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ATTACHMENT FOUR

**A. BUSINESS ASSOCIATE AGREEMENT (BAA) PROVISIONS**

1. TERMS.

- a. BUSINESS ASSOCIATE. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR § 160.103, and in reference to the party in this subaward, shall mean Subrecipient.
- b. COVERED ENTITY. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR § 160.103, and in reference to the party to this subaward, shall mean DHHS.
- c. HIPAA RULES. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- d. OTHER TERMS. The following terms shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Unsecured Protected Health Information, and Use. The term Subrecipient shall have the meaning set forth in 2 CFR § 200.93 / 45 CFR § 75.2. Contractor as used herein shall mean the same as the term Subcontractor in the HIPAA Rules.

2. THE SUBRECIPIENT shall do the following:

- a. Not use or disclose Protected Health Information other than as permitted or required by this subaward or as required by law. Subrecipient may use Protected Health Information for the purposes of managing its internal business processes relating to its functions and performance under this subaward. Use or disclosure must be consistent with DHHS' minimum necessary policies and procedures.
- b. Implement and maintain appropriate administrative, physical, and technical safeguards to prevent access to and the unauthorized use and disclosure of Protected Health Information. Comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for in this subaward and assess potential risks and vulnerabilities to the individual health data in its care and custody and develop, implement, and maintain reasonable security measures.
- c. To the extent Subrecipient is to carry out one or more of the DHHS' obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to DHHS in the performance of such obligations. Subrecipient may not use or disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by DHHS.
- d. In accordance with 45 CFR §§ 164.502(E)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agents and contractors that create, receive, maintain, or transmit Protected Health Information received from DHHS, or created by or received from the Subrecipient on behalf of DHHS, agree in writing to the same restrictions, conditions, and requirements relating to the confidentiality, care, custody, and minimum use of Protected Health Information that apply to the Subrecipient with respect to such information.
- e. Obtain reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Subrecipient of any instances of which it is aware that the confidentiality of the information has been breached.
- f. Within fifteen (15) days:
  - i. Make available Protected Health Information to DHHS as necessary to satisfy DHHS' obligations under 45 CFR § 164.524;
  - ii. Make any amendment(s) to Protected Health Information as directed or agreed to by DHHS pursuant to 45 CFR § 164.526, or take other measures as necessary to satisfy DHHS' obligations under 45 CFR § 164.526;
  - iii. Maintain and make available the information required to provide an accounting of disclosures to DHHS as necessary to satisfy DHHS' obligations under 45 CFR § 164.528.
- g. Make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Subrecipient on behalf of the DHHS available to the Secretary for purposes of determining compliance with the HIPAA rules. Subrecipient shall provide DHHS with copies of the information it has made available to the Secretary.
- h. Report to DHHS within fifteen (15) days, any unauthorized use or disclosure of Protected Health Information made in violation of this subaward, or the HIPAA rules, including any security incident that may put electronic Protected Health Information at risk. Subrecipient shall, as instructed by DHHS, take immediate steps to mitigate any harmful effect of such unauthorized disclosure of

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Protected Health Information pursuant to the conditions of this subaward through the preparation and completion of a written Corrective Action Plan subject to the review and approval by DHHS. The Subrecipient shall report any breach to the individuals affected and to the Secretary as required by the HIPAA rules.

3. TERMINATION.

- a. DHHS may immediately terminate this subaward and any and all associated subawards if DHHS determines that the Subrecipient has violated a material term of this subaward.
- b. Within thirty (30) days of expiration or termination of this subaward, or as agreed, unless Subrecipient requests and DHHS authorizes a longer period of time, Subrecipient shall return or at the written direction of DHHS destroy all Protected Health Information received from DHHS (or created or received by Subrecipient on behalf of DHHS) that Subrecipient still maintains in any form and retain no copies of such Protected Health Information. Subrecipient shall provide a written certification to DHHS that all such Protected Health Information has been returned or destroyed (if so instructed), whichever is deemed appropriate. If such return or destruction is determined by the DHHS be infeasible, Subrecipient shall use such Protected Health Information only for purposes that makes such return or destruction infeasible and the provisions of this subaward shall survive with respect to such Protected Health Information.
- c. The obligations of the Subrecipient under the Termination Section shall survive the termination of this subaward.

This Addendum and any attachments hereto will become part of the Contract. Except as set forth in this Addendum, the Contract is unaffected and shall continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

State of Nebraska

Contractor: \_\_\_\_\_

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

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

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

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

Title: Materiel Administrator \_\_\_\_\_

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

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

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

State of Nebraska

Department of Health and Human Services

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

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

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

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