

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “Agreement”) is entered into effective as of \_\_\_\_\_ by and between \_\_\_\_\_ (herein “Covered Entity”) and careviso Inc. (herein “Business Associate”) to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information (“PHI”) and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. Section 1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as “HIPAA”).

### RECITALS

A. Business Associate anticipates providing services to Covered Entity in Business Associate’s capacity as a party that may perform administrative duties related to prior authorization requests of commercial insurance plans of members receiving services from Covered Entity.

B. Covered Entity may disclose information to Business Associate which constitutes Protected Health Information as defined under HIPAA.

C. The purpose of this Agreement is to satisfy the requirements of HIPAA that Business Associate provide satisfactory written assurances to Covered Entity that it will comply with the applicable requirements of HIPAA.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

**1. Definitions.** Unless otherwise defined in this Agreement, including the definitions stated in the Recitals, which are incorporated into this Section 1 by reference, capitalized terms have the meanings ascribed to them under HIPAA or in the Participation Agreement for purposes of this Business Associate Agreement.

a) Breach. “Breach” means the unauthorized acquisition, access, use, or disclosure of Unsecured Protected Health Information which compromises the security or privacy of such information, subject to the statutory exceptions specified at Section 13400 of the HITECH Act and to the regulatory exclusions specified at 45 C.F.R. §164.402 and any future amendments thereto.

b) Guidance. “Guidance” shall mean official guidance of the Secretary as specified in the HITECH Act and any other official guidance or interpretation of HIPAA by a federal governmental agency with jurisdiction.

c) Designated Record Set. “Designated Record Set” shall mean a group of records maintained by or for an individual patient by Covered Entity (a “Patient”) that is/are (i) the medical records and billing records about individuals maintained by or for a Patient; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. For purposes of this definition, record means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.

d) HITECH Act. "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health Act, enacted as Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, and implementing Regulations and Guidance.

e) HITECH Compliance Date. "HITECH Compliance Date" shall mean September 23, 2013, the date on which compliance with the HITECH Modifications to the HIPAA Privacy, Security Enforcement and Breach Notification Regulations is required.

f) Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E, as amended by the HITECH Act, as may be implemented by Guidance.

g) Protected Health Information or PHI and ePHI. "Protected Health Information" and "PHI" shall have the same meaning as the term "protected health information" in HIPAA and shall include ePHI. Specific references to "ePHI" shall be deemed to refer only to PHI in electronic form. All references to PHI or ePHI in this Agreement shall refer only to PHI or ePHI of Covered Entity created, received, maintained or transmitted by Business Associate under the Participation Agreement unless specifically stated otherwise. Protected Health Information includes Genetic Information.

h) Security Incident. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

i) Security Standards. "Security Standards" shall mean the Security Standards at 45 CFR parts 160, 162 and 164, as amended by the HITECH Act and as may be implemented by Guidance.

j) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

k) Subcontractor. "Subcontractor" shall mean a person or entity to which Business Associate delegates a function, activity or service involving access to PHI or ePHI of Covered Entity, other than as a member of Business Associate's Work Force.

l) Unsecured. "Unsecured" as applied to Protected Health Information means Protected Health Information in any form, electronic, paper or oral, that is not secured through the use of a technology or methodology specified by the Secretary in Regulations or Guidance.

## STATEMENT OF AGREEMENT

§1. HIPAA Compliance and Agents. Business Associate hereby agrees to fully comply with the “Business Associate” requirements under HIPAA, throughout the term of this Agreement. Further, Business Associate agrees that to the extent it has access to PHI, Business Associate will fully comply with the requirements of HIPAA and this Agreement with respect to such PHI. Notwithstanding anything to the contrary in the services agreement or this Agreement, Business Associate, subject to the restrictions set forth in this provision, may use subcontractors to fulfill its obligations under this Agreement. Business Associate further agrees that every Subcontractor, or agent of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, will be required to fully comply with HIPAA, and will be bound by written agreement to the same or similar restrictions and terms and conditions as set forth in this Agreement. Upon Business Associate’s knowledge of a pattern of activity or practice of a Subcontractor in violation of the requirements of the foregoing agreement, Business Associate will provide notice an opportunity, not longer than ten (10) business days after the notice, for the Subcontractor to end the violation. Business Associate will terminate the agreement with that Subcontractor if the Subcontractor does not end the violation within the time specified by the Business Associate.

§2. Use and Disclosure; Rights. Business Associate agrees to not Use or further Disclose Protected Health Information other than as permitted or required to perform administrative duties related to prior authorization requests of commercial insurance plans of members receiving services from Covered Entity, this Agreement, or as required by Law and to otherwise comply with the provisions HIPAA applicable to Business Associate. As of the HITECH Compliance date, this includes the restrictions on the Sale of PHI and on its use for Marketing provided in the HITECH Modifications to the HIPAA Privacy, Security Enforcement and Breach Notification Regulations. Business Associate acknowledges that this Agreement does not in any manner grant Business Associate any greater rights than Covered Entity enjoys, nor shall it be deemed to permit or authorize Business Associate to use or further disclose PHI in a manner that would otherwise violate the requirements of HIPAA if done by Covered Entity. To the extent that Business Associate is to carry out any of Covered Entity’s obligations that are regulated by HIPAA, Business Associate shall comply with the HIPAA requirements that apply to the Covered Entity in the performance of such obligation.

§3. Required or Permitted Uses. Business Associate may Use or Disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity to provide administrative duties related to prior authorization requests of commercial insurance plans of members receiving services from Covered Entity, provided that such Use or disclosure would not violate the Privacy Rule if done by the Covered Entity, and also including the following:

a. Except as otherwise limited in this Agreement, Business Associate may Disclose Protected Health Information for the proper management and administration of the Business Associate, to report violations of the law to law enforcement, or to carry out legal responsibilities of Business Associate, provided that such disclosures are Required by Law, or Business Associate obtains reasonable assurances, in a form substantially similar to a Business Associate Agreement, 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

b. Business Associate may Use Protected Health Information to provide Data Aggregation services to Covered Entity to the extent provided to perform administrative duties related to prior authorization requests of commercial insurance plans of members receiving services from Covered Entity. In addition, Business Associate is permitted, for Data Aggregation purposes to the extent permitted under HIPAA, to use, disclose, and combine Protected Health Information (as defined above) with Protected Health Information, as defined by 45 C.F.R. 160.103, received by Business Associate in its capacity as a business associate of other covered entities, to permit data analyses that relate to the Health Care Operations of the respective covered entities and/or Covered Entity.

c. Business Associate may de-identify any and all PHI created or received by Business Associate under this Agreement. Once PHI has been de-identified pursuant to 45 CFR 164.514(b), such information is no longer Protected Health Information and no longer subject to this Agreement.

§4. Safeguards. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for in Section 2 above. If and to the extent Protected Health Information disclosed to, accessed, used, maintained, held, or created by Business Associate is ePHI, Business Associate will comply with the applicable provisions of the Security Standards, by providing Administrative, Physical, and Technical Safeguards for all ePHI and by developing Policies and Procedures implementing those Safeguards.

§5. Minimum Necessary. Business Associate must limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of HIPAA. Business Associate represents that all uses, disclosures, and requests it will make shall be the minimum necessary in accordance with HIPAA requirements. Covered Entity may, pursuant to HIPAA, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate. Business Associate acknowledges that if Business Associate is also a covered entity, as defined by HIPAA, Business Associate is required, independent of Business Associate's obligations under this Agreement, to comply with the HIPAA minimum necessary requirements when making any request for PHI from Covered Entity.

§6. Records; Covered Entity Access. Business Associate shall maintain such records of PHI received from, or created or received on behalf of, Covered Entity and shall document subsequent uses and disclosures of such information by Business Associate as may be deemed necessary and appropriate in the sole discretion of Covered Entity. Business Associate shall provide the Covered Entity with reasonable access to examine and copy such records and documents of Business Associate during normal business hours. Business Associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of HIPAA and any investigation of Covered Entity regarding compliance with HIPAA conducted by the U.S. Department of Health and Human Services ("DHHS"), Office of Civil Rights, or any other administrative or judicial body with jurisdiction.

§7. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to DHHS its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's or Business Associate's compliance with HIPAA.

§8. Designated Record Set; Individual Access. To the extent Business Associate maintains a Designated Record Set for the Covered Entity, Business Associate will make available, within a reasonable amount of time of receipt of an appropriate, written request, Protected Health Information in the Designated

Record Set, in accordance with the requirements of HIPAA. As of the HITECH Compliance Date, this includes information, if any, maintained in an Electronic Designated Record Set. Business Associate will report any request for Access that it receives directly from an Individual to Covered Entity within five (5) business days of receipt. The Covered Entity will determine any appropriate limitations on such Access and the parties will determine a reasonable method for providing such Access (including, if appropriate) Transmission to a Third Party.

§9. Accounting. Business Associate agrees to maintain and make available information required to provide an Accounting of its disclosures of Protected Health Information required for the Covered Entity to respond to a request by an Individual in accordance with the requirements of HIPAA. At such time as final regulations or Guidance as to Accounting for disclosures for purposes of Treatment, Payment and Health Care Operations are published, Business Associate will provide an amendment to this Agreement to specify the extent and manner in which such information will be recorded and provided, to be effective as of the date upon which compliance is required by Covered Entity.

§10. Report of Improper Use or Disclosure. Business Associate agrees to promptly report to Covered Entity any use or disclosure of the Protected Health Information not required to perform administrative duties related to prior authorization requests of commercial insurance plans of members receiving services from Covered Entity and/or this Agreement. Business Associate agrees to report to Covered Entity any Breach within two (2) business days of the first day the Breach is known, or reasonably should have been known, to the Business Associate, including for this purpose known to any employee, officer, or other agent of the Business Associate (other than the individual committing the Breach) ("Breach Notice"). The Breach Notice will include the date of the Breach and the date of discovery of the Breach and, to the extent known to Business Associate at the time in the exercise of reasonable diligence, identification of each Individual whose Unsecured PHI was, or is reasonably believed by the Business Associate to have been, subject to the Breach, and the nature of the PHI that was subject to the Breach and other information required for notification of Individuals of the Breach (collectively, "Breach Information"). Business Associate will notify Covered Entity in writing of any additional Breach Information not included in the Breach Notice or of the circumstances that prevent Business Associate from obtaining such information not later than ten (10) days after the Breach Notice was sent by Business Associate. Business Associate will cooperate with Covered Entity in the further investigation of the Breach, as reasonably required or as requested by Covered Entity. The steps required of Business Associate under this Section 10 shall be at Business Associate's expense. If Business Associate believes that the facts related to a Breach justify the application of any statutory exceptions specified at Section 13400 of the HITECH Act and to the regulatory exclusions specified at 45 C.F.R. §164.402, Business Associate shall describe those facts in the Breach Notice and the parties shall thereafter discuss the possible application of an exception or an exclusion, provided that any final decision on the availability of an exclusion or exception will be that of the Covered Entity.

The parties agree that this Section 10 satisfies any notices necessary by Business Associate to Covered Entity of the ongoing existence and occurrence of Unsuccessful Security Incidents for which no additional notice to Covered Entity shall be required, except on request as stated below. For purposes of this Agreement, such Unsuccessful Security Incidents include, without limitation, activity such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service and any combination of the above, so long as no such Unsuccessful Security Incident results in unauthorized access, use, disclosure, modification or destruction of electronic PHI or interference with information system operations related to the ePHI, provided that, upon written request from Covered Entity, Business Associate will provide a log or similar documentation of Unsuccessful Security Incidents for the period of time reasonably specified in Covered Entity's request. Successful Security Incidents will be reported to Covered Entity within five (5) business days of the date the Successful Security Incident is, or in the exercise of reasonable efforts should have been known, to

Business Associate. If the Successful Security Incident constitutes a Breach, the parties will proceed as required under this Agreement as to a Breach.

Business Associate agrees to use reasonable efforts to mitigate, at its expense, any harmful effect that is known to Business Associate to result from a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement, including without limitation a Breach. Business Associate will coordinate any mitigation efforts with Covered Entity.

§11. Amendment of and Access to PHI; Notification. To the extent Business Associate maintains a Designated Record Set for the Covered Entity, Business Associate agrees to make an Amendment, within a reasonable amount of time of receipt of a request, to Protected Health Information in the Designated Record Set, in accordance with the requirements of HIPAA. Business Associate will report any request for an Amendment that it receives directly from an Individual to Covered Entity within five (5) business days of receipt. The Covered Entity will determine any appropriate limitations on such Amendment.

Subject to receiving notice as described in this Agreement, Business Associate agrees to abide by any restriction on the Use or disclosure of PHI agreed to by Covered Entity, including an agreement of Covered Entity required by HIPAA not to disclose an item or service paid for entirely out-of-pocket by an Individual to a Health Plan for payment or health care operations purposes, unless such disclosure is Required by Law.

§12. Obligations of Covered Entity. Covered Entity represents and warrants to Business Associate that Covered Entity is not subject to any agreement that would preclude Covered Entity from sharing Protected Health Information with Business Associate as contemplated hereunder. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would violate applicable federal and state laws if such use or disclosure were made by Covered Entity. Covered Entity shall notify Business Associate of any limitation in any applicable notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by any individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

§13. Term. This Agreement is effective as the date of execution (the "Effective Date"). This Agreement shall terminate when the parties agree that no further administrative duties related to prior authorization requests of commercial insurance plans of members receiving services from Covered Entity are needed and all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is not feasible to return or destroy Protected Health Information, when protections are extended to such information, in accordance with the provisions of this agreement.

§14. Termination Rights. This Agreement may be terminated by either Party upon fifteen (15) days written notice to the other Party in the event that the other Party breaches any provision of this Agreement applicable to Protected Health Information and such breach is not cured within such fifteen (15) day period; provided, however, that in the event that termination of this Agreement is not feasible in Covered Entity's sole discretion, Business Associate hereby acknowledges that Covered Entity shall have the right to report the breach to the Secretary, notwithstanding any other provision of this Agreement to the contrary.

§15. Breach or Violation; Knowledge. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Agreement, Covered Entity shall take any steps reasonably necessary to cure such breach or end such violation, and, if such steps are unsuccessful, shall either (a) terminate this Agreement, if feasible, pursuant to §14, or (b) if termination is not feasible, report the breach or violation to DHHS.

§16. Return of PHI. Upon termination of this Agreement for any reason, Business Associate agrees to return or destroy (in a manner that renders the information Secure) all PHI received from, or accessed, maintained, used, disclosed and/or transmitted for or on behalf of, Covered Entity by Business Associate. If, or to the extent that, Business Associate reasonably determines that the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity in writing of the reason thereof, and agrees to extend the protections of this Agreement to such PHI and limit further Uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI not feasible until Business Associate returns or destroys the PHI

§17. Notices. All notices and other communications under this Agreement to any Party shall be in writing and shall be deemed given when delivered personally, mailed by certified mail (return receipt requested) to that Party at the address for that Party set forth at the end of this Agreement (or at such other address for such Party as such Party shall have specified in a notice to the other Parties), or delivered to Federal Express, UPS, or any similar express delivery service for delivery to that Party at that address.

§18. Non-Waiver. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

§19. Gender and Numbers; Headings. Where permitted by the context, each pronoun used in this Agreement includes the same pronoun in other genders and numbers, and each noun used in this Agreement includes the same noun in other numbers. The headings of the various sections of this Agreement are not part of the context of this Agreement, are merely labels to assist in locating such sections, and shall be ignored in construing this Agreement.

§20. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute the same Agreement.

§21. Entire Agreement; Conflicts. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter of this Agreement. In the event that any terms of this Agreement conflict with any terms of any service agreement, the terms of this Agreement shall govern and control.

§22. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the Parties and their respective heirs, personal representatives, successors, and assigns. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be transferred or assigned by Business Associate without the prior written consent of Covered Entity.

§23. Severability. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

§24. Survival. All representations, covenants, and agreements in or under this Agreement or any other

documents executed in connection with the transactions contemplated by this Agreement, shall survive the execution, delivery, and performance of this Agreement and such other documents.

§25. Further Assurances. Each Party shall execute, acknowledge or verify, and deliver any and all documents, which may from time to time be reasonably requested by the other Party to carry out the purpose and intent of this Agreement.

§26. Amendment. The parties agree that this amendment will be amended as necessary to comply with amended or new HIPAA regulations or Guidance (a "Regulatory Change"). Such amendments will be proposed by Business Associate, including the basis for the amendment, its text and the effective date. The amendment will be deemed accepted unless Covered Entity requests negotiation within fifteen (15) business days of receipt. If Covered Entity requests negotiation, the parties will discuss such amendments during a period of fifteen (15) business days after Business Associate's receipt of the request. If the parties are unable to mutually agree on the terms of the amendment within that time, either party may terminate this Agreement as of the effective date proposed in the Business Associate's notice to amend.

COVERED ENTITY

CAREVISO INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

CAREVISO  
7600 Leesburg Pike  
320 East  
Falls Church, VA 22043



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## REFERRAL CERTIFICATION AND AUTHORIZATION

By signing the Physician Signature field below, you are authorizing careviso to perform administrative duties for Prior Authorization, Referral Certifications and Notifications on your behalf. Pursuant to careviso policies this electronic identity credential will allow careviso to provide prior authorization and notifications for diagnostic tests.

You are requesting and authorizing careviso to help you prepare referral certification and prior authorization requests on your behalf. If required, you will personally review and sign, authenticate, and/or validate the orders which careviso has prepared on your behalf.

You represent and warrant that the use of third-party entities to submit prior authorization requests is not a breach of your obligation to any payer, and will immediately notify careviso if you become aware of a payer that precludes a physician's use of third party entities to seek prior authorization requests.

Your signature also authorizes careviso to perform audits to certify adherence to policies and procedures.

**Physician Signature (or Authorized Physician Designee):**

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By signing above, you assert that all representations and information provided are correct and current for purposes of creating and maintaining an electronic identity.

This authorization form will be active until such time as a written, dated and signed notification of revocation is received from you by careviso. Upon receipt of such notification, the capabilities will be deactivated and access to relevant systems will be discontinued.