

ADDENDUM E

Northeast Michigan Community Service Agency, Inc. BUSINESS ASSOCIATE AGREEMENT

This Agreement is entered into by and between Northeast Michigan Community Service Agency, Inc. (hereafter referred to as NEMCSA) and _____ (hereinafter referred to as the Business Associate) to set forth the terms and conditions under which protected health information, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Regulations set forth by the U.S. Department of Health and Human Services (HHS) enacted thereunder, and amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) created or received by the Business Associate, on behalf of NEMCSA may be used or disclosed.

Whereas, to provide such services, the Business Associate must have access to certain protected health information as defined in the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) and the standards for the Security of Electronic Protected Health Information (Security Rule)

Whereas, to comply with the requirements of the HIPAA, the HITECH Act, the Privacy Rule and the Security Rule, NEMCSA must enter into this Business Associate Agreement with the Business Associate.

The Business Associate shall not use nor further disclose protected health information from NEMCSA other than as permitted by this Agreement or as required by law.

This Agreement shall commence on October 1, 2022, and the obligations herein shall continue in effect so long as the Business Associate uses, discloses, creates or otherwise possesses any protected health information created or received on behalf of NEMCSA, and until all protected health information created or received by the Business Associate on behalf of NEMCSA is destroyed or returned to NEMCSA pursuant to Paragraph 21 herein.

1. NEMCSA and the Business Associate hereby agree that the Business Associate shall be permitted to use and/or disclose protected health information created, maintained or received on behalf of NEMCSA for any one or combinations of the following purpose(s):
 - a. completing and submitting health care claims to health plans and other third party payers (i.e. billing);
 - b. providing services;
 - c. emergency and contingency planning;
 - d. providing participant information for reporting purposes; or
 - e. as necessary to perform service set for in the services agreement
 - f. none.
2. The Business Associate may use and disclose protected health information created or received by the Business Associate on behalf of NEMCSA if necessary for the proper management and administration of the Business Associate or to carry out the Business Associate's legal responsibilities, provided that any disclosure is:
 - a. required by law; or

- b. the Business Associate obtains reasonable assurances from the person to whom the protected health information is disclosed that (1) the protected health information will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person; and (2) the Business Associate will be notified of any instances of which the person is aware in which confidentiality of the informed is breached; or
 - c. the Business Associate may use protected health information to report violations of law to appropriate Federal and State authorities.
- 3. The Business Associate hereby agrees to maintain the security and privacy of all protected health information in a manner consistent with Michigan and federal laws and regulations including the Health Insurance Portability and Accountability Act of 1996 and Regulations thereunder, including the Privacy Rule, the Security Rule, the HITECH Act, and all other applicable laws.
- 4. Except as otherwise limited in this Agreement, the Business Associate may use protected health information to provide data aggregation services to NEMCSA.
- 5. The Business Associate further agrees not to use or disclose protected health information except as expressly permitted by this Agreement, applicable law, or for the purpose of managing the Business Associate's own internal business processes consistent with Paragraph 2 herein.
- 6. The Business Associate is required to implement appropriate safeguards to prevent unauthorized use or disclosure of the information, including implementing requirements of HIPAA Security Rule and the HITECH Act with regard to electronic protected information. The Business Associate agrees to use appropriate safeguards to prevent use and disclosure of protected health information and electronic health information. Further, the Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the protected information that it creates, receives, maintains or transmits on behalf of NEMCSA. "Appropriate Safeguards" include, but are not limited to, physical, administrative and technical safeguards such as locking cabinets or rooms where protected information is stored, using computer passwords or other security measures to prevent unauthorized access to protected information in electronic format; providing encryption for electronic protected health information at rest and in motion, implementing policies and procedures describing access and use for Business Associate's workforce; and human resource policies and procedures to enforce these rules.
- 7. The Business Associate is directly liable to the government for fines and other sanctions imposed by HHS, and the State Attorney General for non-compliance.
- 8. The Business Associate is required to report to NEMCSA any use or disclosure of the information not provided for this this contract, including incidents that constitute breaches of unsecured protected health information. The Business Associate is also required to report breaches to HHS in accordance with stipulations provided under the HIPAA and the HITECH Act.
- 9. The Business Associate shall not disclose protected health information to any member of its workforce unless the Business Associate has advised such person of the Business Associate's privacy and security obligations under this Agreement, including the consequences for violation of such obligations. The Business Associate shall take appropriate disciplinary action

against any member of its workforce who uses or discloses protected health information in violations of this Agreement and applicable law.

10. The Business Associate shall not disclose protected health information created or received by the Business Associate on behalf of NEMCSA to a person, including any agent or subcontractor of the Business Associate, but not limited to a member of the Business Associate's own workforce, until such person agrees in writing to be bound by the provisions of this Agreement and applicable Michigan or federal law.
11. The Business Associate agrees to use appropriate safeguards to prevent use or disclosure of protected health information not permitted by this Agreement or applicable law.
12. The Business Associate agrees to maintain a record of all disclosures of protected health information, including disclosures not made for the purposes of this Agreement. Such record shall include the date of the disclosure, the name and, if known, the address of the recipient of the protected health information, the name of the individual who is the subject of the protected health information, a brief description of the protected health information disclosed, and the purpose of the disclosure. The Business Associate shall make such record available to an individual who is the subject of such information or NEMCSA within five (5) days of a request.
13. The Business Associate agrees to report to NEMCSA any unauthorized use or disclosure of protected health information by the Business Associate or its workforce or subcontractors, and the remedial action taken or proposed to be taken with respect to such use or disclosure. The Business Associate must conduct a risk analysis to ensure future incidence of unauthorized use or disclosure is minimized. Results of such risk analysis shall be provided to NEMCSA and HHS as required.
14. The Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of protected health information received from NEMCSA, or created or received by the Business Associate on behalf of NEMCSA available to the Secretary of the United States Department of Health and Human Services, for purposes of determining the Covered Entity's compliance with the HIPAA and the HITECH Act.
15. The Business Associate will make available to NEMCSA such information as NEMCSA may require to fulfill its obligations to provide access to, copies of, or an accounting of uses and disclosures of protected health information as a Covered Entity under HIPAA. Within thirty (30) days of a written request by NEMCSA, the Business Associate shall allow a person who is the subject of protected health information, such person's legal representative, or NEMCSA to have access to and to copy such person's protected health information in the format requested by such person, legal representative, or practitioner unless it is not readily producible in such format, in which case it shall be produced in standard hard copy format. The Business Associate shall notify NEMCSA of such a request.
16. The Business Associate shall not request from NEMCSA, or provide to any third party or other entity in connection with any of its permitted uses and/or disclosures of protected health information, more information or protected health information than the minimum amount necessary to carry out its obligations, functions, or services on behalf of NEMCSA.
17. To the extent the Business Associate now or in the future conducts any transaction defined as an Electronic Transaction using protected health information of NEMCSA, the Business

Associate shall ensure that such transaction is conducted in full compliance with applicable Electronic Transaction Standards. Moreover, to the extent the Business Associate transmits, receives, or stores protected health information electronically, irrespective of whether any such transmission or reception constitutes an Electronic Transaction, the Business Associate agrees to conduct such transmissions, receptions, and storage of protected health information in a manner so as to be in full compliance with federal and state law, including, but not limited to, the final Security Standards under HIPPA and the HITECH Act.

18. The Business Associate agrees to amend, pursuant to a request by NEMCSA, protected health information maintained and created or received by the Business Associate on behalf of NEMCSA. The Business Associate further agrees to complete such amendment within thirty (30) days or a written request by NEMCSA, and to make such amendment as directed by NEMCSA.
19. In the event the Business Associate fails to perform the obligations under this Agreement, NEMCSA may, at its option:
 - a. require the Business Associate to submit a plan of compliance, including monitoring by NEMCSA and reporting by the Business Associate, as NEMCSA in its sole discretion, determines necessary to maintain compliance with this Agreement and applicable law. Such plan shall be incorporated by the unauthorized amendment thereto; and/or
 - b. require the Business Associate to mitigate any loss occasioned by the unauthorized disclosure or use of protected health information; and/or
 - c. immediately discontinue providing protected health information to the Business Associate with or without written notice to the Business Associate.
20. NEMCSA may immediately terminate this Agreement and related agreements if NEMCSA determines that the Business Associate has breached a material term of this Agreement. Alternatively, NEMCSA may choose to: (1) provide the Business Associate with ten (10) days written notice of the existence of an alleged material breach; and (2) afford the Business Associate an opportunity to cure said alleged material breach to the satisfaction of NEMCSA within ten (10) days. The Business Associate's failure to cure shall be grounds for immediate termination of this Agreement. The Business Associate's remedies under this Agreement are cumulative, and the exercise of any remedy shall not preclude the exercise of any other.
21. Upon termination of this Agreement, the Business Associate shall return or destroy all protected health information received from NEMCSA, or created or received by the Business Associate on behalf of NEMCSA, and that the Business Associate maintains in any form, and shall retain no copies of such information. If the parties mutually agree that return or destruction of protected health information is not feasible, the Business Associate shall continue to maintain the security and privacy of such protected health information in a manner consistent with the obligations of this Agreement and as required by applicable law, and shall limit further use of the information to those purposes that make the return or destruction of the information infeasible. The duties hereunder to maintain the security and privacy of protected health information shall survive the discontinuance of this Agreement.
22. NEMCSA may amend this Agreement by providing ten (10) days prior written Notice to the Business Associate in order to maintain compliance with Michigan or federal law. Such amendment shall be binding upon the Business Associate at the end of the ten (10) day period and shall not require the consent of the Business Associate. The Business Associate may elect to discontinue the Agreement within the ten (10) day period, but the Business Associate's duties hereunder to maintain the security and privacy of protected health information shall

survive such discontinuance. NEMCSA and the Business Associate may otherwise amend this Agreement by mutual written agreement.

23. The Business Associate shall, to the fullest extent permitted by law, protect, defend, indemnify and hold harmless NEMCSA and its employees and directors from and against any and all losses costs, claims, penalties, fines, demands, liabilities, legal actions, judgments, and expenses of every kind (including reasonable attorney's fees, including at trial and on appeal) asserted or imposed against any indemnities arising out of the acts or omissions of the Business Associate or any subcontractor of or consultant of the Business Associate or any of the Business Associate's employees, directors, or agents related to the performance of this Agreement.
24. The Business Associate shall make itself, and any subcontractors, employees or agents assisting the Business Associate in the performance of its obligations under this Agreement, available to NEMCSA, at no cost to NEMCSA, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against NEMCSA, its directors, offices, or employees based upon a claimed violation of HIPAA, the HIPAA regulations, HITECH, or other laws relating to security and privacy, except where the Business Associate or its subcontractors, employees, or agents are named as an adverse party.
25. The Business Associate agrees that the terms and conditions of this Business Associate Agreement shall be construed as a general confidentiality agreement binding upon the Business Associate even if it is determined that the Business Associate is not a business associate as that term is used in the Privacy Rule and/or Security Rule.
26. This Business Associate Agreement shall not be modified or amended except if done so in a written agreement and signed by both parties.
27. This Business Associate Agreement is not assignable or able to be delegated to another party.
28. The provision of this Business Associate Agreement supersedes all prior agreements regarding the same subject matter.

NEMCSA, Inc.

Date

Business Associate

Date