

Business Associate Agreement for Social Service Providers

THIS BUSINESS ASSOCIATE AGREEMENT by and between the City of Columbia, Missouri, a municipal corporation, hereinafter called the “City” or “Covered Entity,” and _____, a _____ organized in the state of _____ with authority to transact business within the state of Missouri, hereinafter called the “Provider” or “Business Associate,” is entered into on the date of the last signatory noted below (“Effective Date”). Provider and City are each individually referred to herein as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, City, a hybrid covered entity, is in need of social services and the provision of those services may involve personally identifiable protected health information; and

WHEREAS, Provider represents that Provider is capable of performing those services in accordance with all legal requirements, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA), and its implementing regulations and rules; and

WHEREAS, City and Provider have entered into a Social Services Provider Agreement for those services.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows.

1. Definitions

- a. Catch-all definition: The following terms used in this Agreement 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, Subcontractor, Unsecured Protected Health Information, and Use.
- b. Specific definitions:
 - (i) 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 to this agreement, shall mean Provider.
 - (ii) 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 agreement, shall mean the City of Columbia on behalf of the Columbia/Boone County Public Health and Human Services Department.
 - (iii) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. Obligations and Activities of Business Associate

- a. Business Associate’s Responsibilities. Business Associate agrees to:

- (i) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
- (ii) Use appropriate safeguards, and 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 by the Agreement;
- (iii) Timely report to Covered Entity any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware. Said reports shall be in writing and occur no later than 48 hours after Business Associate becomes aware of the disclosure or security incident;
- (iv) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- (v) Timely make available protected health information in a designated record set to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;
- (vi) Timely make any amendment(s) to protected health information in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;
- (vii) Timely maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528;
- (viii) To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- (ix) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

b. Permitted Uses and Disclosures by Business Associate:

- (i) Business Associate may only use or disclose protected health information as necessary to perform the services set forth in Social Services Provider Agreement.
- (ii) Business Associate may use or disclose protected health information as required by law.

- (iii) Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures.
- (iv) Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity except for the specific uses and disclosures set forth below.
- (v) Business Associate may disclose protected health information for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances in writing 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached in a manner and form consistent with this Business Associate Agreement.

3. Term

The Term of this Business Associate Agreement shall be effective as of the Effective Date and shall terminate thirty days after termination of the Social Services Provider Agreement or on the date Covered Entity terminates for its convenience or cause as authorized in Section 4 of this Business Associate Agreement, whichever is sooner.

4. Termination

- a. Termination for Convenience. With ten (10) days written notice, City may terminate this Business Associate Agreement for its convenience.
- b. Termination for Cause. Covered Entity may terminate this Business Associate Agreement for cause if Covered Entity determines Business Associate has violated a material term of the Business Associate Agreement or the Social Services Provider Agreement. Covered Entity shall provide written notice of termination to Business Associate. Said termination notice shall specify the effective date of termination.

5. Obligations of Business Associate Upon Termination

- a. Upon termination of this Agreement for any reason, Business Associate, with respect to protected health information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
 - (i) Retain only that protected health information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;

- (ii) Return to covered entity or, if agreed to by Covered Entity in writing, destroy the remaining protected health information that the Business Associate still maintains in any form;
- (iii) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate retains the protected health information;
- (iv) Not use or disclose the protected health information retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out in this Business Associate Agreement which applied prior to termination; and
- (v) Return to covered entity or, if agreed to by Covered Entity in writing, destroy the protected health information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

b. Survival. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

6. Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.
- c. Interpretation. Any ambiguity in this Business Associate Agreement shall be interpreted to permit compliance with the HIPAA Rules.
- d. No Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Business Associate Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.
- e. Notices. Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to City:
City of Columbia
Department of Public Health and Human Services
P.O. Box 6015
Columbia, MO 65205-6015
ATTN: Director

If to Business Associate:

ATTN: _____

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

- f. No Third-Party Beneficiary. No provision of the Business Associate Agreement is intended to nor shall it in any way inure to the benefit of any third party, so as to constitute any such person a third-party beneficiary under the Business Associate Agreement.
- g. Governing Law and Venue. This Business Associate Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Business Associate Agreement, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.
- h. General Laws. Business Associate shall comply with all federal, state, and local laws, rules, regulations, and ordinances, including but not limited to Article III of Chapter 12 of the City of Columbia's Code of Ordinances.
- i. No Waiver of Immunities. In no event shall the language of this Business Associate Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.

- j. Electronic Signature; Counterparts. This Business Associate Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Business Associate Agreement or any notice delivered pursuant to this Business Associate Agreement, shall be deemed to have the same legal effect as original signatures on this Business Associate Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have hereunto executed this Business Associate Agreement the day and the year of the last signatory noted below.

PROVIDER:

By: _____

Name: _____

Title: _____

Date: _____

CITY OF COLUMBIA, MISSOURI:

By: _____

John Glascock, City Manager

Date: _____

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor/rw