

Business Associate Addendum to Transaction Service Agreement

This Business Associate Addendum to Transaction Service Agreement (this “Addendum”), effective this signed date is entered into by and between Orion Healthcare Technology, Inc. (“Orion”) and Webb County Texas (“the Covered Entity) named below (each a “Party” and collectively the “Parties”).

WITNESSETH:

WHEREAS, the U.S. Department of Health and Human Services (“HHS”) has issued final regulations, pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), governing the privacy of individually identifiable health information obtained, created or maintained by certain entities, including health care providers (the “HIPAA Privacy Rule”); and

WHEREAS, the HIPAA Privacy Rule requires that the Covered Entity enter into this Addendum with the Orion in order to protect the privacy of individually identifiable health information maintained by the Covered Entity (“Protected Health Information”, or “PHI”); and

WHEREAS, the Parties have an existing Transaction Service Agreement dated on or about the date of this Addendum, under which Orion and its employees, affiliates, agents or representatives may access paper and/or electronic records containing PHI in carrying out their obligations to the Covered Entity pursuant to either the existing or contemporaneously executed agreement for services (the “Services Agreement”); and

WHEREAS, both Parties are committed to complying with the HIPAA Privacy Rule. This Addendum sets forth the terms and conditions pursuant to which PHI that is provided by, or created or received by, Orion from or on behalf of the Covered Entity, will be handled between Orion and the Covered Entity and with third parties during the term of the Services Agreement and after its termination. The Parties agree as follows:

1. PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

1.1 Services. Pursuant to the Services Agreement, Orion provides services (“Services”) for the Covered Entity that involve the use and disclosure of PHI. Except as otherwise specified herein, Orion may make any and all uses of PHI necessary to perform its obligations under the Services Agreement. All other uses not authorized by this Addendum are prohibited. Moreover, Orion may disclose PHI for the purposes authorized by this Addendum only, (i) to its employees, subcontractors and agents, in accordance with Section 2.1(d), (ii) as directed by the Covered Entity, or (iii) as otherwise permitted by the terms of this Addendum.

1.2 Business Activities of Orion. Unless otherwise limited herein, Orion may:

- a. Use the PHI in its possession for its proper management and administration and/or to fulfill any of its present or future legal responsibilities, provided that such uses are permitted under state and federal confidentiality laws.
- b. Disclose the PHI in its possession for the purpose of its proper management and administration or to fulfill any of its present or future legal responsibilities provided that disclosures are Required By Law (as defined in 45 CFR 164.501) or Orion 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 or for the purpose for which it was disclosed to the person, and the person notifies Orion of any instances of which it is aware in which the confidentiality of the information has been breached.
- c. Use or disclose PHI on behalf of, or to provide services to, Covered Entity for the following purposes, if such use or disclosure of PHI would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity:
 - (1) Performance of location information services;
 - (2) Mailing of collection or billing notices;
 - (3) Telephone requests for payment;
 - (4) Establishment of repayment plans;
 - (5) Review of health care services with respect to coverage under a health plan or justification of charges;
 - (6) Commencement of litigation (through retained counsel) after assignment.

2. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PROTECTED HEALTH INFORMATION

2.1 Responsibilities of Orion. With regard to its use and/or disclosure of PHI, Orion hereby agrees to the following:

- a. Use and/or disclose PHI only as permitted or required by this Addendum or as otherwise required by law.
- b. Report to the Privacy Officer of the Covered Entity, in writing, any use and/or disclosure of PHI that is not permitted or required by this Addendum of which Orion becomes aware within five (5) days of its discovery of such unauthorized use and/or disclosure. Orion shall report to Covered Entity any remedial actions taken or proposed to be taken with regard to the improper use or disclosure of PHI and agrees to mitigate, to the extent practicable, any harmful effect known to Orion in violation of the requirements of this Addendum.

- c. Use appropriate safeguards to maintain the security of the PHI and to prevent unauthorized use and/or disclosure of such PHI.
- d. Require all of its subcontractors and agents that receive or use, or have access to, PHI under this Addendum to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Orion pursuant to Section 2 of this Addendum.
- e. Make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of PHI received from, created by, or received by Orion on behalf of the Covered Entity to the Secretary of HHS for purposes of determining the Covered Entity's compliance with the HIPAA Privacy Rule.
- f. Within ten (10) days of receipt of written request from the Covered Entity, make available during normal business hours at Orion's offices all records, books, agreements, policies and procedures relating to the use and/or disclosure of PHI to the Covered Entity for purposes of enabling the Covered Entity to determine Orion's compliance with the terms of this Addendum.
- g. Within ten (10) days of receiving a written request from the Covered Entity that it has received a request for an accounting of disclosures of PHI regarding an individual during the six (6) years prior to the date on which the accounting was requested, Orion shall make available to the Covered Entity such information as is in its possession and is required for the Covered Entity to make the accounting required by 45 C.F.R. § 164.528. At a minimum, Orion shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to Orion, Orion shall within two (2) days forward such request to the Covered Entity. It shall be the Covered Entity's responsibility to prepare and deliver any such accounting requested. Orion hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this section.
- h. Disclose to its subcontractors, agents or other third parties, and request from the Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.

2.2 Responsibilities of the Covered Entity. With regard to the use and/or disclosure of PHI by Orion, the Covered Entity hereby agrees:

- a. To inform Orion of any limitations in its notice of privacy practices in accordance with 45 C.F.R. §164.520, to the extent that such limitation may affect Orion's use or disclosure of PHI.

- b. To notify Orion, in writing and in a timely manner, of any arrangements permitted or required of the Covered Entity under 45 C.F.R. part 160 and 164 that may impact in any manner the use and/or disclosure of PHI by Orion under this Addendum, including, but not limited to, restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by the Covered Entity.
- c. To inform Orion of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Orion's use or disclosure of PHI.

3. ADDITIONAL RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PROTECTED HEALTH INFORMATION

3.1 Responsibilities of Orion with Respect to Handling of Designated Record Set. With respect to PHI contained in a Designated Record Set, as defined at 45 C.F.R. § 164.501, Orion hereby agrees to do the following:

- a. At the request of, and in the time and manner designated by the Covered Entity, provide access to the PHI to the Covered Entity or the individual to whom such PHI relates or his or her authorized representative in order to meet a request by such individual under 45 C.F.R. § 164.524.
- b. At the request of, and in the time and manner designated by the Covered Entity, make any Addendum(s) to the PHI that the Covered Entity directs pursuant to 45 C.F.R. § 164.526. Provided, however, that the Covered Entity makes the determination that the Addendum(s) are necessary because the PHI that is the subject of the Addendum(s) has been, or could foreseeably be, relied upon by Orion or others to the detriment of the individual who is the subject of the PHI to be amended.

4. REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of Orion.

Orion represents and warrants to the Covered Entity:

- a. That neither the execution of this Addendum, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. Orion represents and warrants to the Covered Entity that it will not enter into any agreement the execution and/or performance of which would violate or interfere with this Addendum.
- b. That all of its employees, agents, representatives and members of its workforce, whose services may be used to fulfill obligations under this Addendum are or shall be appropriately informed of the terms of this Addendum and are under legal obligation to

the Covered Entity, by contract or otherwise, sufficient to enable the Covered Entity to fully comply with all provisions of this Addendum including, without limitation, the requirement that modifications or limitations that the Covered Entity has agreed to abide by with regards to the use and disclosure of the PHI of any individual that materially affects and/or limits the uses and disclosures that are otherwise permitted under the HIPAA Privacy Rule will be communicated to Orion, in writing, and in a timely fashion.

4.2 Representations and Warranties of Covered Entity.

Covered Entity represents and warrants to Orion:

- a. That all PHI disclosed to Orion by the Covered Entity or caused to be disclosed to Orion by the Covered Entity has been obtained and disclosed to Orion in compliance with the HIPAA Privacy and Security Rules.
- b. That in the event the Covered Entity has notice or reason to believe that any PHI was obtained by the Covered Entity or disclosed to Orion not in compliance with the HIPAA Privacy Rule, Covered Entity will immediately notify Orion in writing of such event.

5. TERMS AND TERMINATION

5.1 Term. This Addendum will automatically terminate without any further action of the Parties upon the termination or expiration of the Services Agreement; provided, however, certain provisions and requirements of this Addendum shall survive its expiration or other termination in accordance with Section 6.1 herein.

5.2 Termination by the Covered Entity. As provided for under 45 C.F.R. § 164.504(e)(2)(iii), the Covered Entity may immediately terminate this Addendum and any related agreements if the Covered Entity makes the determination that Orion has breached a material term of this Addendum. Alternatively, the Covered Entity may choose to: (i) provide Orion with thirty (30) days written notice of the existence of an alleged material breach; and (ii) afford Orion an opportunity to cure said alleged material breach to the satisfaction of the Covered Entity. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of this Addendum.

5.3 Grounds for Breach. Any noncompliance by Orion with this Addendum or the HIPAA Privacy Rule will automatically be considered to be grounds for breach, if Orion knew or reasonably should have known of such noncompliance and failed to immediately take reasonable steps to cure the noncompliance.

5.4 Effect of Termination. Upon the event of termination pursuant to this Section 5, Business Associate agrees to return or destroy, within thirty (30) days of the termination of this Addendum, all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(I), if it is feasible to do so which for purposes of this Addendum shall include the destruction of all copies and backup tapes. Prior to doing so, Orion further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for Orion to return or destroy said PHI, Orion will notify the Covered Entity in writing. Said notification shall include: (i) a statement that Orion has determined that it is infeasible to return or destroy the PHI in its possession,

and (ii) the specific reasons for such determination. Orion further agrees to extend any and all protections, limitations and restrictions contained in this Addendum to Orion's use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. If it is infeasible for Orion to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, Orion must provide a written explanation to the Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Addendum to the subcontractors' and/or agents' use and/or disclosure of any PHI retained after the termination of this Addendum, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

6. MISCELLANEOUS

- 6.1 Survival. The respective rights and obligations of Orion and Covered Entity under the provisions of Sections 5.3 and Section 2.1 solely with respect to PHI Orion retains in accordance with Section 5.3 because it is not feasible to return or destroy such PHI, shall survive termination of this Addendum indefinitely. In addition, Section 3 shall survive termination of this Addendum, provided that the Covered Entity determines that the PHI being retained pursuant to Section 5.3 herein constitutes a Designated Record Set.
- 6.2 Addendums; Waiver. This Addendum may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. 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.
- 6.3 No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.
- 6.4 Counterparts; Facsimiles. This Addendum 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.
- 6.5 Disputes. If any controversy, dispute or claim arises between the Parties with respect to this Addendum, the Parties shall make good faith efforts to resolve such matters informally.
- 6.6 Covered Entity Right to Cure Breach. The Covered Entity may remedy any breach of this Addendum by Orion's without waiver of any of its rights under this Addendum or the Services Agreement.
- 6.7 Indemnification. Indemnification: Orion shall defend, indemnify and hold Covered Entity harmless from any and all loss, expense, cost or liability (including reasonable legal fees and expenses), arising from any claim or cause of action for any loss or damage caused by or arising from the performance of Orion's obligations under this agreement, including,


but not limited to, the conduct of Orion's employees and/or any acts performed under this contract and that result from any negligent act, error or omission of Orion or of any person employed by Orion. In case of any such claim, Orion, upon notice from Covered Entity, covenants to defend any such action or proceeding. Orion shall also save and hold harmless Covered Entity from and against any and all expenses, court costs, including but not limited to attorney's fees that might be incurred, in litigation or otherwise defending or prosecuting claims.

- 6.8 Injunctive Relief. Notwithstanding any rights or remedies provided for in this Addendum, the Covered Entity retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI by Orion or any agent, subcontractor or third party that receives PHI from Orion. Orion expressly acknowledges that any breach of the Addendum would result in irreparable harm to the Covered Entity and the Covered Entity has the right to seek an injunction and other legal and equitable rights and remedies available under the law.
- 6.9 Data Ownership. Orion expressly acknowledges that as between Orion and the Covered Entity, the covered Entity is the owner of the PHI.
- 6.10 Interpretation. Any ambiguity in this agreement shall be resolved in favor of a meaning that permits the Covered Entity to comply with the Privacy Rule.

IN WITNESS WHEREOF, each of the undersigned has caused this Addendum to be duly executed in its name and on its behalf effective as of the signed date below.

Orion Healthcare Technology

Covered Entity

Signed By: 
Print Name: Dylan Lambrecht
Print Title: Account Executive
Date: 5/14/2021

Company _____
Address _____
City, State _____
Zip _____
Signed By: _____
Print Name: _____
Print Title: _____
Date: _____