

## GPM Corp. **Business Associate Addendum**

THIS GPM CORP BUSINESS ASSOCIATE ADDENDUM (this “**BA Addendum**”) is an agreement between Geriatric Practice Management Corp (“**GPM**” or “**Business Associate**”) and you or the Covered Entity you represent (“**you**” or “**your**” or “**Covered Entity**”), is an addendum to the Services Agreement, as described herein (as applicable, the “**Agreement**” or “**Services Agreement**”), and is entered into by the Customer on behalf of itself and each Customer User. This Addendum takes effect on the date (the “**Addendum Effective Date**”) when the Customer clicks the “Accept GPM Corp Business Associate Addendum” box (or other electronic means made available by GPM for such purpose) presented with this Addendum (an “**Accept Button**”). You represent to GPM that you are lawfully able to enter into contracts (e.g., you are not a minor). If you are entering into this Addendum for an entity, such as the company you work for, you represent to GPM that you have legal authority to bind that entity. The parties hereby agree as follows:

### **1. Definitions.**

- A. General. Terms used, but not otherwise defined, in this BA Agreement shall have the same meaning given to those terms by HIPAA, the HITECH Act and HIPAA Regulations as in effect or as amended from time to time.
- B. Specific.
  - I. Breach. “Breach” shall have the same meaning as the term “breach” in 45 CFR § 164.402.
  - II. Electronic Health Record. “Electronic Health Record” shall have the same meaning as the term “electronic health record” in the HITECH Act, Section 13400(5).
  - III. Electronic Protected Health Information. “Electronic Protected Health Information” shall have the same meaning as the term “electronic protected health information” in 45 CFR § 160.103, limited to the information that Business Associate creates, receives, maintains, or transmits from or on behalf of Covered Entity.
  - IV. Individual. “Individual” shall have the same meaning as the term “individual” in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
  - V. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164.
  - VI. Protected Health Information. “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
  - VII. Required By Law. “Required by Law” shall have the same meaning as the term “required by law” in 45 CFR § 164.103.
  - VIII. Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
  - IX. Security Rule. “Security Rule” shall mean the Security Standards at 45 Part 160 and Part 164.
  - X. Services Agreement. “Services Agreement” shall mean any present or future agreements, either written or oral, between Covered Entity and Business Associate under which Business Associate provides services to Covered Entity which involve the

use or disclosure of Protected Health Information. The Services Agreement is amended by and incorporates the terms of this BA Agreement.

- XI. Subcontractor. "Subcontractor" shall have the same meaning as the term "subcontractor" in 45 CFR § 160.103.
- XII. Unsecured Protected Health Information. "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in 45 CFR § 164.402.

## **2. Obligations and Activities of Business Associate.**

- A. Business Associate shall not use or further disclose Protected Health Information ("PHI") other than as permitted or required by this BAA or as required by law. "PHI" shall mean the Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 C.F.R. § 160.103, limited to the information Business Associate received from or created or received on behalf of Covered Entity as Covered Entity's Business Associate.
- B. Business Associate shall not use or further disclose Personal Information other than as permitted or required by this BAA or as required by law. "Personal Information" means an individual's first name or first initial and the last name in combination with any one or more of the following data elements when either the name or the data elements are not encrypted: (i) Social Security Number; (ii) Driver's license or state identification card number(s); (iii) account number(s), credit or debit card number (s), in combination with any required security code, access code, or password that would permit access to the individual's financial account; and (iv) health insurance information.
- C. Business Associate shall immediately report to Covered Entity any use or disclosure of PHI or an individual's Personal Information not provided for by this Business Associate Agreement, including without limitation any Breach of PHI, Unsecured PHI or an individual's Personal Information and any Security Incident involving the PHI or an individual's personal information of which the Business Associate becomes aware. The terms "Breach" and "Unsecured PHI" are defined in 45 C.F.R. § 164.402.
- D. Business Associate shall take any action necessary or requested by the Covered Entity to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of the Security Incident or use or disclosure of PHI, Unsecured PHI or an individual's Personal Information by Business Associate in violation of the requirements of this BAA. In the event of a Breach of PHI or Unsecured PHI or an individual's Personal Information, Business Associate's notice to Covered Entity of such Breach shall include, to the extent possible, the identification of each individual whose PHI or Personal Information has been, or is reasonably believed by the Business Associate, to have been accessed, acquired or disclosed during such Breach. Business Associate shall also provide Covered Entity any other available information that the Covered Entity is required to include in the notification to the individual, even if such information becomes available after notification to the individual, or take any action necessary as requested by the Covered Entity to assist Covered Entity in complying with any applicable breach notification requirements.
- E. Business Associate shall ensure that any agent of the Business Associate, including a subcontractor, to whom it provides PHI or Personal Information received from, or created or

received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such information.

- F. If the Business Associate maintains PHI in a Designated Record Set, the Business Associate shall:
- I. Provide access, at the request of Covered Entity and in the most expedient time and manner reasonable as requested by Covered Entity, to PHI in a Designated Record Set to Covered Entity or as directed by Covered Entity to an Individual in order to meet the requirements under 45 C.F.R. § 164.524; and
  - II. Make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R § 164.526 at the request of Covered Entity or Individual in the most expedient time and manner reasonable as requested by Covered Entity.
  - III. Business Associate shall make internal practices, books and records relating to the use and disclosure of PHI and Personal Information received from or created or received by Business Associate on behalf of Covered Entity available to the Covered Entity or the Secretary of the U.S. Department of Health and Human Services for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the HIPAA Standards.
  - IV. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity or Business Associate to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
  - V. Business Associate shall provide to Covered Entity, in the most expedient time and manner reasonable as requested by Covered Entity, information pertaining to disclosures of PHI by Business Associate 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. In the event that Business Associate receives a direct request from an Individual for an accounting of disclosures of PHI made by Business Associate including, effective January 1, 2011, or a later date as provided by the HIPAA Standards, any request for an accounting of disclosures of PHI made from Covered Entity's electronic health record for treatment, payment, or health care operation purposes during the three (3) years prior to the date of such request, Business Associate agrees to provide the Individual with such an accounting in accordance with 45 C.F.R § 164.528.
  - VI. Business Associate shall implement and maintain reasonable and appropriate safeguards to ensure that all PHI is used or disclosed only as authorized under the HIPAA Standards and this BAA. Business Associate agrees to assess potential risks and vulnerabilities to PHI in its possession and develop, implement and maintain the administrative, physical and technical safeguards required by the HIPAA Standards that protect the confidentiality, availability and integrity of the PHI that Business Associate creates, receives, maintains or transmits on behalf of the Covered Entity. These measures must be documented, kept current and must include, at a minimum, those measures that fulfill the requirements outlined in the HIPAA Standards and any applicable state laws. Business Associate also agrees to implement policies and procedures that address Business Associate's compliance with applicable HIPAA Standards and state laws in its efforts to detect, prevent and mitigate the risks of identity theft resulting from the improper use and/or disclosure of an individual's PHI or Personal Information.
  - VII. Business Associate shall ensure that any of its agents, including subcontractors, implement and maintain the same safeguards, policies and procedures required by the HIPAA Standards (referenced in the previous subparagraph) that protect the confidentiality,

availability and integrity of the PHI or Personal Information that Business Associate creates, receives, maintains or transmits on behalf of the Covered Entity.

- VIII. Business Associate shall, in the performance of its duties under this BAA and the Service Agreement, comply with all applicable federal and state laws, regulations and rules (including, without limitation, the HIPAA Standards).
- IX. Business Associate shall, in the performance of its duties under this BAA and the Service Agreement, comply with all applicable federal and state laws, regulations and rules (including, without limitation, the HIPAA Standards).
- X. Business Associate acknowledges that if it violates any of the requirements provided under this Business Associate Agreement, Business Associate will be subject to the same civil and criminal penalties that a Covered Entity would be subject to if such Covered Entity violated the same requirements.

### **3. Permitted Uses and Disclosures by Business Associate**

- A. Except as otherwise limited in this BAA, Business Associate may use or disclose PHI or Personal Information to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Service Agreement, provided that such use or disclosure would not violate the HIPAA Standards or any state law standards if done by Covered Entity.
- B. Except as otherwise limited in this BAA, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- C. Except as otherwise limited in this BAA, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are authorized by law and Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law and for the purpose for which it was disclosed.
- D. Except as otherwise permitted by the HIPAA Standards, when using or disclosing PHI or responding to a request for PHI, Business Associate must limit such PHI, to the extent practicable, to a Limited Data Set or, if more information than a Limited Data Set is required, to the minimum necessary to accomplish the intended purpose of such use, disclosure or request. The term "Limited Data Set" is defined in 45 C.F.R. § 164.514 (e).
- E. Except as otherwise permitted by the HIPAA Standards, Business Associate agrees that it will not directly or indirectly receive remuneration in exchange for any PHI unless Covered Entity has obtained from the subject individual a valid authorization that includes a specification that PHI may be further exchanged for remuneration by the entity receiving the individual's PHI. Business Associate shall comply with any and all such federal or state laws regulations with respect to receiving remuneration in exchange for any PHI.
- F. Except as otherwise permitted by the HIPAA Standards, Business Associate agrees that it will not use or disclose PHI in connection with any fundraising and/or marketing communication for or on behalf of Covered Entity unless Covered Entity has obtained a valid authorization from each individual who will be a recipient of any such communication.

- G. If an individual requests that Business Associate restrict the disclosure of the individual's PHI to carry out treatment, payment or health care operations, Business Associate agrees that it will comply with the requested restriction if, except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment), and the PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

#### 4. Obligations of Covered Entity.

- A. Covered Entity has provided Business Associate with a copy of its Notice of Privacy Practices which is attached to this BAA and Business Associate shall comply with such Notice of Privacy Practices.
- B. Covered Entity shall provide Business with notice of any changes in, or revocation, permission by an individual to use or disclose the individual's PHI if such changes affect Business Associate's permitted or required uses and disclosures.
- C. 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 if such restrictions affect Business Associate's permitted or required uses and disclosures.
- D. Covered Entity shall not request Business Associate use or disclose PHI in any manner that would not be permissible under the HIPAA Standards or state law if done by Covered Entity.

#### 5. Permissible Requests by Covered Entity.

Except as set forth in Section 3 of this BA Agreement, Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

#### 6. Term and Termination.

- a. The Term of this Business Associate Agreement shall be effective as set forth above 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 destroyed or returned to Covered Entity or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach of this BAA by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation, and Covered Entity shall terminate the Service Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, or immediately terminate the Service Agreement if Business Associate has breached a material term of this Business Associate Agreement and cure is not possible, as determined by the Covered Entity in its reasonable discretion.
- c. **Effect of Termination.** Except as provided in subparagraph (2) of this subsection, upon termination of the Service Agreement or this BAA for any reason, Business Associate shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on

behalf of Covered Entity. This provision shall apply to PHI that is in the possession of agents or subcontractors of Business Associate. Business Associate shall retain no copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is not feasible, Business Associate shall extend the protections of this BAA to such PHI and 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. The Parties hereto agree that the terms of this BAA are reasonable and necessary to protect the interests of the Covered Entity and the Business Associate. The Parties further agree that the Covered Entity would suffer irreparable harm if the Business Associate breached this BAA. Thus, in addition to any other rights or remedies, all of which shall be deemed cumulative, the Covered Entity shall be entitled to obtain injunctive relief to enforce the terms of this BAA.

#### **7. Coordination of Business Associate and Covered Entity.**

- A. Investigation. The Parties agree to reasonably cooperate and coordinate with each other in the investigation of any violation of the requirements of this BA Agreement and/or any Security Incident or Breach.
- B. Reports and Notices. The Parties shall also reasonably cooperate and coordinate with each other in the preparation of any reports or notices to the Individual, a regulatory body or any third party required to be made under HIPAA, HIPAA Regulations, the HITECH Act, or any other Federal or State laws, rules or regulations.

#### **8. Miscellaneous.**

- A. Regulatory References. A reference in this BA Agreement to a section in HIPAA, HIPAA Regulations, or the HITECH Act means the section as in effect or as amended or modified from time to time, including any corresponding provisions of subsequent superseding laws or regulations.
- B. Amendment. The Parties agree to take such action as is necessary to amend the Services Agreement and/or this BA Agreement from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA, the HIPAA Regulations and the HITECH Act.
- C. Survival. The respective rights and obligations of Business Associate under Sections 5(c) and the Parties under Section 7 and this Section 8 of this BA Agreement shall survive the termination of the Services Agreement and this BA Agreement.
- D. Interpretation. Any ambiguity in this BA Agreement shall be resolved to permit both Parties to comply with HIPAA, HIPAA Regulations and the HITECH Act.
- E. Severability. If any provision of this BAA shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of this BAA shall remain in full force and effect in the same manner as if the invalid or illegal provision had not been contained herein, and such invalid, unenforceable or illegal provision shall be valid, enforceable and legal to the maximum extent permitted by law.
- F. Miscellaneous. The terms of this BA Agreement are hereby incorporated into the Services Agreement. Except as otherwise set forth in Section 8(d) of this BA Agreement, in the event of a conflict between the terms of this BA Agreement and the terms of the Services Agreement, the terms of this BA Agreement shall prevail. The terms of the Services Agreement which are not modified by this BA Agreement shall remain in full force and effect in accordance with the terms

thereof. This BA Agreement shall be governed by, and construed in accordance with, the state of Delaware exclusive of conflict of law rules. Each Party hereby agrees and consents that any legal action or proceeding with respect to this BA Agreement shall only be brought in the courts of the state Delaware. The Services Agreement together with this BA Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained herein, and this BA Agreement supersedes and replaces any former business associate agreement or addendum entered into by the Parties. This BA Agreement may be executed in counterparts, each of which when taken together shall constitute one original. Any PDF or facsimile signatures to this BA Agreement shall be deemed original signatures to this BA Agreement. No amendments or modifications to the BA Agreement shall be effective unless agreed upon by both Parties in writing.

- G. Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
- H. Indemnification. Without limitation to any indemnification obligation that Business Associate may have under the Service Agreement, Business Associate shall indemnify, hold harmless and defend Covered Entity from and against any and all claims, losses, liabilities, costs and other expenses resulting from, or relating to, the acts or omissions of Business Associate, its employees, agents, and subcontractors, in connection with any use or disclosure of PHI, Unsecured PHI or an Individual's information not provided for by this BAA, including without limitation any Breach of PHI, Unsecured PHI or an Individual's information or any expenses incurred by Covered Entity in providing required breach notifications.

### DOCUMENT VERSION 3.0

This version is valid through December 31, 2021.

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