

## BUSINESS ASSOCIATE AGREEMENT

\_\_\_\_\_, a HIPAA Covered Entity, and NCSPlus Incorporated a Business Associate, hereby enter into an Agreement to document our mutual efforts and commitment to comply with the Standards for Privacy of Individually Identifiable Health Information, and other regulations issued under 45 CFR parts 142 and 160-164 pursuant to the Health Insurance Portability and Accountability Act of 1996. This Agreement is made effective upon execution and serves as an Addendum to any prior Business Associate Agreement(s) that may exist between the Parties mentioned above.

The primary business of the Business Associate is Debt Collection and Credit Reporting. The primary business of the Covered Entity is \_\_\_\_\_.

### 1. OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE

Upon signing this Agreement, the Business Associate identified above agrees to:

A. Not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.

B. Use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement.

C. Mitigate, to the extent practicable, any harmful effect that is known to the Business Associate, of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Agreement.

D. Report to the Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement.

E. Ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Business Associate on behalf of the Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.

F. Make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary of HHS, in a time and manner designated by the Covered Entity or the Secretary of HHS, for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.

G. Document such disclosures of Protected Health Information and information related to such disclosures as would be required for the 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.

H. Provide to the Covered Entity or an Individual, in the time and manner designated by the Covered Entity, information collected in accordance with Section (g) of this Agreement, to permit the 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. PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE

Except as otherwise limited in this Agreement, the Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to Covered Entity as specified in the Service Agreement provided the use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity.

### 3. OBLIGATIONS OF THE COVERED ENTITY

Upon executing this Agreement, the Covered Entity agrees to:

A. Provide the Business Associate with the Notice of Privacy Practices that the Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

B. Provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose protected health information, if such changes affect the Business Associate's permitted or required uses and disclosures.

C. Notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 CFR 164.522.

#### 4. PERMISSIBLE REQUESTS BY COVERED ENTITY

The Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

#### 5. TERM AND TERMINATION

A. Term. The Term of this Agreement shall be effective as of upon the agreement being fully executed by both parties, and shall terminate when all of the Protected Health Information provided by the Covered entity to the Business Associate or created or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions of this Section.

B. Termination by Covered Entity. Upon the Covered Entity's knowledge of a material breach of privacy by the Business Associate, the Covered Entity reserves the right to immediately terminate this Agreement and any related agreements. As provided under HIP AA, the Covered Entity may alternatively give the Business Associate written notice requiring the Business Associate to cure the privacy breach within thirty (30) days. Failure to cure the privacy breach within the designated time frame is grounds for the immediate termination of this Agreement.

C. Termination by Business Associate. If the Business Associate determines that a material condition of performance has changed under this Agreement, or that the Covered Entity has violated the terms of this Agreement, the Business Associate may provide 30 days notice of its intention to terminate this Agreement. The Business Associate agrees to cooperate with the Covered Entity to find a mutually satisfactory solution to the matter prior to terminating and further agrees that, notwithstanding this provision, it shall not terminate this Agreement so long as any prior Agreements are in effect.

D. Automatic Termination. This Agreement will automatically terminate without any further action of the Parties upon the termination or expiration of a previously effective Agreement in which this Agreement was conditioned upon.

E. Effect of Termination. Upon termination of this Agreement, for any reason, the Business Associate shall return or destroy all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information.

F. In the event that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, the 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, the Business Associate maintains such Protected Health Information.

6. MISCELLANEOUS

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

B. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191. Amendments must be made in writing and signed by an authorized representative of each Party.

C. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Entity to comply with the Privacy Rule.

D. Confidential information. Individually identifiable health information, confidential health information, and private health information refer to any information that is a subset of health information, including demographic information collected from an individual, and:

(1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

(2) Relates to the past, present, or future oral, physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and

(i) That identifies the individual; or

(ii) With respect to which there is reasonable basis to believe the information can be used to identify the individual

Both Parties acknowledge that the disclosure of confidential health information to unauthorized third parties in violation of this Agreement could cause irreparable harm and agree that the other party shall have the right to seek and obtain an injunction upon any violation or threatened violation of the terms of this Agreement, in addition to all other rights and remedies available to the other party.

F. Notices. All notices shall be in writing and sent by registered mail, overnight mail, or courier to the addresses on the signature page of this Agreement or such other addresses as either party may indicate by prior written notice.

G. Definitions. The terms "Privacy Officer," "Health Care Operations," and "Protected Health Information" shall have the same meaning as defined in the current draft, subsequent updates, amendments, or revisions of the HIPAA Privacy Rule

Acting on behalf of the aforementioned Covered Entity, and NCSPlus Incorporated, the Business Associate, each of the undersigned agrees to the terms and conditions of this Agreement.

COVERED ENTITY

NCSPlus Incorporated

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_