

amendments thereto.

Business Associate ("BA") means a person or entity who, on behalf of a CE, and other than in the capacity of a workforce member: performs or assists in the performance of a function or activity that involves the use or disclosure of protected health information, or; provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services, as more fully defined in 45 CFR § 160.103, and any amendments thereto.

Protected Health Information ("PHI") means individually identifiable information received from or on behalf of Partner relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual, as more fully defined in 45 CFR § 164.501, and any amendments thereto.

Required by law means a mandate contained in law that compels a CE to use or disclose PHI and that is enforceable in a court of law, as more fully defined in 45 CFR § 164.501, and any amendments thereto.

Trading Partner Agreement

Section 1. Miscellaneous

1.1 Documents; Standards: Each party shall electronically transmit to or receive from the other party any of the transaction sets listed in the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional, as it may be updated ("Documents"). Any transmission of data that is not a Document shall not give rise to any obligations between the parties unless justifiably relied upon by the receiving party. All Documents shall be transmitted in accordance with this Agreement, applicable state and federal law, the published industry guidelines, and the standards set forth in the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional.

1.2 Third Party Administrators:

1.2.1 Each party will transmit Documents directly through State of Ohio Electronic Commerce Center (ECC) a third party administrator ("Agent").

1.2.2 ODA shall be responsible for the costs of the Agent with which it contracts.

1.2.3 Each party shall be responsible for the acts or omissions of the Agent while transmitting, receiving, storing or handling Documents or performing related activities for such party. As both parties will be using the same Agent to effect the transmission and receipt of a Document, the originating party shall be responsible for the acts or omissions of such Agent relative to such Document.

1.3 System Operations: Each party, at its own expense, shall provide and

maintain the equipment, software, services, and testing (as outlined in pertinent sections of the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional) necessary to transmit and receive Documents effectively and reliably.

1.4 Security Procedures: Each party shall properly use security procedures that are reasonably sufficient to ensure that all transmissions of Documents are authorized and to protect its business records and data from improper access, including any security procedures that may be specified in the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional, or in applicable state or federal law.

Section 2. Transmissions

2.1 Proper Receipt: Documents shall not be deemed to have been properly received, and no Document shall give rise to any obligation until accessible to the receiving party in accordance with the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional.

2.2 Garbled Transmissions: If any transmitted Document is received in an unintelligible or garbled form, the receiving party shall notify the originating party within seven (7) business days.

Section 3. Transaction Terms

3.1 Terms and Conditions: This Agreement is to be considered a part of any other written agreement referencing it or referenced in the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional. Absent a written agreement to the contrary, any Transaction made pursuant to this Agreement, and any related communication, also shall be subject to the terms and conditions, including any terms for payment, included in the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional.

The terms of this Agreement shall prevail in the event of any conflict with any other terms and conditions applicable to any Transactions.

3.2 Validity; Enforcement:

3.2.1 This Agreement has been executed by the parties to evidence their mutual intent to create binding Transactions pursuant to the electronic transmission and receipt of Documents.

3.2.2 Any Document properly transmitted pursuant to this Agreement shall be considered, in connection with any Transaction, this Agreement, or any other written agreement described in Section 3.1, to be a "writing" or "in writing", and to constitute an "original" when printed from electronic files or records established and maintained in the normal course of business.

3.2.3 The conduct of the parties pursuant to this Agreement, including the use of Documents properly transmitted pursuant to this Agreement, shall, for all legal purposes, evidence a course of performance accepted by the parties in furtherance of this Agreement and any other agreements described in Section 3.1.

3.2.4 The parties agree not to contest the validity or enforceability of Documents under the provisions of any applicable laws relating to whether certain agreements must be in writing and signed by the party to be bound thereby. Documents, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party will contest the admissibility of copies of Documents under either the business records exception to the hearsay rule nor the best evidence rule on the basis that the Documents were not originated or maintained in documentary form.

3.3 Data Transmission Accuracy: Partner shall establish, implement and maintain controls, policies and procedures that ensure timely and accurate transmission and receipt of Documents to and from the State. If Partner evidences a pattern of failure to transmit or receive Documents to or from State in a timely and accurate manner, Partner agrees to work with State to review relevant business records and/or Partner's (or its agent's) operating system, as necessary, to ensure compliance with Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional. As deemed necessary pursuant to such review, State will provide technical assistance to Partner to establish, modify and implement effective controls, policies and procedures for these purposes, and will monitor their effectiveness.

General Provisions

Section 4. Miscellaneous

4.1 Termination: This Agreement shall remain in effect until terminated by either party with not less than thirty (30) days prior written notice. Such notice shall specify the effective date of termination, provided, however, that any termination shall not effect the respective obligations or rights of the parties arising under any Documents or otherwise under this Agreement prior to the effective date of termination.

4.2 Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect unless the invalidity or unenforceability of other provisions make it unreasonable to proceed in their absence.

4.3 Entire Agreement: This Agreement and the Ohio Department of Aging Companion Guide and Specifications for HIPAA 837 Claims: Professional

constitute the complete agreement of the parties relating to the matters specified in this Agreement and supersede all prior representations or agreements, whether oral or written, with respect to such matters. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. No obligation to enter into any Transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon, the parties and their respective successors and assigns.

4.4 Survival of Key Provisions: The respective obligations of the Parties under this Agreement, without limitation, which by their nature are intended to continue beyond the termination of this Agreement, shall survive termination of this Agreement.

4.5 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio.

4.6 Force Majeure: No party shall be liable for any failure to perform its obligations in connection with any Transaction relating to any Document where such failure results from any act of God or other cause beyond such party's reasonable control (including, without limitation, any mechanical, electronic or communications failure) which prevents such party from transmitting or receiving any Documents.

4.7 Limitation of Damages: Neither party shall be liable to the other for any special, incidental, exemplary or consequential damages arising from or as a result of any delay, omission or error in the electronic transmission or receipt of any Documents pursuant to this Agreement, even if the party has been advised of the possibility of such damages.

4.8 Dispute Resolution: The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement through either negotiation or mediation prior to initiating litigation.

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4.9 Notices: All notices, requests or responses shall be made in writing and shall be deemed to have been properly given if and when personally delivered or sent, postage prepaid, by certified mail:

To: David Saunders, Chief Information Officer
Ohio Department of Aging
246 N. High Street/1st Floor
Columbus, Ohio 43215

Either party may give written notice of a change in the identity or address for their designated contact person in accordance with the terms of this notice provision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

{PARTNER NAME}

[Partner, Executive Director] Date

Ohio Department of Aging

EDI Coordinator Date