

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (hereinafter referred to as “Agreement”), effective this _____ day of _____, _____ is made and entered into by and between Southeastrans, Inc. (hereinafter referred to as “Southeastrans”) and _____ (hereinafter sometimes referred to as “Contractor”) as an amendment to the original Contract between Southeastrans and Contractor dated _____.

WHEREAS, Southeastrans is required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), to enter into a Business Associate Agreement with certain entities that provide functions, activities, or services involving the use of Protected Health Information (“PHI”);

WHEREAS, Contractor, under Contract with Southeastrans (hereinafter referred to as “Contract”), may provide functions, activities, or services involving the use of PHI;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Southeastrans and Contractor (each individually a “Party” and collectively the “Parties”) hereby agree as follows:

1. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule, published as the Standards for Privacy of Individually Identifiable Health Information in 45 CFR Parts 160 and 164 (“Privacy Rule”):
2. Except as limited in this Agreement, Contractor may use or disclose PHI only to extent necessary to meet its responsibilities as set forth in the Contract provided that such use or disclosure would not violate the Privacy Rule if done by Southeastrans.
3. **Unless otherwise required by Law, Contractor agrees:**
 - A. That it will not request, create, receive, use or disclose PHI other than as permitted or required by this Agreement or as required by law.
 - B. To establish, maintain and use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.
 - C. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement.
 - D. That its agents or subcontractors are subject to the same obligations that apply to Contractor under this Agreement and Contractor agrees to ensure that its agents or

subcontractors comply with the conditions, restrictions, prohibitions and other limitations regarding the request for, creation, receipt, use or disclosure of PHI, that are applicable to Contractor under this Agreement.

- E.** To report to Southeastrans any use or disclosure of PHI that is not provided for by this Agreement of which it becomes aware. Contractor agrees to make such report to Southeastrans in writing in such form as Southeastrans may require within twenty-four (24) hours after Contractor becomes aware.
- F.** To make any amendment(s) to PHI in a Designated Record Set that Southeastrans directs or agrees to pursuant to 45 CFR 164.526 at the request of Southeastrans or an Individual, within five (5) business days after request of Southeastrans or of the Individual. Contractor also agrees to provide Southeastrans with written confirmation of the amendment in such format and within such time as Southeastrans may require.
- G.** To provide access to PHI in a Designated Record Set, to Southeastrans upon request, within five (5) business days after such request, or, as directed by Southeastrans, to an Individual. Contractor also agrees to provide Southeastrans with written confirmation that access has been granted in such format and within such time as Southeastrans may require.
- H.** To give Southeastrans, the Secretary of the U.S. Department of Health and Human Services (the "Secretary") or their designees access to Contractor's books and records and policies, practices or procedures relating to the use and disclosure of PHI for or on behalf of Southeastrans within five (5) business days after Southeastrans, the Secretary or their designees request such access or otherwise as Southeastrans, the Secretary or their designees may require. Contractor also agrees to make such information available for review, inspection and copying by Southeastrans, the Secretary or their designees during normal business hours at the location or locations where such information is maintained or to otherwise provide such information to Southeastrans, the Secretary or their designees in such form, format or manner as Southeastrans, the Secretary or their designees may require.
- I.** To document all disclosures of PHI and information related to such disclosures as would be required for Southeastrans to respond to a request by an Individual or by the Secretary for an accounting of disclosures of PHI in accordance with the requirements of the Privacy Rule.
- J.** To provide to Southeastrans or to an Individual, information collected in accordance with Section 3. I. of this Agreement, above, to permit Southeastrans to respond to a request by an Individual for an accounting of disclosures of PHI as provided in the Privacy Rule.

4. Unless otherwise required by Law, Southeastrans agrees:

- A.** That it will notify Contractor of any new limitation in Southeastrans' Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if, and to the extent that, Southeastrans determines in the exercise of its sole discretion that such limitation will affect Contractor's use or disclosure of PHI.
- B.** That it will notify Contractor of any change in, or revocation of, permission by an Individual for Southeastrans to use or disclose PHI to the extent that Southeastrans determines in the exercise of its sole discretion that such change or revocation will affect Contractor's use or disclosure of PHI.
- C.** That it will notify Contractor of any restriction regarding its use or disclosure of PHI that Southeastrans has agreed to in accordance with the Privacy Rule if, and to the extent that, Southeastrans determines in the exercise of its sole discretion that such restriction will affect Contractor's use or disclosure of PHI.

5. The Term of this Agreement shall be effective as of _____, and shall terminate when all of the PHI provided by Southeastrans to Contractor, or created or received by Contractor on behalf of Southeastrans, is destroyed or returned to Southeastrans, 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.

A. Termination for Cause. Upon Southeastrans' knowledge of a material breach by Contractor, Southeastrans shall either:

- (1) Provide an opportunity for Contractor to cure the breach or end the violation, and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by Southeastrans;
- (2) Immediately terminate this Agreement if Contractor has breached a material term of this Agreement and cure is not possible; or
- (3) If neither termination nor cure is feasible, Southeastrans shall report the violation to the Secretary.

B. Effect of Termination.

- (1) Except as provided in paragraph (A.) (2) of this Section, upon termination of this Agreement, for any reason, Contractor shall return or destroy all PHI received from Southeastrans, or created or received by Contractor on behalf of Southeastrans. This provision shall apply to PHI

that is in the possession of subcontractors or agents of Contractor. Neither Contractor nor its agents nor subcontractors shall retain copies of the PHI.

- (2) In the event that Contractor determines that returning or destroying the PHI is not feasible, Contractor shall send Southeastrans detailed written notice of the specific reasons why it believes such return or destruction not feasible and the factual basis for such determination, including the existence of any conditions or circumstances which make such return or disclosure infeasible. If Southeastrans determines, in the exercise of its sole discretion, that the return or destruction of such PHI is not feasible, Contractor agrees that it will limit its further use or disclosure of PHI only to those purposes Southeastrans may, in the exercise of its sole discretion, deem to be in the public interest or necessary for the protection of such PHI, and will take such additional action as Southeastrans may require for the protection of patient privacy or the safeguarding, security and protection of such PHI.
- (3) If neither termination nor cure are feasible, Southeastrans shall report the violation to the Secretary.
- (4) Section 5. B. of this Agreement, regarding the effect of termination or expiration, shall survive the termination of this Agreement.

C. Conflicting Termination Provisions.

In the event of conflicting termination provisions or requirements, with respect to PHI, the termination provisions of Section 5 in this Business Associate Agreement shall control and supercede and control those in the underlying Contract.

6. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Southeastrans to comply with applicable Medicaid laws, rules and regulations, and the Privacy Rule, and any rules, regulations, requirements, rulings, interpretations, procedures or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable Medicaid laws, rules and regulations and the laws of the State of Georgia shall supercede the Privacy Rule if, and to the extent that, they impose additional requirements, have requirements that are more stringent than or have been interpreted to provide greater protection of patient privacy or the security or safeguarding of PHI than those of HIPAA and its Privacy Rule.
7. All other terms and conditions contained in the Contract and any amendment thereto, not amended by this Amendment, shall remain in full force and effect.

Signatures on following page

