ALL Participating Physicians at a Participating Site must maintain OEIS Active Membership status during the calendar year in which the Participating Site receives the OEIS Member Rate. If a Participating Physician elects to not maintain their OEIS Active Membership then they must either cease as a Participating Physician or the Participating Site will transition to the OEIS Non-member Rate currently prevailing.***

EXHIBIT “B” Business Associate Agreement (See Attached)