Business Associate Agreement

Carebility BAA v2026-11

This Business Associate Agreement ("Agreement") is entered into between the customer identified as "Customer" in the applicable Sales Order ("Covered Entity") and Carebility, Inc., a Delaware corporation ("Business Associate"). The "Effective Date" is the effective date stated in the applicable Sales Order or, if none is stated, the date the parties execute the Sales Order that expressly identifies and incorporates this Agreement; if this Agreement is separately executed, the Effective Date is the date of the last signature below unless the parties state otherwise. This Agreement sets out the responsibilities and obligations of Business Associate as a business associate of Covered Entity under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act").

RECITALS:

A. Business Associate provides services to Covered Entity under the Carebility Software as a Service Master Service Agreement identified in the applicable Sales Order (the "MSA") and the applicable Sales Order (collectively, the "Written Agreement"). Business Associate performs the services described in the Written Agreement ("Services").

B. Covered Entity may make available to Business Associate Protected Health Information of Individuals in conjunction with Services, which Business Associate will Use or Disclose only in accordance with this Agreement.

AGREEMENT:

Business Associate and Covered Entity agree to the terms and conditions of this Agreement in order to comply with the rules on handling of Protected Health Information under the HIPAA Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subpart E ("Privacy Rule"), the HIPAA Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C ("Security Rule"), and the HIPAA Breach Notification Regulations, 45 C.F.R. Part 164, Subpart D ("Breach Notification Rule"), all as amended from time to time.

1. DEFINITIONS

a. Terms Defined in Regulation or MSA: Unless otherwise provided in this Agreement, capitalized terms defined in the Privacy Rule, Security Rule, or Breach Notification Rule have the meanings provided under those rules, and capitalized terms used but not defined in this Agreement or those rules have the meanings given in the MSA.

b. Protected Health Information or PHI: Protected Health Information ("PHI") means PHI that is received from Covered Entity, or created, maintained or transmitted on behalf of Covered Entity by Business Associate.

c. De-identified Data: "De-identified Data" means PHI de-identified in accordance with 45 C.F.R. § 164.514.

2. USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

a. Performance of Services: Business Associate will Use or Disclose PHI only for those purposes necessary to perform Services, or as otherwise expressly permitted in this Agreement, the Written Agreement, or required by law, and will not further Use or Disclose such PHI.

b. Subcontractors: Business Associate agrees that, in accordance with 45 C.F.R. § 164.502(e)(1), if Business Associate's Subcontractor creates, receives, maintains or transmits PHI on behalf of Business Associate, Business Associate will enter into an agreement with such Subcontractor that contains the same restrictions and conditions on the Use and Disclosure of PHI as contained in this Agreement.

c. Business Associate Management, Administration and Legal Responsibilities: Business Associate may Use PHI for Business Associate's management and administration, or to carry out Business Associate's legal responsibilities. Business Associate may Disclose PHI to a third party for such purposes only if: (1) the Disclosure is required by law; or (2) Business Associate secures written assurance from the receiving party that the receiving party will: (i) hold the PHI confidentially; (ii) Use or Disclose the PHI only as required by law or for the purposes for which it was Disclosed to the recipient; and (iii) notify the Business Associate of any other Use or Disclosure of PHI.

d. Data Aggregation and De-Identification: Business Associate may Use PHI to perform data aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B). Business Associate also may de-identify PHI in accordance with 45 C.F.R. § 164.514.

e. Covered Entity Responsibilities: To the extent Business Associate is to carry out Covered Entity's obligations under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to Covered Entity's compliance with such obligations.

3. SAFEGUARDS FOR PROTECTED HEALTH INFORMATION

a. Adequate Safeguards: Business Associate will implement and maintain appropriate safeguards to prevent any Use or Disclosure of PHI for purposes other than those permitted by this Agreement, including administrative, physical and technical safeguards to protect the confidentiality, integrity, and availability of any electronic protected health information ("ePHI"), if any, that Business Associate creates, receives, maintains, and transmits on behalf of Covered Entity.

b. Compliance with HIPAA Security Rule: Business Associate will comply with the applicable requirements of the HIPAA Security Rule.

4. REPORTS OF IMPROPER USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION, SECURITY INCIDENTS AND BREACHES

a. Use or Disclosure Not Permitted by This Agreement: Business Associate will report in writing to Covered Entity any Use or Disclosure of PHI for purposes other than those permitted by this Agreement within five (5) business days of Business Associate's learning of such Use or Disclosure.

b. Security Incidents: Business Associate will report in writing to Covered Entity any Security Incident of which Business Associate becomes aware. Specifically, Business Associate will report to Covered Entity any successful unauthorized access, Use, Disclosure, modification, or destruction of ePHI or interference with system operations in an information system containing ePHI of which Business Associate becomes aware within five (5) business days of Business Associate learning of such Security Incident. The parties acknowledge and agree that this Section 4(b) constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined

below) for which no further report to Covered Entity shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access to or Use or Disclosure of ePHI.

c. Breaches of Unsecured PHI: Business Associate will report in writing to Covered Entity any Breach of Unsecured Protected Health Information, as defined in the Breach Notification Rule, within five (5) business days of the date Business Associate learns of the incident giving rise to the Breach. Business Associate will provide such information to Covered Entity as required in the Breach Notification Rule.

5. ACCESS TO PROTECTED HEALTH INFORMATION

a. Covered Entity Access: Within ten (10) business days of a request by Covered Entity for access to PHI, Business Associate will make requested PHI available to Covered Entity.

b. Individual Access: If an Individual makes a request for access directly to Business Associate, Business Associate will within ten (10) business days forward such request in writing to Covered Entity. Covered Entity will be responsible for making all determinations regarding the grant or denial of an Individual's request for PHI and Business Associate will make no such determinations. Only Covered Entity will release PHI to an Individual pursuant to such a request, unless Covered Entity directs Business Associate to do so.

6. AMENDMENT OF PROTECTED HEALTH INFORMATION

a. Covered Entity Request: Within fifteen (15) business days of receiving a request from Covered Entity to amend an Individual's PHI, Business Associate will provide such PHI to Covered Entity for amendment. Alternatively, if Covered Entity's request includes specific instructions on how to amend the PHI, Business Associate will incorporate such amendment into the PHI it holds in a Designated Record Set within fifteen (15) business days of receipt of the Covered Entity request.

b. Individual Request: If an Individual makes a request for amendment directly to Business Associate, Business Associate will within fifteen (15) business days forward such request in writing to Covered Entity. Covered Entity will be responsible for making all determinations regarding amendments to PHI and Business Associate will make no such determinations unless Covered Entity directs Business Associate to do so.

7. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

a. Disclosure Records: Business Associate will keep a record of any Disclosure of PHI that Business Associate makes, if Covered Entity would be required to provide an accounting to Individuals of such Disclosures under 45 C.F.R. § 164.528. Business Associate will maintain a record of such Disclosures for six years from the date of the Disclosure.

b. Data Regarding Disclosures: For each Disclosure for which it is required to keep a record under paragraph 7(a), Business Associate will record and maintain the following information: (1) the date of Disclosure; (2) the name of the entity or person who received the PHI and the address of such entity or person, if known; (3) a description of the PHI Disclosed; and (4) a brief statement of the purpose of the Disclosure.

c. Provision to Covered Entity: Within fifteen (15) business days of receiving a notice from Covered Entity, Business Associate will provide to Covered Entity its records of Disclosures.

d. Request by Individual: If an Individual requests an accounting of Disclosures directly from Business Associate, Business Associate will forward the request and its record of Disclosures to Covered Entity within fifteen (15) business days of Business Associate's receipt of the Individual's request. Covered Entity will be responsible for preparing and delivering the accounting to the Individual. Business Associate will not provide an accounting of its Disclosures directly to any Individual, unless directed by Covered Entity to do so.

8. ACCESS TO BOOKS AND RECORDS

Business Associate will make its internal practices, books and records on the Use and Disclosure of PHI available to the Secretary of the Department of Health and Human Services to the extent required for determining compliance with the Privacy Rule, Security Rule, or Breach Notification Rule. No attorney-client, accountant-client or other legal privilege will be deemed waived by Business Associate or Covered Entity as a result of this Section.

9. TERM AND TERMINATION

Covered Entity may terminate this Agreement upon material breach of this Agreement. Covered Entity will provide Business Associate with written notice of the breach of this Agreement and afford the Business Associate the opportunity to cure the breach to the satisfaction of Covered Entity within thirty (30) days of the date of such notice. If Business Associate fails to timely cure the breach, as determined by Covered Entity in its sole discretion, Covered Entity may terminate this Agreement.

10. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION

a. Return or Destruction of PHI: Within thirty (30) business days of termination of this Agreement, Business Associate will return to Covered Entity all PHI that Business Associate or its Subcontractors maintain in any form or format. Alternatively, Business Associate may, upon Covered Entity's consent, destroy all such PHI and provide written documentation of such destruction. Encrypted backups containing such PHI may be retained in the ordinary course of backup rotation for up to ninety (90) days and will remain subject to this Agreement until destroyed. Upon Covered Entity's written request, Business Associate will provide written confirmation of destruction.

b. Retention of PHI if Return or Destruction is Infeasible: If Business Associate believes that returning or destroying PHI at the termination of this Agreement is infeasible, Business Associate will extend all protections, limitations and restrictions of this Agreement to Business Associate's Use or Disclosure of PHI retained after termination of this Agreement and will limit further Uses or Disclosures to those purposes that make the return or destruction of the PHI infeasible.

11. MISCELLANEOUS

a. COMPLIANCE WITH LAWS: The parties are required to comply with federal and state laws. If this Agreement must be amended to secure such compliance, the parties will meet in good faith to agree upon such amendments. If the parties cannot agree upon such amendments, then either party may terminate this Agreement upon thirty (30) days' written notice to the other party.

b. CONSTRUCTION OF TERMS: The terms of this Agreement will be construed in light of any applicable interpretation or guidance on the Privacy Rule, Security Rule or Breach Notification Rule issued by HHS.

c. NO THIRD PARTY BENEFICIARIES: Nothing in this Agreement will confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

d. NOTICES: Notices under this Agreement will be delivered in accordance with Section 44 of the MSA to the addresses stated in the applicable Sales Order or otherwise designated under that Section. Reports under Section 4 may be delivered by email to Covered Entity's privacy and security contact designated under Section 18 of the MSA.

e. ENTIRE AGREEMENT: This Agreement, together with the Written Agreement, constitutes the entire agreement between the parties with respect to its subject matter and supersedes prior understandings relating to that subject matter. No amendment to this Agreement is effective unless in writing and signed by both parties.

f. WRITTEN AGREEMENT; ORDER OF PRECEDENCE: This Agreement is incorporated into and forms part of the Written Agreement. In the event of a conflict, the order of precedence in Section 48(f) of the MSA applies. This Agreement controls solely with respect to the use, disclosure, safeguarding, return, or destruction of PHI and compliance with HIPAA; the MSA controls with respect to De-identified Data, Customer AI Data, AI Output, AI training, and liability allocation unless this Agreement expressly and specifically states otherwise.

g. LIMITATION OF LIABILITY: Sections 35 and 36 of the MSA are incorporated into and apply to this Agreement as if fully set forth herein. All liability arising out of or relating to this Agreement will be aggregated with liability arising out of or relating to the MSA and all Sales Orders and will be subject to the single applicable Cap or Enhanced Cap under Section 36 of the MSA. In the event of a conflict between this Agreement and Sections 35 or 36 of the MSA, Sections 35 and 36 of the MSA control. These limitations govern liability between the parties only and do not limit obligations imposed directly by HIPAA or the authority of a governmental agency.

h. COUNTERPARTS; ELECTRONIC SIGNATURES; EXECUTION THROUGH SALES ORDER: This Agreement may be executed in counterparts, each of which is deemed an original and all of which together constitute one agreement. Electronic signatures are deemed originals. This Agreement is also executed and accepted by the parties' execution, including by electronic signature or click-through acceptance, of a Sales Order that expressly identifies and incorporates this Agreement; no separate signature of this Agreement is then required. Otherwise, this Agreement may be separately executed.

i. CHOICE OF LAW; VENUE: This Agreement will be construed under federal law as to HIPAA and otherwise under the laws of the State of Delaware, without regard to conflict-of-law principles. Any dispute arising out of or relating to this Agreement, the MSA, or any Sales Order will be resolved exclusively in the state courts of the State of Delaware located in New Castle County or the United States District Court for the District of Delaware, and each party consents to the personal jurisdiction and venue of those courts and waives any objection based on improper venue or inconvenient forum. Either party may seek injunctive or other equitable relief in any court of competent jurisdiction.