

**Health Plan Select, Inc.
Business Associate Privacy Addendum
To The Service Agreement**

This Business Associate Privacy Addendum (hereinafter referred to as "Addendum") by and between Athens Area Health Plan Select, Inc. (hereinafter referred to as "HPS") a Covered Entity under HIPAA, and INSERT ORG NAME (hereinafter referred to as "Business Associate"), is effective as of the signature date on the last page.

Whereas, HPS and Business Associate have entered into that certain Services Agreement effective INSERT DATE;

Whereas, the service provided by Business Associate to HPS causes Business Associate to be considered a "Business Associate" under privacy regulations including the regulations contained in 45 C.F.R. parts 160 and 164, as amended from time to time (the "HIPAA Privacy Rule") promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); and

Whereas, HPS and Business Associate desire to modify the Agreement to include certain provisions required by the HIPAA Privacy Rule.

Now, Therefore, in consideration of the mutual covenants and conditions contained herein and the provision of Protected Health Information as defined by the HIPAA Privacy rules (PHI) by HPS to Business Associate under the Agreement in reliance on this Addendum, the Parties agree as follows:

Recitals

- A. HPS wishes to disclose certain information to Business Associate, some of which may constitute Protected Health Information ("PHI") (defined below).
- B. HPS and Business Associate (collectively "Parties") intend to protect the privacy and provide for the security of PHI disclosed to Business Associate in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated there under.
- C. As part of the HIPAA Regulations, the Privacy Rule (defined below) requires HPS, to enter into a contract with Business Associate containing specific requirements prior to the disclosure of PHI, as set forth in the Title 45 of the code of Federal Regulations ("CFR") Parts 160 and 164 as modified from time to time.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

Definitions

Unless otherwise indicated below or elsewhere in this Addendum, all capitalized terms will have the meanings provided in 45 CFR §§ 160.103 and 164.501. (For convenience, a few of the definitions are highlighted below.)

"Business Associate" refers to INSERT ORG NAME and will have the meaning given to such term under the Privacy Rule.

"Compliance Date" shall mean the later of:

- A. April 14, 2003; or
- B. Such other date by which HPS must enter into an Addendum with Business Associate pursuant to the requirements of the HIPAA Privacy Rule, no later than April 14, 2004..

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“Covered Entity” will have the meaning given to such term in 45 C.F.R. 164.501 under the Privacy Rule.

“Data Aggregation” shall mean, with respect to PHI created or received by Business Associate in its capacity as the Business Associate of HPS, the combining of such PHI by Business Associate with the PHI received by Business Associate in its capacity as a Business Associate or another Covered Entity, to permit data analyses that relate to the Health Care Operations (defined below) of the respective Covered Entities. The meaning of “Data Aggregation” in this Addendum shall be consistent with the meaning given to that term in the HIPAA Privacy Rule. To the extent, the HIPAA Privacy Rule changes the meaning of such term, this Addendum shall be modified automatically to correspond to the meaning given in such rule.

“Designated Record Set” shall mean a group of Records maintained by or for HPS that:

- A. Consists of medical records and billing records about individuals maintained by or for HPS;
- B. Consist of the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for HPS; or
- C. Consists of Records used, in whole or part, by or for HPS to make decisions about individuals. The meaning of “designated record set” in this Addendum shall be consistent with the meaning given to that term in the HIPAA Privacy Rule. To the extent, the HIPAA Privacy Rule changes the meaning of such term; this Addendum shall be modified automatically to correspond to the meaning given in such rule.

“De-Identify” shall mean to alter the PHI such that the resulting information meets the requirements described in 45 C.F.R. 164.514 (a) and (b).

“Privacy Rule” will mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, Subparts A and E, as they may be modified from time to time.

“Protected Health Information” or “PHI,” means any information, whether oral or recorded in any form or medium:

- A. That relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and
- B. That identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and will have the meaning given to such term under the Privacy Rule, 45 CFR § 164.501.

“Required by Law” will have the same meaning as set forth in 45 CFR § 164.501.

Addendum

1. **Purposes for Which Protected Health Information May be Used or Disclosed.** In connection with the services provided by Business Associate on behalf of HPS. HPS may use or disclose PHI to Business Associate for the purposes of bill review services.
2. **Business Associate Obligations.** Business Associate agrees to comply with applicable federal and state privacy/confidentiality and security laws, including, but not limited to the Privacy Rule, including without limitation:

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2.1. Uses of PHI. Business Associate will not use PHI other than permitted by the Addendum or as Required by Law. Business Associate may use and disclose PHI as reasonably necessary for:

- A. Except as otherwise provided in this Addendum, Business Associate may use or disclose PHI as reasonably necessary to provide the services described in the Addendum, or as otherwise permitted or required of Business Associate or as required by law.
- B. Except as otherwise limited by this Addendum, Business Associate may perform Data Aggregation services for HPS to the extent such services are authorized or permitted in the Addendum. However, under no circumstances may Business Associate disclose PHI obtained from HPS to another provider absent the explicit written permission of HPS.

2.2 Business Associate Further Agrees:

- A. To use appropriate safeguards to protect the use or disclosure of PHI other than as provided by this Addendum
- B. To take reasonable steps to ensure that the actions or omission of its employees or agents do not cause Business Associate to breach the terms of this Addendum
- C. To Provide training to members of its workforce regarding the confidentiality requirements in the Privacy Rule and this Addendum;
- D. To obtain reasonable assurances from the person to whom the information is disclosed that it will be held confidential and further used and disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity;
- E. To notify HPS of any instances of which it is aware in which PHI is used or disclosed for a purpose that is not otherwise provided for in this Addendum or for a purpose not expressly permitted by the Privacy Rule; and
- F. To ensure that all disclosures of PHI are subject to the principle of “minimum necessary use and disclosure,” i.e., only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request may be disclosed.

2.3 Disclosure to Third Parties

- A. Except as otherwise limited by this Addendum, HPS authorizes Business Associate to use the PHI in its possession for the proper management and administration of Business Associate’s business, to carry out its legal responsibilities and to report violations of law to the appropriate federal and state authorities. Business Associate may disclose PHI for its proper management and administration provided that:
 - 1. Such disclosures are required by law; or
 - 2. Business Associate obtains, in writing, prior to making any disclosure to a third party:
 - a. Reasonable assurance from such third party that the PHI will be held and kept confidential as provided under this Addendum and used or further disclosed only as required by law or for the purpose for which it was disclosed to such third party
 - b. Reasonable assurance from such third party to notify Business Associate immediately of any breaches of the confidentiality of the PHI, to the extent it has knowledge of such breach.

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- B. Mitigation of Disclosures of PHI. Business Associate shall, mitigate, to the extent practicable, any harmful effect that is known to Business Associate of any use or disclosure of PHI by Business Associate or its agents or subcontractor in violation of the requirement of this Addendum.
 - C. Addendums with Agents or Subcontractors. Business Associate shall ensure that any of its agents or subcontractors that have access to or to which Business Associate provides PHI agrees in writing to the restrictions and conditions concerning uses and disclosures of PHI contained herein.
 - D. Upon request, Business Associate shall make available to HPS any of HPS' PHI that Business Associate, or any of its agents or subcontractors have in their possession.
 - E. In the event that Business Associate is providing services to any Covered Entity that is an affiliate of HPS, Business Associate shall abide by the terms of this Addendum with respect to PHI received or created by Business Associate in connection with services provided to such Covered Entity.
- 2.4 **Notification of Breach.** Business Associate will notify HPS of any suspected or actual breach of security or unauthorized use or disclosure of PHI or any actual or suspected use or disclosure of data in violation of applicable federal or state laws or regulations. Business Associate will:
- A. Take corrective action to cure any such deficiencies, and
 - B. Take any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
 - C. Agree to report to HPS any such unauthorized use or disclosure within five (5) business days of becoming aware of such use or disclosure.
- 2.5 **Notice of Privacy Practices.** Business Associate will abide by the limitations of any Notice of Privacy Practices published by HPS of which it has knowledge. Any use or disclosure permitted by this Addendum may be amended by such Notice of Privacy Practices, however, the amended Notice of Privacy Practices will not affect permitted uses and disclosures on which Business Associate relied prior to such notice.
- 2.6 **Withdrawal of Consent or Authorization.** HPS will notify Business Associate if the use or disclosure of PHI in this Addendum is based upon an individual's specific consent or authorization for the use of his or her PHI, and the individual revokes such consent or authorization in writing, or the effective date of such authorization has expired, or the consent or authorization is found to be defective in any manner that renders it invalid. Business Associate agrees, if it has notice of such revocation or invalidity, to cease the use and disclosure of any such individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Rule applies.
- 2.7 **Use or Disclosure that Would Violate HIPAA.** Business Associate will not further use or disclose PHI in a manner that would violate the requirements of the Privacy Rule if the PHI were used or disclosed by HPS.
- 2.8 **Safeguards.** Business Associate will maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Addendum or as Required by Law. HPS is

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responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to this Addendum.

2.9 Individual Rights Regarding Designated Record Sets. If Business Associate maintains a Designated Record Set on behalf of HPS, Business Associate agrees as follows:

- A. Correction of PHI. Business Associate agrees that it will provide PHI maintained by Business Associate to HPS for inspection or copying upon reasonable notice to enable HPS to fulfill its obligations under the Privacy Rule.
- B. Individual Right to Copy or Inspection. Business Associate agrees that it will provide PHI maintained by Business Associate to HPS upon reasonable notice to enable HPS to fulfill its obligations with respect to an individual's right to inspect or copy PHI as required under 45 C.F.R. § 164.524.
- C. Individual Right to Amendment. Business Associate agrees that it will provide PHI maintained by Business Associate to HPS upon reasonable notice to enable HPS to accommodate an individual's right to have access to and amend PHI about the individual in a Designated Record Set as set forth at 45 C.F.R. § 164.526.

2.10 Amendment of PHI.

- A. Upon request and instruction from HPS, Business Associate shall amend PHI or a Record about an individual in a Designated Record Set that is maintained by, or otherwise within the possession of, Business Associate as directed by HPS in accordance with procedures established by 45 C.F.R. 164.526. Business Associate shall complete any request by HPS to amend such information within fifteen (15) business days of HPS' request.
- B. In the event any individual requests that Business Associate amend such individual's PHI or Record in a Designated Record Set, Business Associate within five (5) business days, shall forward such request to HPS. Any amendment of, or decision not to amend, the PHI or Record as requested by an individual shall be the sole responsibility of HPS.

2.11 Accounting of Disclosures.

- A. Business Associate shall document any disclosures of PHI made by it, except for disclosures excepted under 45 C.F.R. 164.528. Business Associate shall also make available information related to such disclosures as would be required for HPS to respond to a request for an accounting of disclosures in accordance with 45 C.F.R. 164.528. At minimum, Business Associate shall furnish HPS the following:
 - 1. The date of the disclosure;
 - 2. The name of the entity or person who received PHI, and, if known, the address of such entity or person.
 - 3. A brief description of the PHI disclosed, and
 - 4. A brief statement of the purpose of the disclosure. Such accounting is limited to disclosure made in the 6 years prior to the request of an Individual and shall be provided for as long as Business Associate maintains the PHI, not including disclosures made prior to the compliance date.

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5. Such accounting is limited to disclosures made in the six years prior to the request of the individual, not including disclosures made prior to the Compliance date, April 14, 2003.
 - B. Business Associate hereby agrees to implement an appropriate record keeping system to enable it to comply with the requirements of this Section. Business Associate agrees to retain such records for a minimum of six (6) years.
 - C. Business Associate shall furnish to HPS information collected in accordance with this Section, in the time and manner designated by HPS, to permit HPS to make an accounting of disclosures as required by 45 C.F.R. 164.528.
 - D. In the event an individual delivers the request for an accounting directly to Business Associate, Business Associate shall within five (5) calendar days forward such request to HPS. HPS shall maintain sole responsibility for preparing and delivering any accounting requested.
3. Internal Practices, Books, and Records. Business Associate will make available its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from or created or received by Business Associate on behalf of HPS, to the Secretary of the Department of Health and Human Services ("Secretary") or its agents or any other health oversight agency, or to HPS, in a time and manner as designated by HPS or Secretary, for purposes of determining HPS' compliance with the Privacy Rule. Notwithstanding the foregoing, prior to any such disclosure to HHS or any other federal or state agency, Business Associate shall notify HPS immediately of such request and shall furnish HPS with copies of such request. HPS and Business Associate agree to work together in responding to such request.
4. Indemnification. To the extent permitted by law, each party agrees to indemnify and hold harmless the other party from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by the indemnified party arising out of, resulting from, or attributable to any negligent acts or other negligent conduct of the indemnifying party in connection with the performance of the duties under this Addendum.
 - 4.1 Indemnification Procedure. The indemnified party will have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, the reasonable costs and expenses of which will be the responsibility of the indemnifying party. The indemnified party will provide the indemnifying party with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist the indemnifying party in establishing a defense to such action. This indemnity will survive termination of this Addendum and any other Addendums and indemnified party reserves the right, as its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing. In addition to any indemnification provisions contained in the Addendum, Business Associate shall indemnify and hold harmless HPS from and against any and all loss, damage, or expense (or claims of damage or liability) asserted against HPS by third parties and
 - A. Arising out of PHI provided to Business Associate by HPS or HPS' Members or
 - B. Otherwise from or related to this Addendum
5. Rights of Proprietary Information. HPS retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.

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6. Term and Termination.

6.1 Term. The term of this Addendum will be effective as of Effective Date, and will terminate when all of the PHI provided by HPS to Business Associate, or created or received by Business Associate on behalf of HPS, is destroyed or returned to HPS, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in the Section.

6.2 Termination for Cause. Upon HPS' knowledge of a material breach by Business Associate, HPS shall either:

- A. HPS may terminate immediately this Addendum and the contract
- B. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Addendum and any other Addendums, if Business Associate does not cure the breach or end the violation to HPS' satisfaction within thirty (30) days of written notice from HPS;
- C. Immediately terminate this Addendum and any other Addendums; or
- D. If neither termination nor cure is feasible, HPS shall report the violation to the Secretary.

6.3 Effect of Termination. Except as provided in the Section 6.3, upon termination of this Addendum, for any reason, Business Associate will return or destroy all PHI received from HPS, or created or received by Business Associate on behalf of HPS. This provision shall apply to PHI in the possession of Business Associate's agents and subcontractors. Business Associate shall retain no copies of the PHI. In the event that Business Associate determines that returning or destroying the PHI is infeasible, upon written

Request from HPS, Business Associate shall provide to HPS notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible, Business Associate will extend the protections of this Addendum to such PHI and limit further uses and disclosures of PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. This section 6.3, shall survive any termination of this Addendum.

7. Regulatory References. A reference in this Addendum to a section in the Privacy Rule means the section as in effect or as amended.
8. Amendments Waiver. Except as otherwise provided herein, this Addendum may not be modified, nor shall any provision be waived or amended, except in writing duly signed by authorized representatives of the Parties. The Parties agree to modify this Addendum from time to time as necessary for HPS to comply with the HIPAA Privacy Rule. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.
9. Interpretation. The provisions of this Addendum will prevail over any provisions in any other Agreement that may conflict or appear inconsistent with any provision in this Addendum. This Addendum will be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The parties agree that any ambiguity in this Addendum will be resolved in favor of a meaning that complies with and is consistent with HIPAA and the Privacy Rule.

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10. Effect of Addendum.

- A. This Addendum is a part of and subject to the terms of the Services Agreement, except that to the extent any terms of this Addendum conflict with any term of the Services Agreement, the terms of this Addendum shall govern. In the event of inconsistency between the provisions of this Addendum and mandatory provisions of the HIPAA Privacy Rule, as amended, or their interpretation by any court of competent jurisdiction or regulatory agency, shall control. Where the provisions of this Addendum are different than those mandated in the HIPAA Privacy Rule but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this Addendum shall control.
- B. Except as expressly stated herein or as provided by law, this Addendum shall not create any rights in favor of any third party.

11. Notices. All notices, requests and demands or other communications to be given hereunder to a Party shall be made via first class mail, registered or certified or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed

If to HPS, to:
Athens Area Health Plan Select, Inc.
295 West Clayton St.
Athens, GA 30601

If to Business Associate, to:
INSERT ORG NAME
Address

Attention: Ray Donovan, Chief Operating Officer Attention:
Facsimile number: 706-549-8004 Facsimile Number:

12. Validity of Signature. This Addendum may not be altered, amended or modified at all. Initialed changes will not be accepted. Any addition to or deletion from the terms of this Addendum will render this Addendum and the signature of both parties invalid.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the Effective Date.

Athens Area Health Plan Select, Inc. By: _____ Print Name: Raymond Donovan Title: Chief Operating Officer Date: _____	Business Associate: INSERT ORG NAME By: _____ Print Name: Title: Date: _____
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