

THIRD AMENDMENT
TO THE
WRITERS' GUILD-INDUSTRY HEALTH FUND

WHEREAS, the Board Of Trustees of the Writers' Guild-Industry Health Fund (the "Health Fund") has the right to amend the Health Fund; and

WHEREAS, the Board of Trustees desires to amend the Health Fund to reflect the privacy requirements of the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule") under the Health Insurance Portability and Accountability Act of 1996 as they relate to disclosures to a plan sponsor;

NOW, THEREFORE, the Health Fund's Trust Agreement is amended, effective as set forth below:

The following new Article V, Section 11 is added effective as of April 14, 2003 (or, if later, such effective date permitted under the Privacy Rule):

"Section 11. HIPAA Privacy Provisions."

- A. The provisions of this Section 11 shall apply only to those portions of the Health Fund which are considered a group health plan under the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule") under the Health Insurance Portability and Accountability Act of 1996. Thus, the Health Fund is a hybrid entity under the Privacy Rule and only the following health care components are subject to the Privacy Rule: medical plan benefits, prescription drug plan benefits, dental plan benefits, and vision plan benefits. Additionally, this Section 11 only addresses the extent to which the Health Fund may disclose Protected Health Information ("PHI") to the Board of Trustees (the "Plan Sponsor").
- B. The Health Fund shall not disclose PHI to the Plan Sponsor, nor provide for or permit the disclosure of PHI to the Plan Sponsor by a health insurance issuer or HMO with respect to the Health Fund, except in accordance with this Section or as otherwise permitted by law.

Summary Health Information. The Health Fund, or a health insurance issuer or HMO with respect to the Health Fund, may disclose summary health information to the Plan Sponsor, if the Plan Sponsor requests the summary health information for the purpose of:

- (a) Obtaining premium bids from health plans for providing health insurance coverage under the Health Fund; or
- (b) Modifying, amending, or terminating the Health Fund.

Enrollment Information. The Health Fund, or a health insurance issuer or HMO with respect to the Health Fund, may disclose to the Plan Sponsor information on whether an individual is enrolled in or has disenrolled in the Health Fund.

Plan Administration Functions. The Health Fund, or a health insurance issuer or HMO with respect to the Health Fund, may disclose PHI to the Plan Sponsor to permit the Plan Sponsor to carry out plan administration functions for the Health Fund, subject to the provisions of this Section.

- C. The Health Fund, or a health insurance issuer or HMO with respect to the Health Fund, will disclose PHI to the Plan Sponsor only upon receipt of a certification by the Plan Sponsor that Health Fund documents have been amended to incorporate the provisions of this Section and the Plan Sponsor agrees to abide by this Section.
- D. The Plan Sponsor agrees, with respect to PHI disclosed to the Plan Sponsor by the Health Fund, that the Plan Sponsor shall, other than as permitted or required by applicable law:

Not use or further disclose the PHI other than as permitted or required by the Health Fund documents, as amended, or as required by law;

Ensure that any agents, including a subcontractor, to whom it provides PHI, agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such information;

Not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Plan Sponsor; provided, however, that PHI does not include employment records held by the Health Fund in its role as employer;

Report to the Health Fund any use or disclosure of the PHI that is inconsistent with the uses or disclosures permitted under this Section;

To the extent, if any, the Plan Sponsor maintains PHI, make available to an individual PHI about that individual, to the extent required by the Privacy Rule;

To the extent, if any, the Plan Sponsor maintains PHI, make available to an individual PHI about that individual for amendment and incorporation of any amendments to the PHI, to the extent required by the Privacy Rule;

Track disclosures it makes of PHI and make available to an individual an accounting of such disclosures during the six years prior to the date on

which the accounting is requested, to the extent required by the Privacy Rule;

Make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining compliance by the Health Fund with this Article;

If feasible, return or destroy all PHI received from the Health Fund that the Plan Sponsor maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, the Plan Sponsor shall limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and

Ensure that adequate separation between the Health Fund and the Plan Sponsor is established in accordance with the following rules:

The Trustees shall be given access to the PHI as necessary to perform Health Fund administrative functions.

Any incidents of noncompliance by a Trustee with the provisions of this Section shall subject such individual to disciplinary action and sanctions, including the possibility of removal from the Board. The Plan Sponsor will report such noncompliance to the Health Fund and will cooperate with the Health Fund to correct the noncompliance, impose an appropriate disciplinary action or sanction, and mitigate the effect of the noncompliance.

- E. Terms used in this Section and not otherwise defined shall have the meaning provided in the Privacy Rule.”

IN WITNESS WHEREOF, this Amendment is hereby adopted effective as of the date set forth above.

UNION TRUSTEES

PRODUCER TRUSTEES
