

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into this 7 day of June 2016, by and between Northwell Health Inc., (formerly North Shore-Long Island Jewish Health System) ("Covered Entity") and Milliman, Inc. ("Business Associate"). 

WHEREAS, Covered Entity and Business Associate have entered into an agreement and may continue to enter into agreements, either written or oral, under which Business Associate will be providing certain services to Covered Entity (each a "Services Agreement");

WHEREAS, in connection with providing services under the Services Agreement, Business Associate will receive, use, disclose, create, maintain and/or transmit Protected Health Information on behalf of Covered Entity; and

WHEREAS, Covered Entity and Business Associate wish to enter into this Agreement governing Business Associate's use and disclosure of Protected Health Information for the purpose of complying with the privacy and security requirements set forth in 45 C.F.R. Parts 160 through 164, as amended (the "Regulations"), issued by the United States Department of Health and Human Services ("HHS") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH"). The Regulations, HIPAA and HITECH are hereinafter referred to collectively as the "Acts."

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises herein made, the parties agree as follows:

1. Definitions. Any capitalized terms used in this Agreement not otherwise defined herein shall have the meanings ascribed to them in the Acts.

2. Permitted Uses and Disclosures by Business Associate. Business Associate may use or disclose Protected Health Information only for the following purposes:

2.1 Business Associate may use or disclose Protected Health Information as permitted or required under the Services Agreement.

2.2 Business Associate may use or disclose Protected Health Information, if necessary, for Business Associate's proper management and administration or to fulfill any present or future legal responsibilities of Business Associate; provided, however, that if Business Associate discloses Protected Health Information to a third party for such purpose, Business Associate shall (i) obtain reasonable assurances from the person to whom the Protected Health Information is disclosed that it will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to such person and (ii) obligate such person to notify Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been Breached.

2.3 Business Associate may use or disclose Protected Health Information as Required By Law.

2.4 Business Associate may create a Limited Data Set for the purpose of performing its obligations and services for Covered Entity, provided that Business Associate otherwise complies with the provisions of this Agreement.

2.5 Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by the Regulations.

2.6 Business Associate may deidentify PHI in accordance with the requirements of the Regulations; provided that all identifiers are destroyed or returned in accordance with this Agreement.

3. Limitations on Use and Disclosure. Business Associate shall not use or disclose Protected Health Information, except as permitted by Section 2 hereof. Business Associate shall not use or disclose Protected Health Information received from, or created, maintained, received or transmitted on behalf of, Covered Entity in a manner that would violate the Acts (including the minimum necessary requirements thereof) if done by Covered Entity except that Business Associate may provide Data Aggregation services as specified in Section 2.5 hereof. Business Associate acknowledges and agrees that the requirements of the Acts that relate to privacy or security are applicable to Business Associate in the same manner that such requirements are applicable to Covered Entity. All such requirements are incorporated by reference into this Agreement.

4. Safeguards. Business Associate shall comply with the security standards at 45 C.F.R. Part 160 and 164 where applicable, and shall employ administrative, physical and technical safeguards, consistent with the size and complexity of Business Associate's operations, to ensure that Protected Health Information is used and disclosed in accordance with the terms of this Agreement. Without limiting the generality of the foregoing, Business Associate shall comply with the security standards set forth in 45 C.F.R. Sections 164.306, 164.308, 164.310, 164.312, 164.314 and 164.316.

5. Disclosure to Subcontractors. In the event Business Associate discloses to any Subcontractors, Protected Health Information received from, or created, received, maintained or transmitted by Business Associate on behalf of Covered Entity, Business Associate shall obtain from each such Subcontractor an agreement in writing to be bound by substantially the same restrictions and conditions regarding the use and disclosure of Protected Health Information as are applicable to Business Associate under this Agreement. Business Associate shall provide Covered Entity with copies of such written agreements.

6. Reporting and Mitigation of Improper Disclosures. Business Associate shall promptly report to Covered Entity any use or disclosure of Protected Health Information not provided for by, or in violation of, this Agreement of which Business Associate becomes aware. Business Associate shall fully cooperate with Covered Entity and mitigate, to the extent practicable, any harmful effects of any improper use or disclosure of Protected Health Information of which it becomes aware. Business Associate shall keep Covered Entity fully apprised of all mitigation efforts of Business Associate required under this Section 6.

7. **Notification of Breach.** Business Associate shall notify Covered Entity of any Breach involving Covered Entity's Unsecured Protected Health Information as soon as reasonably possible after Business Associate's discovery of the Breach, but in no event more than five (5) business days following discovery thereof. A Breach, for purposes of this Agreement, is considered "discovered" as of the first day on which the Breach is known, or reasonably should have been known, to Business Associate or any employee, officer or agent of Business Associate, other than the individual committing the Breach. Business Associate shall provide Covered Entity with all information necessary for Covered Entity to comply with Covered Entity's obligations under the Acts and shall provide full cooperation to Covered Entity in connection with the investigation of the Breach and notification of affected individuals. Without limiting Covered Entity's remedies under Section 13 or any other provision of this Agreement, in the event of a Breach involving Unsecured Protected Health Information maintained, transmitted, used or disclosed by Business Associate, Business Associate shall reimburse Covered Entity for the out-of-pocket cost of providing any legally required notice to affected Individuals and the cost of credit monitoring for such Individuals to extent deemed necessary by Covered Entity in its reasonable discretion.

8. **Individual Rights.**

8.1 Within three (3) business days of a request by Covered Entity, Business Associate shall provide to Covered Entity all Protected Health Information in a Designated Record Set in Business Associate's possession necessary for Covered Entity to provide Individuals or their representatives with access to or copies thereof in accordance with the Acts.

8.2 Within twenty (20) business days of a request by Covered Entity, Business Associate shall provide to Covered Entity all information and records in Business Associate's possession necessary for Covered Entity to provide Individuals or their representatives with an accounting of disclosures thereof in accordance with the Acts. Business Associate shall track and record all such disclosures made by Business Associate and not excepted from disclosure accounting requirements to ensure compliance with this section.

8.3 Within three (3) business days of a request by Covered Entity, Business Associate shall provide to Covered Entity all Protected Health Information in a Designated Record Set in Business Associate's possession necessary for Covered Entity to respond to a request by an Individual to amend such Protected Health Information in accordance with the Acts. In the event that Covered Entity amends any Protected Health Information in its possession, a copy of which is also retained by Business Associate, Covered Entity shall promptly notify Business Associate of such amendment. Upon Covered Entity's request, Business Associate shall promptly incorporate any amendments to Protected Health Information made by Covered Entity into the information maintained by Business Associate.

8.4 Business Associate shall promptly comply with any restrictions on the uses of Protected Health Information agreed to by Covered Entity in accordance with the Acts immediately upon written notification by Covered Entity.

9. **Access by HHS and Covered Entity.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information

received from Covered Entity, or created, received, maintained or transmitted by Business Associate on behalf of Covered Entity, available, without charge, to HHS or Covered Entity to enable HHS or Covered Entity to evaluate Business Associate's compliance with the Acts.

10. **Return of Protected Health Information.** Upon termination of this Agreement, Business Associate shall, if feasible, return or destroy (as directed by Covered Entity) all Protected Health Information received from, or created, received, maintained or transmitted by Business Associate or any of its Subcontractors on behalf of, Covered Entity that Business Associate or any of its Subcontractors still maintains in any form, and Business Associate and its Subcontractors shall retain no copies of such information. If such return or destruction is not feasible, Business Associate shall provide notice to Covered Entity of the conditions that make such return or destruction infeasible. Upon mutual agreement by the parties that such return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such information and limit further uses and disclosures to those purposes that make the return or destruction of the Protected Health Information infeasible. This provision shall also apply to Protected Health Information that is in the possession of Subcontractors of Business Associate. Covered Entity hereby acknowledges and agrees that infeasibility includes Business Associate's need to retain PHI subject to Business Associate's obligations under the Acts for a period of up to seven (7) years for purposes of complying with Business Associate's internal work product documentation standards, and that for such retention, no further notification or approval of Covered Entity is required.

11. **Electronic Protected Health Information.**

11.1 With respect to Protected Health Information maintained or transmitted by Business Associate in an electronic form, in addition to complying with the other terms of this Agreement, Business Associate shall (i) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of such information, (ii) ensure that any Subcontractor to whom Business Associate provides such information, agrees in writing to implement reasonable and appropriate safeguards and to comply with the Security Rule where applicable to protect such information, and comply with the other requirements of Section 2 above and (iii) promptly, but in no event more than three (3) business days after discovery, report to Covered Entity any successful Security Incident of which Business Associate becomes aware. The parties acknowledge and agree that this section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but unsuccessful Security Incidents of which no additional notice to Covered Entity shall be required. Unsuccessful Security Incidents shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as such incidents do not result in unauthorized access, use or disclosure of Covered Entity's PHI.

11.2 Both parties represent that in exchanging electronic data, they will comply with applicable provisions of the Acts concerning security and standard transactions, and specifically, neither party will (a) change the definition, data condition, or use of a data element or segment in a standard transaction; (b) add any data elements or segments to the maximum defined data set; (c) use any code or data elements that are either marked "not used" in the standard's implementation specification(s) or are not in the standard's implementation

specification(s); or (d) change the meaning or intent of the standard's implementation specifications.

12. Obligations of Covered Entity.

12.1 Covered Entity shall notify Business Associate in writing of any limitation(s) in its notice of privacy practices issued by Covered Entity pursuant to 45 C.F.R. § 164.520 to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

12.2 Covered Entity shall notify Business Associate in writing of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

12.3 Covered Entity shall notify Business Associate in writing of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information to the extent that such changes may affect Business Associate's use or disclosure of such information.

13. Indemnification.

Business Associate shall indemnify, defend and hold harmless Covered Entity and its affiliates from and against any claims, losses, expenses or other costs (including, but not limited to, reasonable attorneys' fees, compliance with applicable notice provisions and credit monitoring services) arising from or relating to (i) the breach of this Agreement by Business Associate or (ii) any violation of the Acts by Business Associate or its employees or agents. Business Associate's indemnification obligations hereunder shall not be subject to any limitations of liability or remedies in the Services Agreement.

14. Term and Termination.

14.1 The term of this Agreement shall be from the date hereof until termination of the Services Agreement.

14.2 Covered Entity is authorized to terminate this Agreement if Covered Entity determines that Business Associate has violated a material term of this Agreement. Notwithstanding anything contained in the Services Agreement to the contrary, upon termination of this Agreement, the Services Agreement shall automatically terminate simultaneously therewith.

14.3 In the event Covered Entity becomes aware that Business Associate has engaged in a pattern of activity or practice that constitutes a material breach or violation of the terms of this Agreement, Covered Entity may request in writing that Business Associate cure the breach or violation if cure is possible. If the breach or violation is not cured within a reasonable time period specified by Covered Entity or if it is not possible to cure the breach or violation, Covered Entity may terminate this Agreement and the Services Agreement.

15. Miscellaneous.

15.1 Amendment. If the Acts are amended or interpreted in any manner that renders this Agreement inconsistent therewith, the parties agree to take such action as is necessary to amend this Agreement from time to time in order to ensure compliance with the requirements of the Acts and any other applicable law. If upon Covered Entity's thirty (30) day written notice to Business Associate regarding the need to amend this Agreement, the parties have not amended this Agreement to the extent necessary to comply with such amendments or interpretations Covered Entity is authorized to terminate this Agreement.

15.2 No Agency Relationship. It is not intended that an agency relationship (as defined under the Federal common law of agency) be established hereby expressly or by implication between Covered Entity and Business Associate for purposes of liability under the Acts. No terms or conditions contained in this Agreement shall be construed to make or render Business Associate an agent of Covered Entity.

15.3 Survival. Each party's obligations under Sections 6, 8, 9 and 13 shall survive the termination of this Agreement for any reason.

15.4 Full Authority. Each party hereto represents and warrants to the other party that it has the legal power and authority to enter into and perform its obligations under this Agreement without violating the rights or obtaining the consent of any third party.

15.5 Fees, Expenses. Each of the parties hereto shall pay its own fees and expenses incurred in connection with the Agreement and the consummation of the transactions contemplated hereby.

15.6 Independent Contractors. The relationship between the parties is solely that of independent contractors and this Agreement shall not create an agency, partnership, joint venture or employer/employee relationship. Nothing herein shall be deemed to authorize either party to act, represent or bind the other party except as expressly provided by this Agreement.

15.7 Interpretation. Any ambiguity in this Agreement shall be resolved to permit the parties to comply with the Acts.

15.8 Successors and Assigns. All covenants and agreements contained in this Agreement by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

15.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. Any PDF or facsimile signatures to this Agreement shall be deemed original signatures to this Agreement.

15.10 Assignment. Neither party shall assign this Agreement without the prior written consent of the other party.

15.11 No Third Party Beneficiaries. None of the provisions of this Agreement is or shall be construed as for the benefit of or enforceable by any person or entity not a party to this Agreement.

15.12 Notice. All requests, reports, approvals and notices required or permitted to be given under this Agreement shall be in writing sent to the address set forth herein and, unless specifically provided otherwise in this Agreement, shall be deemed to have been given when sent if personally delivered, faxed (with receipt confirmed) or mailed by registered or certified air mail, return receipt requested, or by overnight mail with receipt confirmed), postage prepaid, to the party concerned, at its address or addresses as set forth below or as designated from time to time by notice in writing.

If to Covered Entity:

Northwell Health, Inc.
1979 Marcus Avenue
Suite E 124
Lake Success, NY 11042

If to Business Associate:

See
Signature
BLOCK hd

with a copy to Legal (claims or notices, only):

Northwell Health, Inc.
Office of Legal Affairs
200 Marcus Avenue
New Hyde Park, New York 11042
Attn: General Counsel

Attn: General Counsel
Same address as above

with a copy to Compliance (for all privacy-related matters including breach reporting):

Northwell Health, Inc.
Office of Corporate Compliance
200 Community Drive
Great Neck, New York 11021
Attn: Corporate Privacy Officer

15.13 Severability. If any portion of this Agreement is construed to be illegal, invalid or unenforceable, such portion shall be deemed stricken and deleted from this Agreement to the same extent and effect as if it were never incorporated herein, but all other portions shall continue in full force and effect; provided that such resulting construction of the Agreement does not frustrate a material purpose of the Agreement.

15.14 Miscellaneous. The terms of this Agreement are hereby incorporated into the Services Agreement. Except as otherwise set forth in Section 15.7 of this Agreement, in the event of a conflict between the terms of this Agreement and the terms of the Services Agreement, the terms of this Agreement shall prevail. The terms of the Services Agreement which are not modified by this Agreement shall remain in full force and effect in accordance with the terms thereof. The Services Agreement together with this Agreement constitutes the entire agreement between the parties with respect to the subject matter contained herein, and this

Agreement supersedes and replaces any former business associate agreement or addendum entered into by the parties.

15.15 Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York (without regard to the principles of conflicts of law embodied therein) applicable to contracts executed and performable in such state. Each party submits to the jurisdiction of the State and Federal Courts located in Nassau County in the State of New York for any action or proceeding relating to this Agreement, and expressly waives any objection it may have to such jurisdiction or the convenience of such forum.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Northwell Health Inc.,

Milliman, Inc.

By:

Jessica Difesa, AP
On behalf of

By:

Art Wilmes

Name: Phyllis McCready
Title: Vice President/
Chief Procurement Officer
Address: 1979 Marcus Avenue, #E124
Lake Success, NY 11042

Name: Art Wilmes, FSA, MAAA
Title: Principal and Consulting Actuary
Address: 111 Monument Circle, Ste 601
Indianapolis, IN 46204-5128