

Health Insurance Portability and Accountability Act (HIPAA)
BUSINESS ASSOCIATE AGREEMENT

To the extent that it applies, this Business Associate Agreement ("BAA") is incorporated into and forms an integral part of the Client Service Agreement, including any Statement of Work, ("Agreement") concluded by Client and Marsh & McLennan Agency LLC ("Business Associate"), each a Party and together the Parties.

- 1. Definitions.** Capitalized terms not defined herein shall have the meanings ascribed to them in HIPAA or the Agreement.
- 2. Applicability.** This BAA shall apply only with respect to and to the extent that Business Associate, in its role as Client's Business Associate, creates, receives, maintains, or transmits Protected Health Information for or on behalf of Client ("PHI"), in Client's role as a Covered Entity or as a Business Associate.
- 3. Minimum Necessary.** Each Party shall limit its requests and disclosures to the minimum PHI that is necessary for Business Associate to perform the Services in accordance with the Agreement.
- 4. Uses and Disclosures.** Business Associate may not Use or Disclose PHI except as permitted or Required by the Agreement or as permitted or Required by law. Except as limited in this BAA, Business Associate may Use and Disclose PHI:
 - 4.1. to perform the obligations and provide the Services described in the Agreement, provided that such Use or Disclosure would not violate HIPAA if done by Client;
 - 4.2. to provide data aggregation services to Client;
 - 4.3. to de-identify PHI in accordance with the de-identification standard set out in the Privacy Rule; and
 - 4.4. for its proper management and administration and to carry out its legal responsibilities, provided that any Disclosure may occur only if it is Required by law or Business Associate obtains reasonable assurances from the person to whom the PHI is Disclosed that it will be held confidentially and Used or further Disclosed only as Required by law or for the purpose for which it was Disclosed to such person, and the person promptly notifies Business Associate if the confidentiality of the PHI is breached.
- 5. Business Associate's Obligations.**
 - 5.1. **Safeguards.** Business Associate shall use appropriate administrative, physical, and technical safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. If applicable, Business Associate shall comply with the Security standards set out in 45 C.F.R. Part 164 regarding any Electronic PHI.
 - 5.2. **Reporting.** Business Associate shall promptly, and in no event later than two business days after determining the occurrence of a Use or Disclosure of PHI not provided for by this BAA, including a Security Incident or Breach of Unsecured PHI, notify Client in accordance with applicable law. The Parties agree that this section constitutes notice by Business Associate to Client of the ongoing occurrence of attempted but Unsuccessful Security Incidents for which no additional notice is required. For purposes of this BAA, the term "Unsuccessful Security Incident" includes, but is not limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any other incident that does not result in unauthorized Use or Disclosure of PHI. Business Associate shall pay actual reasonable costs for notifications and credit monitoring services that are Required by law.
 - 5.3. **Subcontractors.** Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on its behalf agree to substantially the same restrictions and conditions as those that apply, directly or through this BAA, to Business Associate with respect to such PHI.
 - 5.4. **Access and Amendment.** Upon Client's written request and in the time and manner Required by law, Business Associate shall amend and/or provide Client with access to PHI in a Designated Record Set. Business Associate shall forward an individual or individual's designee's request to access or amend information in the Designated Record Set to Client within five calendar days of receipt.
 - 5.5. **Accounting.** Upon Client's written request and in the time and manner Required by law, Business Associate shall provide to Client an accounting of disclosures of an Individual's PHI to permit Client to respond to a request by an Individual for such an accounting. Business Associate shall document such disclosures of PHI and related information as would be required for Client to respond to a request by an Individual for an accounting of disclosures of PHI. Business Associate may impose a reasonable fee if Client requests an accounting more than once in any 12-month period.
 - 5.6. **Delegation.** If Business Associate agrees in writing to carry out an obligation of Client under 45 CFR 164, Subpart E, Business Associate shall comply with the requirements of Subpart E that apply to Client in performing such an obligation.

- 5.7. **Disclosure.** Business Associate shall make internal practices, books, and records relating to the Use and Disclosure of PHI received from or created or received by Business Associate on Client's behalf available to the Secretary of Health and Human Services for the purpose of determining Client's or Business Associate's compliance with its obligations under HIPAA. Upon Client's written request, Business Associate shall promptly provide to Client a copy or summary of its client-releasable security and/or privacy policies.
6. **Mitigation.** Business Associate and Client shall mitigate, to the extent practicable, any harmful effect known to have arisen out of a Use or Disclosure of PHI in violation of this BAA.
7. **Client's Obligations.** Client represents and warrants that it has the right and authority to disclose PHI to Business Associate. Client shall
 - 7.1. not ask Business Associate to Use or Disclose PHI in any manner that would violate applicable law or Client's privacy notice if done by a Covered Entity (unless permitted by HIPAA for a Business Associate);
 - 7.2. transfer all PHI to Business Associate in an encrypted format, to be mutually agreed by the Parties; and
 - 7.3. notify Business Associate in writing of (a) any limitation(s) in the Client's notice of privacy practices, to the extent that such limitation may affect Business Associate's use or disclosure of PHI, and any changes to it; (b) any changes in, or revocation of, an Individual's permission to Use or Disclose PHI, if such changes may impact Business Associate's Uses and Disclosures of PHI; and (c) any restriction on Use or Disclosure of PHI to which Client has agreed.
8. **Term.** This BAA shall continue in effect until the earlier of (a) termination by Client for material breach as set out in Section 9 below or (b) expiration of the Agreement.
9. **Termination.** Client may immediately terminate this BAA upon written notice to Business Associate if (a) Business Associate has materially breached this BAA and failed to cure such violation within 30 days after receipt such notice or (b) cure of such Breach is not possible.
10. **Return, Destruction, or Retention of PHI.** Except as provided in this section, upon termination of the Agreement, if feasible, Business Associate shall return or destroy all PHI received from Client or created or received on Client's behalf. If the return or destruction of the PHI is infeasible, Business Associate shall extend to it the protections of this BAA and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible.
11. **Indemnity.** Subject to the limitation of liability set out in the Agreement, each Party ("Indemnifying Party") agrees to indemnify, hold harmless, and defend the other Party ("Indemnified Party") and its employees, officers, and directors from and against all claims, losses, liabilities, and costs, including reasonable attorneys' fees (collectively, "Losses") to the extent directly arising out of a Breach of this BAA by the Indemnifying Party. Neither Party shall be responsible for any Losses incurred by the other Party that are attributable to the other Party's acts or omissions. The Indemnified Party agrees to give the Indemnifying Party prompt and reasonable written notice any claim for indemnification and provide reasonable assistance in the defense of such Losses. The Indemnified Party retains the right to hire, at its own expense, separate counsel to participate in its own representation. In the event there is no Agreement otherwise describing a limitation of liability, MMA's aggregate liability arising under this BAA and Business Associate's provision of services shall not exceed that amount described in the Broker Transparency Disclosure provided to Client.
12. **Amendment.** The Parties may amend this BAA upon mutual written agreement.
13. **Survival.** The obligations under Sections 10 and 11 above shall survive termination of this BAA.
14. **Miscellaneous.** The Parties intend that this BAA be interpreted consistently with their intent to comply with HIPAA and other applicable law. If there is any conflict between a provision in this BAA and a provision in the Agreement, this BAA will control. Except where this BAA conflicts with the Agreement, all other terms of the Agreement remain unchanged. There are no intended third-party beneficiaries under this BAA.
15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Marsh & McLennan Agency LLC

By: _____

Printed Name: Angela White

Title: Sr. Vice President

Date: _____

Madison County Board of Supervisors

By: _____

Printed Name: Gerald Steen

Title: Board President

Date: _____