

ADDENDUM TO BUSINESS ASSOCIATE AGREEMENT
[INSERT NAMES OF COVERED ENTITY & BUSINESS ASSOCIATE]

Dated: _____

This is an Addendum (Addendum) to a Business Associate Agreement by and [INSERT] (Covered Entity) and [INSERT] (Business Associate).

A. The purpose of this Addendum is amend a certain Business Associate Agreement dated [INSERT] (Business Associate Agreement) between Covered Entity and Business Associate (a true copy of the Business Associate Agreement is attached to this Addendum as Exhibit “A”), as required by the provisions of the Security Rule (defined below).

B. In consideration of the mutual covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. Definitions.

Capitalized terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Business Associate Agreement or in the Security Rule.

“Business Associate” means the party first identified above as Business Associate.

“Covered Entity” means the party first identified above as Covered Entity.

“Electronic Protected Health Information” shall have the same meaning as the term “electronic protected health information” in 45 CFR § 160.103, limited however to the information created or received by Business Associate from or on behalf of Covered Entity.

“Security Incident” shall have the same meaning as the term “security incident” in 45 CFR § 164.304.

“Security Rule” means the Security Standards at 45 CFR Part 160 and Part 164, subparts A and C.

II. Obligations and Activities of Business Associate.

A. Without derogating from Business Associate’s agreement to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by or permitted under the Business Associate Agreement, from and after the compliance date of the Security Rule, Business Associate agrees to

implement administrative, physical, and technical safeguards in accordance with the Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.

B. From and after the compliance date of the Security Rule, Business Associate agrees to report any Security Incident to Covered Entity.

III. Miscellaneous.

A. Regulatory References. A reference in the Business Associate Agreement, as amended by this Addendum, to a Section in the Security Rule means the Section as enforceable at the applicable time.

B. Amendment. The Parties agree to take such action as is necessary to amend the Business Associate Agreement, as amended by this Addendum, from time to time as is necessary for Covered Entity to comply with the requirements of the Security Rule. In amplification and not in limitation of this Section B and upon the request of Covered Entity, Business Associate agrees from time to time to execute such amendments to the Business Associate Agreement, if, as and when required by HIPAA, in order to permit Covered Entity to comply with HIPAA.

C. Interpretation. Any ambiguity in the Business Associate Agreement, as amended by this Addendum, shall be resolved to permit Covered Entity to comply with the Privacy Rule and the Security Rule.

D. Cooperation and Reasonableness. The parties hereto acknowledge and agree that the Business Associate Agreement, as amended by this Addendum, is intended to address a complex series of rights and relationships, and that in the course of activity pursuant to the Business Associate Agreement many matters may arise that require further clarification or memorialization in order to carry out the purposes and intentions of the parties hereto as set forth in the Business Associate Agreement, as amended by this Addendum; accordingly, the parties hereto agree to negotiate in good faith with respect to such matters and to execute and deliver any and all documents and instruments reasonably necessary to effectuate such good faith negotiation, in order to help Covered Entity comply with Covered Entity's obligations under the Privacy Rule and the Security Rule.

E. Headings and Section References. The headings of the sections and paragraphs of this Addendum to the Business Associate Agreement are included for convenience only and are not intended to be a part of, or to affect the meaning or interpretation of, this Addendum or the Business Associate Agreement.

F. Full Force and Effect. As amended by this Addendum, the Business Associate Agreement is and shall remain in full force and effect, in accordance with its terms.

Preliminary Draft For Discussion Purposes Only
Alan S. Goldberg, Washington, DC - For Educational Purposes Only

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have executed this Addendum as of the date first set forth above. The parties hereto further certify that the persons signing this Addendum are duly authorized to do so.

COVERED ENTITY:

[INSERT]

By: _____

Name:

Its: President

BUSINESS ASSOCIATE:

[INSERT]

By: _____

Name:

Hereunto duly authorized

ASG/tt