

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (“BAA”) is entered into by and between **Medical Network One, PC** on behalf of itself and its subsidiaries (“**MNO**” or “**Business Associate**”) and (“**Provider**” or “**Covered Entity**”) and is effective as of (the “**Effective Date**”). MNO and Provider may be referred to collectively as the “**Parties**” or, individually, as a “**Party**” in this BAA.

RECITALS

WHEREAS, Provider is a “covered entity” as defined by HIPAA Rules (defined below);

WHEREAS, the Provider has entered into a Participant Provider Agreement (the “**PPA**”) under which MNO provides certain services to or performs certain functions on behalf of the Provider through its relationship with a Provider Organization in the State of Michigan and requires access to electronic health records of Provider;

WHEREAS, in connection with the services provided to Provider pursuant to the PPA, MNO may create, receive, maintain or transmit PHI (defined below) on behalf of Provider only as set forth in this BAA and to the extent permitted under the HIPAA Rules, and is a “business associate” of the Covered Entity as defined by the HIPAA Rules;

WHEREAS, to comply with the requirements of the Privacy Rule, Security Rule, Breach Notification Rule and Enforcement Rule, set forth at 45 C.F.R. Parts 160, 162 and 164, under the Health Insurance Portability and Accountability Act of 1996, as amended (the “**HIPAA Rules**”), MNO and Provider desire to enter into this BAA, to set forth the permitted uses and disclosures of PHI by MNO and other rights and obligations of each of the Parties; and

NOW, THEREFORE, in consideration of the mutual promises set forth in this BAA, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

SECTION 1. DEFINITIONS

“**Capitalized Terms**”. Capitalized terms used in this BAA and not otherwise defined herein shall have the meanings set forth in the HIPAA Rules or the Participation Agreement, which definitions are incorporated in this BAA by reference.

“**Protected Health Information**” or “**PHI**” shall have the same meaning given to such term in 45 C.F.R. § 160.103, as applied to the information created, received, maintained or transmitted by Business Associate from or on behalf of the Covered Entity.

“**Unsuccessful Security Incident**” shall mean pings and other broadcast attacks on a firewall, port scans, unsuccessful log-on attempts, denials of service, or other similar attempted but unsuccessful Security Incident, or a combination thereof, so long as no such incident results in unauthorized access, use or disclosure of PHI.

SECTION 2. PERMITTED USES AND DISCLOSURES OF PHI

2.1. Uses and Disclosures of PHI Pursuant to the PPA. Business Associate shall not use or disclose PHI other than as permitted or required to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the PPA or as Required by Law, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity, except as set forth in Sections 2.2, 2.3, and 2.4. To the extent Business Associate is carrying out any of Covered Entity's obligations under the Privacy Rule pursuant to the terms of the PPA or this BAA, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligation(s).

2.2. Permitted Uses of PHI by Business Associate. Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

2.3. Permitted Disclosures of PHI by Business Associate. Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that the disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Business Associate pursuant to this BAA), and that the person agrees to notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4. Data Aggregation. Business Associate may use PHI to provide Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5. De-identified Data. Business Associate may de-identify PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may, with the Covered Entity's prior written consent, use or disclose such de-identified data for any purpose.

SECTION 3. OBLIGATIONS OF BUSINESS ASSOCIATE

3.1. Appropriate Safeguards. Business Associate shall use appropriate safeguards and shall comply with the Security Rule with respect to Electronic PHI, to prevent use or disclosure of such information other than as provided for by the PPA and this BAA. Unless a Covered Entity agrees, in writing, that this requirement under the Health Information Technology for Economic and Clinical Health Act (the "**HITECH Act**") is not feasible with respect to particular PHI or EPHI, Business Associate shall secure all PHI and EPHI by utilizing a technology standard or methodology that renders PHI and EPHI unusable, unreadable, or indecipherable to unauthorized individuals and is consistent with guidance, as further amended in the future, issued by the Secretary specifying the technologies and methodologies that render PHI and EPHI unusable, unreadable, or indecipherable to unauthorized individuals.

3.2. Reporting of Improper Use or Disclosure, Security Incident or Breach. Business Associate shall report to Covered Entity any use or disclosure of PHI not permitted under this BAA, Breach of Unsecured PHI or Security Incident, immediately and in any event no more than five (5) business days following discovery; provided, however, that the Parties acknowledge and agree that

this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of Unsuccessful Security Incidents. In connection with any improper use or disclosure, Security Incident or Breach, Business Associate shall conduct and document a risk assessment, in accordance with the HIPAA Rules, of such unauthorized use or disclosure and provide Covered Entity with a copy of such risk assessment upon a Covered Entity's request. Covered Entity, in its sole and absolute discretion, may elect to delegate to Business Associate the requirement under the HIPAA Rules to notify affected Individuals of a Breach of Unsecured Protected Health Information if such Breach results from, or is related to, an act or omission of Business Associate or the agents, subcontractors or representatives of Business Associate. If Covered Entity elects to make such a delegation, Business Associate shall perform such notifications and undertake all related remediation activities that are reasonably required (i) at Business Associate's sole cost and expense, and (ii) in compliance with all applicable requirements, including the HIPAA Rules. Business Associate shall also provide Covered Entity with the opportunity, in advance, to review and approve of the form and content of any such Breach notification that Business Associate provides to Individuals.

3.3. Business Associate's Agents. In accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), as applicable, Business Associate shall enter into a written agreement with any agent or subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate for services provided to Covered Entity, providing that the subcontractor or agent agrees to at least the same restrictions and conditions that apply to Business Associate through this BAA with respect to such PHI and agrees to implement reasonable and appropriate safeguards as required by HIPAA to protect the PHI and EPHI. Business Associate will provide to Covered Entity, upon request, a list of subcontractors or agents that have access to any PHI of the Covered Entity pursuant to this BAA and, in addition, shall provide copies of those signed written agreements with such subcontractors or agents that incorporate the requirements of this BAA and this Section 3.3. Business Associate shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation.

3.4. Access to PHI. To the extent Business Associate has PHI contained in a Designated Record Set, Business Associate agrees to make information available to Covered Entity to enable Covered Entity to comply with 45 C.F.R. § 164.524. Access will be provided at the request of Covered Entity and at a time and in a manner designated by Covered Entity.

3.5. Amendment of PHI. To the extent Business Associate has PHI contained in a Designated Record Set, Business Associate agrees to make such information available to Covered Entity for amendment pursuant to 45 C.F.R. § 164.526. Access will be provided at the request of a Covered Entity and at a time and in a manner designated by Covered Entity. Business Associate will also make any amendment to the PHI and EPHI that is requested by Covered Entity as a result of the Individual having requested such an amendment. If any Individual requests an amendment of PHI directly from Business Associate or its agents or subcontractors, Business Associate must notify the respective Covered Entity in writing within five (5) days of the request, and it shall be up to Covered Entity whether to make any requested amendments.

3.6. Documentation of Disclosures. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to

respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.7. Accounting of Disclosures. Business Associate agrees to provide to Covered Entity, upon receipt of a written request from Covered Entity, information collected in accordance with Section 3.6 of this BAA to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Access will be provided at the request of Covered Entity and at a time and in a manner designated by Covered Entity.

3.8. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary for purposes of the Secretary determining whether Covered Entity or Business Associate has complied with the HIPAA Rules, at the request of the Covered Entity and at a time and in a manner designated by the Covered Entity. Business Associate shall concurrently provide to the Covered Entity a copy of any PHI, policies and procedures or other documentation that Business Associate provides to the Secretary.

3.9. Mitigation. To the extent practicable, in coordination and cooperation with Covered Entity, Business Associate will mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI or EPHI by Business Associate that is not permitted by this BAA.

3.10. Minimum Necessary. Business Associate shall request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure, in accordance with 45 C.F.R. § 164.514(d), and any amendments thereto.

3.11. Remuneration Prohibited. Except as otherwise allowed in this BAA and the HIPAA Rules, Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI or EPHI of any Individual unless the Individual has provided a valid, HIPAA-compliant authorization, including a specification of whether the PHI or EPHI can be further exchanged for remuneration by the receiving party.

3.12. Communications. Except as otherwise provided in the HIPAA Rules, Business Associate shall not directly or indirectly receive payment in exchange for making certain communications to Individuals about a product or service that encourages the recipient to purchase or use the product or service, and shall not make or cause to be made any Marketing or Fundraising communication that involves or is based on, in whole or in part, any PHI, without a prior written consent of Covered Entity.

3.13. Ownership. Business Associate will not acquire any title or rights to the PHI or EPHI, including any de-identified information, as a result of this BAA.

3.14. Health Plans. Business Associate shall not disclose PHI to a health plan for Payment or Health Care Operations purposes which is not otherwise Required by Law, if (i) Covered Entity has advised Business Associate that the Individual has requested this special restriction or the Individual has notified Business Associate of this restriction, and (ii) the PHI pertains solely to a health care item or service for which the Individual, or another person on behalf of the Individual other than the health plan, has paid Covered Entity out of pocket in full.

3.15. Transactions. If Business Associate conducts electronic Transactions on behalf of Covered Entity for which the U.S. Department of Health and Human Services has established standards, Business Associate shall comply, and shall require any Subcontractor involved with the conduct of such Transactions to comply, with the applicable requirements of the Electronic Transactions Rule. Business Associate will also comply with the other requirements of 45 CFR Part 162, if and to the extent applicable.

3.16. Inspection Rights. From time to time upon reasonable notice, Covered Entity may inspect the facilities, systems, books and records of Business Associate to monitor compliance with this BAA. Business Associate shall promptly remedy any violation of any term of this BAA and shall certify the same to Covered Entity in writing. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with the obligations of this Agreement, nor does Covered Entity's failure to detect, or to detect but fail to call Business Associate's attention to or require Remediation of any unsatisfactory practice constitute acceptance of such practice or a waiver of Participant's enforcement rights.

SECTION 4. OBLIGATIONS OF COMPANY

4.1. Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in its, or an applicable, Notice of Privacy Practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

4.2. Notification of Changes Regarding Individual Permission. Covered Entity shall obtain any consent or authorization that may be required by the Privacy Rule, or applicable state law, prior to furnishing Business Associate with PHI. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

4.3. Notification of Restrictions to Use or Disclosure of PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4.4. Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity, except as permitted pursuant to the provisions of Sections 2.2, 2.3 and 2.4 of this BAA.

SECTION 5. TERM AND TERMINATION

5.1. Term. The term of this BAA shall commence as of the BAA Effective Date and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is returned to Covered Entities or is destroyed with the consent of the Covered Entity. If it is infeasible to return or destroy PHI, Business Associate shall extend protections to such information in accordance with Section 5.3.

5.2. Termination for Cause. Upon either Party's knowledge of a material breach by the other Party of this BAA, such Party may terminate this BAA immediately if cure is not possible. Otherwise, the non-breaching Party shall provide written notice to the breaching Party detailing the nature of the breach and providing an opportunity to cure the breach within thirty (30) business days. Upon the expiration of such thirty (30) day cure period, the non-breaching Party may terminate this BAA if the breaching Party does not cure the breach or if cure is not possible.

5.3. Effect of Termination.

5.3.1. Except as provided in Section 5.3.2, upon termination of the PPA or this BAA for any reason, Business Associate shall, at its sole cost and expense, return or, with Covered Entity's written consent, destroy all PHI received from Participant, or created or received by Business Associate on behalf of Covered Entity, and shall retain no copies of the PHI. If Covered Entity elects destruction, Business Associate shall certify in writing that the PHI has been destroyed and shall describe the manner in which it was destroyed.

5.3.2. If it is infeasible for Business Associate to return or destroy the PHI upon termination of the PPA or this BAA, Business Associate shall, at its sole cost and expense: (a) extend the protections of this BAA to such PHI and (b) limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

5.3.3. The provisions of this Section shall apply to any PHI in the possession or control of any agents and subcontractors of the Business Associate.

SECTION 6. COOPERATION IN INVESTIGATIONS

The Parties acknowledge that certain breaches or violations of this BAA may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party shall cooperate in good faith in all respects in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

SECTION 7. SURVIVAL

The respective rights and obligations of Business Associate under Section 5.3 of this BAA shall survive the termination of this BAA and the PPA.

SECTION 8. AMENDMENT

This BAA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. In addition, if any relevant provision of the HIPAA Rules is amended in a manner that changes the obligations of Business Associate or Covered Entity that are embodied in terms of this BAA, then the Parties agree to negotiate in good faith appropriate non-financial terms or amendments to this BAA to give effect to such revised obligations.

SECTION 9. EFFECT OF BAA

In the event of any inconsistency between the provisions of this BAA and the PPA, the provisions of this BAA shall control. In the event that a court or regulatory agency with authority over Business Associate or Covered Entity interprets the mandatory provisions of the HIPAA Rules, in a way that is inconsistent with the provisions of this BAA, such interpretation shall control. Where provisions of this BAA are different from those mandated in the HIPAA Rules, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this BAA shall control.

IN WITNESS WHEREOF, the Parties hereto have duly executed this BAA as of the Effective Date,

PROVIDER/COVERED ENTITY:

MEDICAL NETWORK ONE:

MEDICAL NETWORK ONE, PC

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date: