

# AMERICAN SOCIETY FOR METABOLIC AND BARIATRIC SURGERY



6/12/2013

Charter Agreement

# American Society for Metabolic and Bariatric Surgery

## CHARTER AGREEMENT

This Charter Agreement, to be effective as of \_\_\_\_\_, 2013 is entered into by and between American Society for Metabolic and Bariatric Surgery, an Iowa nonprofit corporation (“ASMBS”), and \_\_\_\_\_ (“Chapter”), a \_\_\_\_\_ (State X ) nonprofit corporation.

### RECITALS

WHEREAS, the Executive Council of the ASMBS (a national, professional medical society devoted to the study, promotion and advancement of the surgical treatment of obesity and related disorders) voted to recognize local or state bariatric surgery professional societies and groups as formal local chapters of the Society, effective June 2006;

WHEREAS, Chapter is a local professional medical society comprised of bariatric surgeons and integrated health care providers located in the State of \_\_\_\_\_, established with the approval of ASMBS, and formally incorporated as a nonprofit under state law, pursuant to IRS 501(c) 6 status;

WHEREAS, Chapter will operate within the requirements set forth in the document “Policies Governing State or Local Chapters” as designated by the ASMBS;

WHEREAS, ASMBS desires to grant Chapter a Charter pursuant to which ASMBS and Chapter shall become affiliated, the parties consent that this Charter Agreement constitutes mutual promises made and agree to the below terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, ASMBS and Chapter agree as follows:

### AGREEMENTS

**1. Designation as Local Chapter.**

ASMBS hereby designates Chapter as a local chapter of ASMBS.

**2. Rights of Chapter.**

Chapter shall have the right to utilize the name of ASMBS in the name of Chapter, to acknowledge and advertise its affiliation with ASMBS as a local chapter, and to receive all other benefits bestowed by ASMBS on its designated local chapters as such benefits may be implemented from time to time.

**3. Relationship.**

ASMBS and Chapter, and their respective members, employees, agents, officers or directors, are not and shall not be considered agents, employees, joint venturers, partners or legal representatives of the other for any purpose. Nothing in this Agreement is intended to give Chapter, on the one hand, or ASMBS, on the other hand, or any of their respective members, employees, agents, officers or directors, any authority to bind the other party to any contract or agreement or to speak or act, or purport to speak or act for or on behalf of the other party. Neither ASMBS nor Chapter shall be liable for any act, error, omission, debt, claim, or other liability of the other party.

**4. Bylaws.**

Chapter shall abide by and promote the purposes and objectives of ASMBS as set forth in the most current version of ASMBS's bylaws. Chapter shall have adopted its own bylaws governing the operations of Chapter, which bylaws shall not conflict with or be inconsistent with the bylaws of ASMBS. Chapter shall submit its original bylaws and all bylaw amendments to ASMBS in order to ensure compliance with the provisions of this paragraph.

**5. Chapter Duly Incorporated.**

Chapter represents to ASMBS that Chapter is a 501(c) 6 not-for-profit corporation duly organized and validly existing under the laws of the state in which Chapter is located. Chapter agrees to maintain its not-for-profit corporate status at all times as a condition of designation as a local chapter of ASMBS.

**6. Nonprofit Tax Exemption; Tax Matters.**

Chapter represents to ASMBS that Chapter has applied or will apply for 501(c) 6 tax exemptions with the Internal Revenue Service and appropriate state taxing authority. Chapter's applications for tax exemption have been or shall be filed in Chapter's own name and not in the name of ASMBS. Chapter shall not be included on ASMBS's IRS Form 990. Chapter shall obtain its own federal and state employer identification numbers and shall not use the employer identification numbers of ASMBS. Chapter shall be solely responsible for complying with all applicable tax laws, rules, regulations and filing requirements.

**7. Bank Accounts.**

Any bank accounts established by Chapter shall be established in its own name and not in the name of ASMBS.

**8. Chapter Leadership.**

Chapter shall appoint a President, to act as principal organizer of the Chapter, and a State Access to Care Representative (STAR) to advocate for local access to bariatric care. The President will serve as a member of the ASMBS State & Local Chapters Committee. The STAR will serve as a chapter liaison to the ASMBS Access to Care Committee, reporting to the regional Super-STAR on all local access activities/issues. Both will serve a minimum of 1 year terms, with renewal of terms determined by Chapter. Chapter agrees to keep ASMBS informed of leadership rotations, by submitting officer updates to the ASMBS staff when appropriate.

**9. Membership and Dues.**

Members of Chapter shall first be members of ASMBS. Chapter may determine its own qualifications and requirements for chapter membership provided that such qualifications and requirements are consistent with those established by ASMBS for membership in ASMBS. Chapter may levy membership dues on members of Chapter, at amount determined by Chapter.

**10. Format of Chapter Name and Use of ASMBS Name.**

Chapter may use the ASMBS name provided that any and all such use complies with the provisions of section 3 and the use clearly distinguishes between Chapter and ASMBS. Chapter shall ensure that its communications with third parties and the general public specify that the communication is that of the Chapter. Chapter may identify itself as a local chapter of ASMBS as follows: "The [State X] Chapter of ASMBS". Officers, directors or members communicating on behalf of Chapter should identify themselves as officers, directors or members of Chapter.

**11. Contact Information.**

Chapter shall provide and keep ASMBS current with Chapter's contact information including changes in leadership, principal office address, mailing address, and phone numbers and email addresses of officers.

**12. ASMBS Website.**

The parties agree that ASMBS may post information regarding Chapter on ASMBS's website.

**13. Annual Reports.**

Chapter shall provide an annual report on its activities to the Chairperson of the ASMBS State & Local Chapters Committee prior to the ASMBS Spring Educational Event unless otherwise instructed. The annual report should include: a) List of the Chapter's current officers and directors with contact information for each; b) Roster of current members; c) Summary of the Chapter's activities for the 12 months prior to the meeting including member meetings, legislative activities, seminars or continuing education classes, future planned activities, and other items of interest; and d) Balance sheets for the prior year end and current year to date. **Failure to provide an annual report is grounds for termination of chapter status. Submission of this report is the responsibility of the Chapter President.**

**14. Term**

This Charter shall continue until terminated as set forth in section 15.

**15. Termination**

Either party may terminate this Charter with or without cause on thirty days written notice to the other party. Upon termination by either party for any reason, Chapter shall immediately cease utilizing the ASMBS name and acronym and may no longer claim any affiliation with ASMBS.

**16. Dispute Resolution**

Any dispute between the parties which cannot be resolved through negotiation shall be submitted to mediation and, if mediation is not successful, binding arbitration according to the commercial rules of the American Arbitration Association. Any such mediation or arbitration shall take place in Alachua County, Florida. This Charter shall be governed by the laws of the State of Florida.

American Society for Metabolic and Bariatric Surgery, an Iowa nonprofit corporation

By: \_\_\_\_\_  
Georgeann Mallory, Executive Director

Dated: \_\_\_\_\_

\_\_\_\_\_, a \_\_\_\_\_ nonprofit corporation

By: \_\_\_\_\_  
(Chapter President)

Dated: \_\_\_\_\_

Print Name: \_\_\_\_\_