

AGREEMENT WITH BUSINESS ASSOCIATE

This Agreement is effective upon execution, by and between _____ (“Business Associate”) and **The Corporation of Mercer University** (“Company”).

Company and Business Associate mutually agree to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R Parts 160-64), as well as the HIPAA Electronic Security regulations, (collectively referred to as “HIPAA”).

1. Privacy of Protected Health Information.

1. **Permitted Uses and Disclosures.** Business Associate may not use or further disclose the information in a manner that would violate the requirements of HIPAA, and may not use or further disclose the information other than as permitted or required by this contract or as required by law. Business Associate may use or disclose Protected Health Information it creates or receives for or from Company or to request health information on Company’s behalf only as follows:

a) **Functions and Activities on Company’s Behalf.** Business Associate is permitted to request the minimum necessary protected health information on Company’s behalf and to use and to disclose the minimum necessary Protected Health Information it creates or receives for or from Company as agreed upon by both parties. Business Associate may not send, transmit or disclose Personal Health Information outside the geographic boundaries of the United States.

b) **Business Associate’s Operations.** Business Associate may use or disclose the minimum necessary Protected Health Information it creates or receives for or from Company for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities.

2. **Information Safeguards.** Business Associate will develop, implement, maintain and use appropriate administrative, technical and physical safeguards, in compliance with Social Security Act § 1173(d) (42 U.S.C. § 1320-2(d)), 45 Code of Federal Regulations § 164.530(c) and any other implementing regulations issued by the U.S. Department of Health and Human Services, including but not limited to HIPAA Electronic Security regulations.
3. **Sub-Contractors and Agents.** Business Associate will require of its subcontractors and agents to provide reasonable assurance that subcontractor or agent will comply with the same privacy and security obligations as Business Associate with respect to such Protected Health Information.
4. **Compliance with Standard Transactions.** If Business Associate conducts in whole or part Standard Transactions for or on behalf of Company, Business Associate will comply, and will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 Code of Federal Regulations Part 162.

B. Protected Health Information Access, Amendment and Disclosure Accounting.

1. **Access.** Business Associate will, within a reasonable time after Company’s request, make available to Company or, at Company’s direction, to the individual (or the individual’s personal representative) for inspection and obtaining copies any Protected Health Information about the individual that Business Associate created or receive for or from Company and that is in Business Associate’s custody or control in accordance with 45 Code of Federal Regulations § 164.524.

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2. **Amendment.** Business Associate will, upon receipt of notice from Company, promptly amend any portion of the Protected Health Information that Business Associate created or received for or from Company in accordance with 45 Code of Federal Regulations § 164.526.
3. **Disclosure Accounting.** In accordance with 45 Code of Federal Regulations § 164.528:
 - a) **Disclosure Tracking.** Business Associate will record each disclosure, not excepted from disclosure accounting under Addendum Section C.3(b) below, that Business Associate makes to Company or a third party of Protected Health Information that Business Associate creates or receives for or from Company. For repetitive disclosures Business Associate makes to the same person or entity (including Company) for a single purpose, Business Associate may provide (i) the disclosure information for the first of these repetitive disclosures, (ii) the frequency, periodicity or number of these repetitive disclosures, and (iii) the date of the last of these repetitive disclosures. Business Associate will make this disclosure information available to Company within a reasonable time after Company's request.
 - b) **Exceptions from Disclosure Tracking.** Business Associate will not record disclosure information or otherwise account for disclosures of Protected Health Information that this Agreement or Company in writing permits or requires (i) for the purpose of Company's payment activities or health care operations, (ii) to the individual who is the subject of the Protected Health Information disclosed or to that individual's personal representative; (iii) to persons involved in that individual's health care or payment related to that individual's health care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, or (vi) to law enforcement officials or correctional institutions regarding inmates or other persons in lawful custody.
 - c) **Disclosure Tracking Time Periods.** Business Associate will have available for Company the disclosure information required by Addendum Section C.3(a) for the 6 years preceding Company's request for the disclosure information (except Business Associate need have no disclosure information for disclosures occurring before April 14, 2003).

C. Breach of Privacy Obligations.

1. **Termination of Agreement.**
 - a) **Automatic Renewal.** This Agreement shall be effective for one year, and will automatically renew on an annual basis, unless otherwise terminated by one of the parties. Either party may terminate this Agreement for any reason upon 30 days' written notice.
 - b) **Right to Terminate for Breach.** Company may terminate Agreement if the U.S. Department of Health and Human Services determines that Business Associate has breached any provision of this Agreement. Company may exercise this right to terminate Agreement by providing Business Associate written notice of termination, stating the breach of the Agreement that provides the basis for the termination. Any such termination will be effective 30 days after Business Associate's receipt of such written notice or, if later, such other date specified in Company's notice of termination.
 - c) **Obligations upon Termination.**
 - (i) **Return or Destruction.** Upon termination, cancellation, expiration or other conclusion of Agreement, Business Associate will if feasible return to Company

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or destroy all Protected Health Information.

- (ii) **Other Obligations and Rights.** Business Associate's other obligations and rights and Company's obligations and rights upon termination, cancellation, expiration or other conclusion of Agreement will be those set out in the Agreement.

- 2. **Indemnity.** Business Associate will indemnify and hold harmless Company and any Company affiliate, officer, director, employee or agent from and against any claim, cause of action, liability, damage, cost or expense, including attorney's fees and court or proceeding costs, arising out of or in connection with any non-permitted or violating use or disclosure of Protected Health Information or other breach of this Agreement by Business Associate or any subcontractor, agent, person or entity under Business Associate's control.

Company will indemnify and hold harmless Business Associate and any Business Associate affiliate, officer, director, employee or agent from and against any claim, cause of action, liability, damage, cost or expense, including attorney's fees and court or proceeding costs, arising out of or in connection with any non-permitted or violating use or disclosure of Protected Health Information or other breach of this Agreement by Company or any subcontractor, agent, person or entity under Company's control.

D. **General Provisions.**

- 1. **Definitions.** The capitalized terms "Protected Health Information" and "Standard Transactions" have the meanings set out in, respectively, 45 Code of Federal Regulations § 164.501 and 45 Code of Federal Regulations § 162.103.
- 2. **Amendment to Agreement.** Upon the effective date of any final regulation or amendment to final regulations promulgated by the U.S. Department of Health and Human Services with respect to Protected Health Information or Standard Transactions, this Agreement will automatically amend such that the obligations they impose on Business Associate remain in compliance with these regulations.

IN WITNESS WHEREOF, Company and Business Associate execute this Agreement in multiple originals to be effective on April 14, 2003 or if later, the last date written below.

Business Associate Name

The Corporation of Mercer University

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____