

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made this 29th day of July, 2021, by and between Meritas Health Corporation ("MHC") and Jackson County ("Business Associate").

WHEREAS, Business Associate provides certain services to MHC pursuant to Employer - Injury Care [description of services to be provided], dated 7/12/2021 (earliest date services could start) (the "Underlying Contract"); and

WHEREAS, the parties wish to agree to certain additional provisions to govern use and disclosure of Protected Health Information.

NOW THEREFORE, for the promises contained herein and other mutual and valuable consideration, the parties agree as follows:

1. **General.** As required by the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1171 *et seq.* (the "Act") and regulations promulgated thereunder, 45 CFR Parts 160 and 164 (the "Privacy Rule" and the "Security Rule," respectively), Business Associate does hereby assure MHC that Business Associate will appropriately safeguard Protected Health Information received from MHC or created or received by Business Associate on behalf of MHC. The parties further acknowledge that they will be subject to regulations under Title XIII of the American Recovery and Reinvestment Act of 2009, the Health Information Technology for Economic and Clinic Health Act, and its implementing regulations, all as amended (the "HITECH Act").
2. **Definitions.** Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule and Security Rule.
3. **Obligations and Activities of Business Associate.**
 - a. Business Associate agrees to Use or Disclose Protected Health Information only as permitted or required by this Agreement or as required by law and in compliance with each applicable requirement of 45 CFR § 164.504(e).
 - b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
 - c. To the extent that Protected Health Information is in electronic format, Business Associate agrees to (i) implement and use appropriate physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement; (ii) reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information that it creates, maintains or transmits on behalf of MHC; and (iii) as of the Compliance Date of 42 U.S.C. § 17931, comply with the Security Rule requirements set forth in 45 CFR §§ 164.308, 164.310, 164.312, and 164.316.
 - d. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
 - e. Business Associate agrees to report to MHC: (i) any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware; (ii) any Security Incident affecting Protected Health Information of which it becomes aware; and (iii) any suspected Breach of Unsecured Protected Health Information as required by 45 CFR

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COUNTY CLERK

164.410. Such notice shall be provided to MHC's Privacy Officer without unreasonable delay and in no case later than ten (10) business days after Business Associate or any of its employees, or agents reasonably suspect that a Breach of unsecured Protected Health Information as defined by 45 CFR 164.410 has occurred, or becomes aware of any Security Incident. For the purposes of this paragraph, "security incident" shall not include attempted Security Incidents that fail to compromise information or interfere with systems operations in an information system. These attempts need not be reported to MHC so long as such attempts constitute reasonably anticipated threats or hazards to the security or integrity of such information in the judgment of Business Associate including, but not limited to the following: denial-of-service attacks (DOS), phishing attacks, vulnerability scanning, and targeted attacks. If such attempt or attempts are not reasonably anticipated threats or hazards to the security or integrity of such information, then Business Associate will notify MHC consistent with the notification requirements contained herein. Notwithstanding the previous sentence, BA must notify MHC anytime there is an unauthorized access, acquisition or exfiltration of Business Associate's files or data which contain MHC PHI.

- f. Business Associate agrees to require all of its subcontractors and agents that receive, use, or have access to any Protected Health Information, under the Underlying Contracts, also agree, in writing, to the same restrictions and conditions stated herein that apply through this Agreement to Business Associate with respect to such information.
- g. If, and only if, Business Associate maintains Protected Health Information received from, or created or received by Business Associate on behalf of MHC in a Designated Record Set, Business Associate agrees to provide access, at the request of MHC, to Protected Health Information in a Designated Record Set, to MHC or, as directed by MHC, to an Individual in order to meet the requirements under 45 CFR § 164.524.
- h. If, and only if, Business Associate maintains Protected Health Information received from, or created or received by Business Associate on behalf of MHC in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the MHC directs or agrees to pursuant to 45 CFR § 164.526 at the request of MHC or an Individual.
- i. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for MHC to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- j. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, MHC available to MHC, or to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining MHC's compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, the American Recovery and Reinvestment Act of 2009, and the Genetic Information Nondiscrimination Act of 2008.
- k. Business Associate agrees to provide to MHC or an Individual, information collected in accordance with Section 3.i. of this Agreement, to permit MHC to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- l. Business Associate shall request, use and/or disclose only the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use or disclosure and Business Associate shall comply with 45 CFR 164.502(b).

- m. To the extent Business Associate is to carry out one or more of the MHC's obligations under Subpart E of 45 CFR Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.
- n. Business Associate shall indemnify and hold MHC harmless from all liability, costs, expenses, claims or other damages that MHC, its related corporations, or any of its trustees, officers, agents, or employees may sustain arising out of or in any way related to this Agreement or Business Associate's breach thereof or to Business Associate's violation of any provision of HIPAA applicable directly to Business Associate, including but not limited to any expenses related to providing patients notice of Breach of unsecured Protected Health Information.

4. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, MHC as specified in the Underlying Contract, provided that such use or disclosure would not violate the Privacy Rule if done by MHC or the minimum necessary policies and procedures of MHC. Business Associate shall not de-identify MHC's Protected Health Information and use, disclose or sell the de-identified information for any purpose.

5. Obligations of MHC

- a. MHC shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of MHC in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- b. MHC shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- c. MHC shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that MHC has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

6. Permissible Requests by MHC. MHC shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by MHC.

7. Term and Termination

- a. Term. The Term of this Agreement shall be effective immediately, and shall terminate when all of the Protected Health Information provided by MHC to Business Associate, or created or received by Business Associate on behalf of MHC, is destroyed or returned to MHC, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. Termination for Cause. Upon MHC's knowledge of a material breach by Business Associate, MHC shall either:
 - i. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Underlying Contract if Business

Associate does not cure the breach or end the violation within the time specified by MHC;

- ii. Immediately terminate this Agreement and the Underlying Contract if Business Associate has breached a material term of this Agreement and cure is not possible.

c. Effect of Termination.

- i. Except as provided in paragraph 7.c.ii. of this section, within thirty (30) days of termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from MHC, or created or received by Business Associate on behalf of MHC. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information. Business Associate shall provide MHC written certification specifying which Protected Health Information has been destroyed, in what manner, and on which date.
- ii. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to MHC notification of the conditions that make return or destruction infeasible. Upon MHC's written agreement that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

8. Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- b. Independent Contractors. Except as may be outlined in the Underlying Contract, this Business Associate Agreement is not intended, and shall not be construed, to create a partnership, joint venture, or association between Business Associate and MHC. Each party is an independent contractor and Business Associate is not an agent of MHC.
- c. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for MHC to comply with the requirements of the Privacy Rule, the Security Rule and the Act.
- d. Survival. The respective rights and obligations of Business Associate under Section 7 of this Agreement shall survive the termination of this Agreement.
- e. Interpretation. Any ambiguity in this Agreement shall be resolved to permit MHC to comply with the Privacy Rule and the Security Rule.
- f. Entire Agreement. This Agreement contains the entire agreement between the parties concerning the subject matter hereof, and supersedes and replaces any prior Business Associate Agreements between the parties.

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

MERITAS HEALTH CORPORATION

Jackson County, Missouri
BUSINESS ASSOCIATE

By: Linda Coventon

By: [Signature] 7-14-2021

Name: Linda Coventon

Name: Bob Crutinger

Its: Network Executive

Its: Director of Finance

APPROVED AS TO FORM

[Signature]
County Counselor

ATTEST:

[Signature]
Clerk of the County Legislature