



BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“**BAA**”) is between the “Client” identified in the EDI Services Agreement Purchase Order (“**Covered Entity**”) and TriZetto Provider Solutions, LLC (“**TriZetto**”), each a “**Party**” and together the “**Parties**.”

TriZetto provides certain services to Covered Entity pursuant to the EDI Services Agreement (the “**Services Agreement**”). These services qualify TriZetto as a Business Associate to Covered Entity.

The Parties are entering into this BAA to set forth the terms on which TriZetto may use and disclose Protected Health Information as Covered Entity’s Business Associate. The Parties agree as follows:

1. Definitions. Capitalized terms not otherwise defined in this BAA shall have the meanings as set forth in the HIPAA Rules.

“**HIPAA Rules**” means collectively the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (“**HITECH**”) Act, and its implementing regulations set forth at 45 CFR Parts 160 and 164, including the Privacy, Security, Breach Notification and Enforcement Rules.

“**Protected Health Information**” and “**PHI**” have the same meaning as the term “protected health information” in 45 CFR §160.103, as applied to the information created or received by TriZetto from or on behalf of Covered Entity.

“**Security Incident**” has the same meaning as “security incident” in 45 CFR §164.304, excluding immaterial or trivial incidents that occur on a daily basis, such as “scans,” “pings,” or an unsuccessful attempt to improperly access Electronic PHI that is stored in an information system under its control.

2. Obligations and Activities of Business Associate.

2.1. Uses and Disclosures of PHI. TriZetto shall not use or disclose PHI other than as permitted or required by the Services Agreement or as required by law.

2.2. Safeguards. TriZetto shall use reasonable and appropriate safeguards in compliance with Subpart C of 45 CFR Part 164 with respect to PHI in electronic format and to prevent use or disclosure of PHI other than as provided for by this BAA.

2.3. Reporting of Improper Use or Disclosure, Breach or Security Incident. TriZetto shall report to Covered Entity in writing within 30 days after Discovery any use or disclosure of PHI not provided for by this BAA, including any Security Incident or Breach of Unsecured PHI. Such notice shall include the identification of each Individual whose PHI has been or is reasonably believed by TriZetto to have been accessed, acquired, or disclosed. TriZetto shall cooperate with Covered Entity in investigating a Breach or Security Incident so that Covered Entity may meet Covered Entity’s obligations under the HIPAA Rules and any other breach notification law. TriZetto agrees to

mitigate, to the extent reasonably practicable, any harmful effect that is known to TriZetto of a use or disclosure of PHI by TriZetto in violation of the requirements of this BAA.

2.4. Subcontractors. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308 (b)(2), TriZetto shall require that its subcontractors and agents that create, receive, maintain or transmit PHI agree to the same or no less stringent restrictions, conditions and requirements that apply to TriZetto with respect to such information.

2.5. Access to PHI. Within 15 days of receiving a written request from Covered Entity, TriZetto shall make available PHI in a Designated Record Set in accordance with the terms of the Services Agreement and 45 CFR §164.524.

2.6. Amendment to PHI. Within 15 days after receiving a written request from Covered Entity, TriZetto shall make available to Covered Entity PHI in a Designated Record Set for amendment or incorporate any amendments to PHI in accordance with the terms of the Services Agreement and 45 CFR §164.526.

2.7. Accounting for Disclosures. Within 30 days after receiving a written request, TriZetto shall make available to Covered Entity the information necessary for Covered Entity to respond to a request for an accounting of disclosures in accordance with 45 CFR §164.528. If it will take longer than 30 days to compile the information, TriZetto shall inform Covered Entity of the delay and the reason for the delay.

2.8. Covered Entity's Obligations. To the extent TriZetto is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, TriZetto shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

2.9. Governmental Access to Records. TriZetto shall make available its internal practices, books, and records relating to the use and disclosure of PHI to the Secretary for purposes of determining compliance with the HIPAA Rules. TriZetto's provision of any internal practices, books or records or cooperation with any audit shall not be deemed to waive any legal privilege to which TriZetto is entitled under the law.

2.10. Marketing and Sale of PHI. TriZetto shall not use or disclose PHI for marketing purposes unless expressly directed by Covered Entity, and in accordance with §13406(a) of the HITECH Act and 45 CFR §164.508(a)(3). TriZetto shall comply with the prohibition on the sale of PHI in accordance with §13405(d) of the HITECH Act and 45 CFR §164.502(a)(5)(ii).

3. Permitted Uses and Disclosures by Business Associate.

3.1. Uses and Disclosures of PHI. Except as otherwise limited in this BAA, TriZetto may use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity.

3.2. Uses and Disclosures Required by Law. TriZetto may use or disclose PHI as required by law. TriZetto may disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR §164.502(j)(1).

3.3. Minimum Necessary. TriZetto shall limit its uses, disclosures and requests for PHI to the minimum necessary to achieve the specific purpose of the use, disclosure or request in compliance with the HIPAA Rules.

3.4. Permitted Uses of PHI. Except as otherwise limited in this BAA, TriZetto may use PHI for the proper management and administration of TriZetto or to carry out the legal responsibilities of TriZetto.

3.5. Permitted Disclosures of PHI. Except as otherwise limited in this BAA, TriZetto may disclose PHI for the proper management and administration of TriZetto or to carry out the legal responsibilities of TriZetto, provided the disclosures are required by law or TriZetto obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and shall be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and that the person agrees to notify TriZetto of any instances of which it is aware in which the confidentiality of the information has been breached.

3.6. Data Aggregation and De-identified Data. Except as otherwise limited in this BAA, TriZetto may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR §164.504(e)(2)(i)(B). TriZetto may use or disclose PHI for any purpose and without obligation to Covered Entity provided that such data has been de-identified in accordance with the standards set forth in 45 CFR §164.514(b) either by Covered Entity or by TriZetto on Covered Entity's behalf.

4. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.

4.1. Notice Changes. Covered Entity shall notify TriZetto 15 days prior to the effective date of any limitations in Covered Entity's Notice of Privacy Practices under 45 CFR §164.520 to the extent that such limitation may affect TriZetto' use or disclosure of PHI.

4.2. Changes in Authorization. Covered Entity shall notify TriZetto 15 days prior to the effective date of any changes in, or revocation of, authorizations to use or disclose PHI to the extent that such changes may affect TriZetto' use or disclosure of PHI.

4.3. Requests for Restrictions. Covered Entity shall notify TriZetto 15 days prior to the effective date of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR §164.522, to the extent that such restriction may affect TriZetto' use or disclosure of PHI.

4.4. Permissible Requests by Covered Entity. Covered Entity shall not request TriZetto to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity or is otherwise not permitted under this BAA.

4.5. Compliance with the HIPAA Rules. Covered Entity in performing its obligations and exercising its rights under the Services Agreement and this BAA shall use and disclose PHI in compliance with the applicable provisions of the HIPAA Rules.

4.6. Compliance with Other Laws. Covered Entity shall be responsible for obtaining any authorizations or patient permission necessary under applicable federal and state law to disclose PHI to TriZetto and for TriZetto to use the PHI for the purposes outlined in this BAA and the Services Agreement.

5. Term and Termination.

5.1. Term. This BAA shall terminate when all of the PHI provided by Covered Entity to TriZetto, or created or received by TriZetto 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 **Section 5.4 Effect of Termination.**

5.2. Termination by Covered Entity. Upon Covered Entity's knowledge of a material breach or violation of this BAA by TriZetto, Covered Entity may either: (i) provide an opportunity for TriZetto to cure the breach or end the violation within the time reasonably specified by Covered Entity, or (ii) immediately terminate this BAA and the Services Agreement if cure is not possible.

5.3. Termination by TriZetto. Upon TriZetto's knowledge of a material breach by Covered Entity of this BAA, TriZetto may either: (i) provide an opportunity for Covered Entity to cure the breach or end the violation within the time reasonably specified by TriZetto, or (ii) immediately terminate this BAA and the Services Agreement if cure is not possible.

5.4. Effect of Termination. Within 90 days after the termination of this BAA, TriZetto shall return to Covered Entity or destroy all PHI in its possession and retain no copies, if it is feasible to do so. Any PHI destroyed by TriZetto in accordance with this BAA shall, to the extent practicable, comply with guidance for the destruction of PHI issued by the Secretary from time to time. If return or destruction is infeasible, TriZetto shall extend all protections contained in this BAA to TriZetto's use or disclosure of any retained PHI, and shall limit any further uses or disclosures to those purposes that make the return or destruction of the PHI infeasible. The obligations of TriZetto under this **Section 5.4** shall survive the termination of this BAA.

6. Miscellaneous.

6.1. Injunctive Relief. Notwithstanding any other provision of this BAA, Covered Entity retains its rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of PHI by TriZetto or any third party that received PHI from TriZetto.

6.2. Indemnification by TriZetto. If an unaffiliated third party brings a claim against Covered Entity or any of its officers, agents or employees because TriZetto or any of its officers, agents or employees used or disclosed PHI in violation of this BAA, then TriZetto shall defend the claim and shall pay all defense costs, any settlement amount negotiated by TriZetto, and all damages awarded by a court, or a government agency with appropriate authority, after all appeals have concluded.

6.3. Indemnification by Covered Entity. If an unaffiliated third party brings a claim against TriZetto or any of its officers, agents or employees because Covered Entity or any of its officers, agents or employees used or disclosed PHI in violation of this BAA, then Covered Entity shall defend the claim and shall pay all defense costs, any settlement amount negotiated by Covered Entity, and all damages awarded by a court, or a government agency with appropriate authority, after all appeals have concluded.

6.4. Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended.

6.5. Amendment. If the HIPAA Rules are amended in a manner that materially changes the obligations of Covered Entity or TriZetto under this BAA, or any of TriZetto contractors or agents that are subject to terms that flow from this BAA, the Parties agree to negotiate in good faith to amend this BAA, and if applicable the Services Agreement, to comply with the requirements of the HIPAA Rules and any applicable law.

6.6. Interpretation. Any ambiguity in this BAA shall be resolved in favor of a meaning that permits the Parties to comply with the HIPAA Rules.

6.7. No Third Party Beneficiaries. There are no intended third-party beneficiaries under this BAA other than each Party's successors or permitted assigns and other than those who are expressly intended to benefit from the indemnification obligations under **Sections 6.2** and **6.3**.

6.8. Governing Law. This BAA is governed by and shall be interpreted in accordance with the state laws that govern the Services Agreement.

6.9. Binding Agreement. This BAA binds the Parties and each of their respective successors and permitted assigns.

6.10. Entire Agreement. This BAA is the entire and only agreement between the Parties regarding its subject matter. This BAA supersedes and fully integrates all prior and contemporaneous discussions, understandings, and agreements between the Parties regarding its subject matter. To the extent that there is any inconsistency between this BAA and the Services Agreement, this BAA shall control. No amendment or additions to this BAA shall be binding unless in writing and signed by both Parties.