



2023-000043

Business Associate Agreement

THIS AGREEMENT is made by and between **Triple-S Advantage, Inc.**, having its principal offices located at San Juan, PR (“Business Associate”) and **The Puerto Rico Health Insurance Administration (PRHIA)** (“Covered Entity”) having its principal offices located at San Juan, Puerto Rico. Covered Entity and Business Associate, collectively, may hereinafter be referred to as the “Parties,” as in the parties to this Agreement.

WHEREAS, Covered Entity and Business Associate are parties to one or more agreements and/or may in the future become parties to additional agreements (collectively, the “Underlying Agreements”), pursuant to which Business Associate provides certain services to Covered Entity and, in connection with such services, creates, receives, uses or discloses for or on behalf of Covered Entity certain individually identifiable Protected Health Information relating to patients and/or insured members of Covered Entity (“PHI”) that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 as amended by the Health Information Technology for Economic and Clinical Health Act Title XIII of Division A of the American Recovery and Reinvestment Act, 2009 (HITECH Act) and regulations promulgated there under, as such law and regulations may be amended from time to time (collectively, “HIPAA”); and

WHEREAS, Covered Entity and Business Associate wish to comply in all respects with the requirements of HIPAA, including requirements applicable to the relationship between a Covered Entity and its Business Associates;

Section 1. Definitions.

- a. “Breach” shall have same meaning given to such term as defined in 45 CFR § 164.402.
- b. “Business Associate” shall have the same meaning given to such term as defined in 45 CFR § 160.103.
- c. “Covered Entity” shall have the same meaning given to such term as defined in 45 CFR § 160.103.
- d. “Designated Record Set” shall have the same meaning given to such term as defined in 45 CFR § 164.501.
- e. “Disclosure” shall have the same meaning given to such term as defined in 45 CFR § 160.103.
- f. “Electronic Protected Health Information” or “e-PHI” shall have the same meaning given to such term as defined in 45 CFR § 160.103 limited to the information transmitted or maintained by the Business Associate in electronic form format or media.
- g. “Individual” shall have the same meaning given to such term as defined in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

stipulating that the subcontractor agrees to comply with the terms and conditions of the Business Associate Agreement. Business Associate must ensure that any agent or subcontractor to whom the Business Associate provides PHI, not export PHI beyond the borders of the Commonwealth of Puerto Rico without express written agreement of the Covered Entity.

2.6 Business Associate agrees to provide access, at the written request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity in order to meet the requirements under 45 CFR §164.524.

2.7 Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the written request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

2.8 Business Associate agrees to make available internal practices, books, and records relating to the use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.

2.9 Business Associate agrees to document such Disclosures of Protected Health Information and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of Protected Health Information in accordance with 45 CFR §164.528.

2.10 Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section (1)(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of Disclosures of Protected Health Information in accordance with 45 CFR §164.528.

2.11 Business Associate understands and agrees that it will not access or use any Protected Health Information of any Individual except for those Individuals whose PHI has been disclosed to Business Associate and it will further limit access to that Protected Health Information that is necessary to the activities undertaken by Business Associate on behalf of Covered Entity.

2.13 Business Associate will, pursuant to the HITECH Act and its implementing regulations, comply with the requirements of the Privacy Rule, including those contained in 45 CFR §§ 164.502(e) and 164.504(e)(1)(ii), at such time as the requirements are applicable to Business



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such access may occur at any time, that on-site audits of such access will be conducted during regular business hours, and that any review or audit may occur with or without prior notice by the Covered Entity.

Section 4. Application of Security and Privacy Provisions to Business Associate.

4.1 Security Measures: 45 CFR §164.308, 164.310, 164.312 and 164.316, dealing with the administrative, physical and technical safeguards as well as policies, procedures and documentation requirements that apply to Covered Entity shall in the same manner apply to Business Associate as Required By Law. Any additional Security requirements contained in Division A Title XIII Health Information Technology of the American Recovery and Reinvestment Act that apply to Covered Entity shall also apply to Business Associate as of February 17, 2010. Business Associates that require access to Covered Entity electronic patient information systems, electronic health record (EHR) and electronic infrastructure systems (either on site or remote) will supply the necessary information of employees to uniquely identify such employees, as employees with a need to access systems and will supply to Covered Entity Information Security Officer a valid state or federal issued photo ID for such employees to receive a unique user name and password to access the system(s).

4.2 Application of Civil and Criminal Penalties- If Business Associate violates any Security provision as Required By Law specified in Section 4.1 above, sections 1176 and 1177 of the Social Security Act 42 U.S.C. §1320d-5, 1320d-6 shall apply to Business Associate with respect to such violation in the same manner that such sections apply to Covered Entity if it violates such Security provision.



Section 5. Information Breach Notification Requirements.

5.1 Business Associate expressly recognizes that Covered Entity has certain reporting and Disclosure obligations to the Secretary of the Department of Health and Human Services and the Individual in case of a Security Breach of unsecured Protected Health Information (as defined in 45 CFR §164.402).

5.2 Where Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured Protected Health Information, Business Associate without unreasonable delay and in no case later than thirty (30) days following the discovery of a Breach of such information, shall notify Covered Entity of such Breach. Such notice shall include the identification of each Individual whose unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the Breach.

5.3 Business Associate shall be liable for the costs associated with such Breach if caused by the Business Associate's negligent or willful acts or omissions, or the negligent or willful acts or omissions of Business Associate's agents, officers, employees or subcontractors.

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Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for as long as Business Associate maintains such Protected Health Information. If it is infeasible for the Business Associates to obtain, from a subcontractor or agent, any Protected Health Information in the possession of the subcontractor or agent, the Business Associate must provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractors; and/or agents' use and/or Disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses and/or Disclosures to the purposes that make the return or destruction of Protected Health Information infeasible.

7.4 Automatic Termination. This agreement will automatically terminate without any further action of the Parties upon termination or expiration of the Underlying Agreement.

7.5 Effective Date. The effective date of this Agreement (the "Effective Date") shall be the date of the last signature below.

Section 8. Miscellaneous

8.1 Regulatory References. A reference in this Agreement to a section in the Privacy and Security Rules means the section as in effect or as amended, and for which compliance is required.

8.2 Agreement. The Parties agree to take such action as is necessary to amend the Underlying Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA; provided.

8.3 Amendments; Waiver. This agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to a waiver of any right or remedy as to subsequent events. The Parties agree to take such action as is necessary to amend this agreement from time to time as is necessary for compliance with the requirements of the HIPAA rules and any other applicable law.

8.4 Survival. The respective rights and obligations of Business Associate under this Agreement and Covered Entity under this Agreement shall survive the termination of this Agreement and/or the Underlying Agreements, as shall the rights of access and inspection of Covered Entity.

8.5 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the



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