

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is entered into as of _____ by and between Columbia University in the City of New York, a New York not-for-profit corporation, on behalf of itself and its Affiliated Single Covered Entity (collectively, “Columbia University”) and _____ with an address at _____ (“Business Associate”) (each a “Party” and collectively the “Parties”).

1. BACKGROUND AND PURPOSE. The Parties have entered into one or more agreements for the provision of services/products (the “Underlying Contracts”). The Underlying Contracts require Business Associate to be provided with, to have access to, and/or to create Protected Health Information (as defined in 45 C.F.R. § 160.103) on behalf of Columbia University that is subject to the federal privacy regulations (the “Privacy Rule”) and the federal security regulations (the “Security Rule”) issued pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”) and codified at 45 C.F.R. parts 160 and 164, as may be amended from time to time. This Addendum shall govern Business Associate’s receipt, use and creation of PHI (as defined below) under each Underlying Contract for the duration of each Underlying Contract and shall be effective for all Underlying Contracts between the Parties in the future. It supplements and/or amends each Underlying Contract, in part, to allow Columbia University to comply with the Privacy Rule and the Security Rule. Any provisions in any Underlying Contract regarding the limitation or exclusion of liability or damages shall not apply to Business Associate’s breach of its obligations hereunder with respect to PHI.

2. DEFINITIONS.

- 2.1 Unless otherwise defined in this Addendum, all capitalized terms used in this Addendum have the meanings ascribed to them in the Privacy Rule and the Security Rule.
- 2.2 “Electronic PHI” shall mean Electronic Protected Health Information, as defined in 45 C.F.R. § 160.103, limited to the information received from or created or received by Business Associate on behalf of Columbia University.
- 2.3 “PHI” shall mean Protected Health Information, as defined in 45 C.F.R. § 160.103, limited to the information received from or created or received by Business Associate on behalf of Columbia University.

3. OBLIGATIONS OF THE PARTIES WITH RESPECT TO PHI.

- 3.1 Obligations of Business Associate. Business Associate agrees to:
 - a. Not use or disclose the PHI other than as permitted or required by this Addendum or as Required By Law.
 - b. Access only the PHI of patients who are assigned by Columbia University to Business Associate.
 - c. Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Addendum.
 - d. (i) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or

transmits on behalf of Columbia University; and (ii) make its policies and procedures, and documentation required by the Security Rule relating to such safeguards, available to the Secretary of the Department of Health and Human Services (“HHS”) for purposes of determining Columbia University’s compliance with the Security Rule.

- e. Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum.
- f. Report to Columbia University any use or disclosure of PHI not provided for by this Addendum of which Business Associate becomes aware.
- g. Report to Columbia University any Security Incident with respect to Electronic PHI of which it becomes aware.
- h. Ensure that all of its subcontractors and agents that receive, use or have access to PHI agree, in writing, to essentially the same restrictions and conditions on the use and/or disclosure of PHI that apply through this Addendum to Business Associate with respect to such information.
- i. Ensure that all of its subcontractors and agents to whom it provides Electronic PHI agree to implement reasonable and appropriate safeguards to protect such Electronic PHI.
- j. At the request of Columbia University and in the time and manner specified by Columbia University, provide access to PHI in a Designated Record Set to Columbia University or, as directed by Columbia University, to an Individual in order to meet applicable access requirements of the Privacy Rule.
- k. At the request of Columbia University and in the time and manner specified by Columbia University, make amendment(s) to PHI in a Designated Record Set.
- l. Make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of HHS, in the time and manner specified by the Secretary, for purposes of the Secretary determining Columbia University’s compliance with the Privacy Rule.
- m. Document such disclosures of PHI and information related to such disclosures as would be required for Columbia University to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with the requirements of the Privacy Rule.
- n. Provide to Columbia University, in the time and manner specified by Columbia University, information collected in accordance with Section 3.1.1. of this Addendum, to permit Columbia University to respond to a request by an Individual for an accounting of disclosures of PHI.
- o. Return to Columbia University or destroy, within thirty (30) days of the termination of this Addendum or any Underlying Contract, all PHI obtained from Columbia University or created or obtained by Business Associate on behalf of Columbia University with respect to the affected Underlying Contract(s), including such PHI that is in the possession of Business Associate’s subcontractors and agents, and retain no copies if it is feasible to do so. If return or destruction of the PHI is infeasible, Business

Associate shall notify Columbia University of the conditions that make return or destruction infeasible, extend all protections contained in this Addendum to any retained PHI, and limit any further uses and/or disclosures of the PHI to the purposes that make the return or destruction of the PHI infeasible. This Section 3.1.n. shall survive any termination or expiration of this Addendum.

- 3.2 Permitted Uses and Disclosures of PHI by Business Associate. Except as otherwise specified in this Addendum, Business Associate may use and disclose the PHI as reasonably necessary to perform its obligations under the Underlying Contracts. Unless otherwise limited herein, Business Associate may (a) use the PHI in its possession for its proper management and administration and to carry out the legal responsibilities of Business Associate; (b) disclose the PHI in its possession to a third party for the purpose of Business Associate's proper management and administration or to carry out the legal responsibilities of Business Associate, provided that the disclosures are Required By Law or Business Associate obtains reasonable assurances from the third party that (i) the information will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the third party, and (ii) the third party will notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached; and (c) provide Data Aggregation services to Columbia University.
- 3.3 Prohibited Access and Use of Certain PHI by Business Associate. Business Associate understands and agrees that it will not access or use any PHI of any patient except for those patients whose accounts have been assigned to Business Associate, and it will further limit access to that PHI that is necessary to the activities undertaken by Business Associate on behalf of Columbia University.
- 3.4 Obligations of Columbia University. Columbia University agrees to timely notify Business Associate of any arrangements between Columbia University and the Individual that is the subject of PHI that may reasonably affect the use and/or disclosure of that PHI by Business Associate under this Addendum.
- 3.5 Effect of Changes to the Law. The Parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for Columbia University to comply with the Privacy Rule, the Security Rule, HIPAA, and applicable state privacy and security laws and regulations.

4. EFFECTIVE DATE; TERMINATION.

- 4.1 Effective Date. Each term and condition of this Addendum shall be effective on the compliance date applicable to Columbia University under the Privacy Rule, unless such term or condition relates to Electronic PHI only, in which event such term or condition shall be effective on the later of (a) the date set forth in the first paragraph of this Addendum, or (b) the compliance date applicable to Columbia University under the Security Rule ("B.A. Effective Date"). This Addendum shall continue in effect unless terminated as provided in Sections 4.1 or 4.2.
- 4.2 Termination without Cause. This Addendum shall terminate when (a) all of the PHI obtained from Columbia University or created or obtained by Business Associate on behalf of Columbia University, is destroyed or returned to Columbia University, or (b) each Underlying Contract has terminated or expired, provided

that if it is infeasible to return or destroy the PHI, protections shall be extended to such information in accordance with Section 3.1.n. of this Addendum.

- 4.3 Termination for Cause. Upon Columbia University's determination that there has been a material breach by Business Associate of this Addendum, Columbia University may either:
- a. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Addendum and, at its option, one or more Underlying Contracts, if Business Associate does not cure the breach or end the violation within the time specified by Columbia University; or
 - b. Immediately terminate this Addendum and, at its option, one or more Underlying Contracts, if Business Associate has breached a material term of this Addendum.

5. MISCELLANEOUS.

- 5.1 Interpretation. As of the B.A. Effective Date, the terms of this Addendum shall prevail in the case of any conflict with the terms of any Underlying Contract to the extent and only to the extent of the conflict and only to the extent that it is reasonably impossible to comply with both the terms of the Underlying Contract and the terms of this Addendum.
- 5.2 No Third Party Beneficiaries. Nothing in this Addendum shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 5.3 Indemnification. Business Associate shall indemnify, hold harmless and defend Columbia University from and against any and all claims, losses, liabilities, costs and other expenses incurred as a result of, or arising in connection with, any breach by Business Associate of the terms of this Addendum.
- 5.4 Right to Audit. Business Associate understands and agrees that its access to PHI stored in databases and information systems at Columbia University is subject to review and audit by Columbia University at any time, that remote audits of 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 Columbia University.
- 5.5 Limitation on Subcontracting. **Business Associate understands and agrees that it will not assign, delegate, or subcontract any of its rights or obligations under this Addendum to individuals or entities residing outside the United States.** Business Associate further understands and agrees that it will not assign, delegate or subcontract any of its rights or obligations under this Addendum to individuals or entities residing within the United States without the prior written consent of Columbia University's HIPAA Privacy Officer.
- 5.6 Governing Law; Jurisdiction. This Addendum shall be governed by the laws of the State of New York and shall be enforceable in the courts of the State of New York, New York County, or in the United States District Court for the Southern District of New York. The Parties irrevocably submit to the exclusive jurisdiction of such courts.

IN WITNESS WHEREOF, each of the undersigned has caused this Addendum to be executed in its name and on its behalf by its duly authorized representative.

BUSINESS ASSOCIATE:

**COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK:**

By: _____

By: _____

Print Name: _____

Print Name: Karen Pagliaro-Meyer

Print Title: _____

Print Title: PRIVACY OFFICER

Date: _____

Date: _____

Print Company Name: _____

Contact Tel #: _____

Type of Business: _____