

This Business Associate Addendum (“Addendum”) by and between **EquiTrust Life Insurance Company** (“EquiTrust” or “Insurer”) and (“Agent” or “Business Associate”), is effective as of the effective date of that certain Agent/Agency Contract (the “Agent/Agency Contract”) between EquiTrust and Business Associate. EquiTrust and Business Associate may be referred to herein individually as a “party” or collectively as the “parties.” For purposes of this Addendum, capitalized terms used but not otherwise defined in this Addendum shall have the meaning as set forth in Section D.1 herein below.

WHEREAS, EquiTrust offers long-term care insurance riders (the “Covered Products”), which are health plans covered under the Health Insurance Portability and Accountability Act of 1996; and

WHEREAS, Insurer and Agent have entered into the Agent/Agency Contract under which Agent is authorized to market, sell and service the Covered Products and other products issued by the Insurer; and

WHEREAS, for purposes of compliance with the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act of 2009 and regulations promulgated thereunder (collectively referred to herein as “HIPAA”), EquiTrust has designated itself as a Hybrid Entity pursuant to 45 C.F.R. § 164.103 and 45 C.F.R. § 164.105 and has identified certain units and departments within EquiTrust that perform Covered Functions as Health Care Components that are regulated by HIPAA; and

WHEREAS, with respect to Covered Products, Business Associate performs services under the Agent/Agency Contract on behalf of Insurer’s Health Care Components (“Services”), which Services involve the use and/or disclosure of Protected Health Information; and

WHEREAS, the parties desire to enter into this Addendum in order to comply with the provisions of HIPAA that are applicable to Business Associate, as well as any amendments or additions thereto;

NOW, THEREFORE, in consideration of these premises and the mutual promises and undertakings herein contained, the parties agree as follows:

A. Privacy and Security of Protected Health Information

1. Permitted Uses and Disclosures

Business Associate is permitted or required to use or disclose Protected Health Information it creates or receives for or from Insurer only as follows:

- a) Functions and Activities on Insurer’s Behalf. Business Associate is permitted to use and disclose Protected Health Information it creates or receives for or from Insurer solely for carrying out its obligations under the Agent/Agency Contract.
- b) Business Associate’s Operations. Business Associate may use Protected Health Information it creates or receives for or from Insurer as necessary for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities. Business Associate may disclose the Protected Health Information as necessary for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities only if:
 - (i) The disclosure is required by law; or
 - (ii) Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate will disclose the Protected Health Information that the person or organization will:

- a. Hold the Protected Health Information in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as required by law; and
 - b. Notify Business Associate (who will in turn promptly notify Insurer) of any instance of which the person or organization becomes aware in which the confidentiality of such Protected Health Information was breached.
2. **Notice of Privacy Practices.** Insurer shall notify Business Associate of limitation(s) in its notice of privacy practices, to the extent such limitation affects Business Associate's permitted uses or disclosures of Protected Health Information.

3. **Prohibition on Unauthorized Use or Disclosure**

Business Associate will neither use nor disclose Protected Health Information it creates or receives for or from Insurer or from another Business Associate of Insurer, except as permitted or required by this Addendum or as required by law or as otherwise permitted in writing by Insurer. Business Associate shall not use or disclose Protected Health Information in any manner that violates HIPAA or any other applicable federal or state laws and regulations relating to the privacy and security of Protected Health Information.

4. **Information Safeguards**

- (a) **Administrative, Technical, and Physical Safeguards.** Business Associate will develop, implement, maintain and use appropriate administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of, and that prevent non-permitted or violating use or disclosure of, Protected Health Information that it creates, receives, or transmits on behalf of Insurer. Business Associate will document and keep these safeguards current.
- (b) **Technology to Secure Protected Health Information.** With respect to all electronic Protected Health Information that Business Associate transmits electronically or stores on portable electronic devices, Business Associate will secure the Protected Health Information by a technology standard that renders the Protected Health Information unusable, unreadable or indecipherable to unauthorized individuals. Business Associate shall comply with the applicable standards of 45 C.F.R. §§ 164.306, 164.308, 164.310, 164.312, 164.314, and 164.316 with respect to electronic Protected Health Information.

5. **Sub-Contractors and Agents**

Business Associate will require any of its subcontractors and agents, including but not limited to Sub-Agents as defined in the Agent/Agency Contract, to which Business Associate is permitted by this Addendum or in writing by Insurer to disclose any of the Protected Health Information Business Associate creates or receives for or from Insurer, to provide reasonable assurance, evidenced by written contract, that subcontractor or agent will comply with substantially similar privacy and security obligations as Business Associate with respect to the Protected Health Information.

6. **Minimum Necessary**

Business Associate will, in its performance of the functions, activities, services, and operations specified in Section A.1(a) above, make reasonable efforts to use, to disclose, and to request only the minimum amount of Protected Health Information reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum necessary limitation with respect to:

- a) Disclosure to or request by a health care provider for treatment;
- b) Use with or disclosure to an individual who is the subject of the Protected Health Information, or that individual's personal representative;
- c) Use or disclosure made pursuant to a written authorization that is signed by an individual who is the subject of the Protected Health Information to be used or disclosed, or by that individual's personal representative who has the authority to act on behalf of that individual; or
- d) Use or disclosure that is required by law.

B. Protected Health Information Access, Amendment and Disclosure Accounting.

1. Access

Upon Insurer's request, Business Associate will promptly make available to Insurer or, at Insurer's direction, to the individual (or the individual's personal representative) for inspection and obtaining copies any Protected Health Information about the individual (in a format, electronic or otherwise, designated by Insurer) that Business Associate created or received for or from Insurer and that is in Business Associate's custody or control.

2. Amendment

Business Associate will, upon receipt of notice from Insurer, promptly amend or permit Insurer access to amend any portion of the Protected Health Information which Business Associate created, received or maintains on behalf of Insurer.

3. Disclosure Accounting

So that Insurer may meet its disclosure accounting obligations:

a) Disclosure Tracking

Business Associate will record for each disclosure of Protected Health Information not excepted from disclosure accounting under Section B.3(b) below, (i) the disclosure date, (ii) the name and (if known) address of the person or entity to whom Business Associate made the disclosure, (iii) a brief description of the Protected Health Information disclosed, and (iv) a brief statement of the purpose of the disclosure (items i-iv, collectively, the "disclosure information"). For repetitive disclosures Business Associate makes to the same person or entity for a single purpose, Business Associate may record (i) the disclosure information for the first of these repetitive disclosures, (ii) the frequency, periodicity or number of these repetitive disclosures, and (iii) the date of the last of these repetitive disclosures. Business Associate will make this disclosure information available to Insurer promptly upon Insurer's request or, as directed by Insurer, to the individual (or the individual's personal representative).

b) Exceptions from Disclosure Tracking

Business Associate need not record disclosure information or otherwise account for disclosures of Protected Health Information made (i) for the purpose of Insurer's treatment activities, payment activities, or health care operations, as applicable; (ii) to the individual who is the subject of the Protected Health Information disclosed or to that individual's personal representative; or (iii) pursuant to a written authorization from the affected individual.

c) Disclosure Tracking Time Periods

Business Associate must have available for Insurer the disclosure information required by Section B.3(a), above, for the 6 years preceding Insurer's request for the disclosure information or any longer time period prescribed by applicable law.

4. Restriction Agreements and Confidential Communications

Business Associate will comply with any agreements that Insurer makes that either (i) restrict use or disclosure of Protected Health Information, or (ii) require confidential communication about Protected Health Information, provided that Insurer notifies Business Associate in writing of the restrictions or confidential communication obligations that Business Associate must follow and furnishes Business Associate copies of the agreements. Insurer will promptly notify Business Associate in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct Business Associate whether any of Insurer's Protected Health Information will remain subject to the terms of the restriction agreement.

5. Inspection of Books and Records

Business Associate will make its internal practices, books, and records, relating to its use and disclosure of the Protected Health Information it creates or receives for or from Insurer, available to Insurer. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Insurer available to the Secretary, upon request, for purposes of determining and facilitating Insurer's compliance with HIPAA.

C. Breach of Privacy or Security Obligations.

1. Reporting

Business Associate will report to Insurer in writing any acquisition, access, use or disclosure of Unsecured Protected Health Information not permitted by this Addendum (“Security Breach”) or any Security Incident of which Business Associate becomes aware. Business Associate will make the report to Insurer within 24 hours after Business Associate knows or should have reasonably known of such Security Breach or Security Incident. Business Associate will cooperate promptly with Insurer as is reasonably required for Insurer to comply with applicable breach reporting and notification laws (“Breach Notification Laws”). Business Associate’s report will, to the extent possible:

- a) Identify the nature of the Security Breach or Security Incident;
- b) Identify the individuals (by full name and address) whose Unsecured Protected Health Information was, or is reasonably believed by Business Associate to have been, subject to a Security Breach and the total number of those individuals;
- c) Identify the Unsecured Protected Health Information subject to the Security Breach or Security Incident;
- d) Identify who committed the Security Breach or Security Incident and who acquired, accessed, used or received the Unsecured Protected Health Information;
- e) Identify what corrective action Business Associate took or will take to prevent further Security Breaches or Security Incidents;
- f) Identify what Business Associate did or will do to mitigate any deleterious effect of any Security Breaches or Security Incidents; and
- g) Provide such other information as Insurer may reasonably request.

Insurer acknowledges the ongoing existence and occurrence of ordinary attempted but Unsuccessful Security Incidents which shall not constitute a Security Incident or Security Breach and shall not require Business Associate to provide notice to Insurer (and if notice is required, this provision shall be deemed to provide notice to Insurer of such Unsuccessful Security Incidents).

2. Termination of Addendum.

a) Right to Terminate for Breach of Addendum.

Insurer may terminate the Agent/Agency Contract if it determines, in its sole discretion, that Business Associate has breached any provision of this Addendum. Insurer may exercise this right to terminate the Agent/Agency Contract by providing Business Associate written notice of termination, stating the breach of this Addendum that provides the basis for the termination. Any such termination will be effective immediately or at such other date specified in the notice of termination.

b) Obligations upon Termination.

(i) Return or Destruction

Upon termination, cancellation, expiration or other conclusion of the Agent/Agency Contract, Business Associate will, as directed by Insurer, return to Insurer or destroy all Protected Health Information, in whatever form or medium (including in any electronic medium under Business Associate’s custody or control), that Business Associate created or received for or from Insurer, including all copies of and any data or compilations derived from and allowing identification of any individual who is a subject of the Protected Health Information. Business Associate will complete such return or destruction as promptly as possible, but not later than 30 days after the effective date of the termination, cancellation, expiration or other conclusion of Agent/Agency Contract. If Insurer authorizes Business Associate to retain certain Protected Health Information because the Business Associate has a need for continued use or disclosure of that Protected Health Information, the Business Associate will identify that Protected Health Information and will limit its further use or disclosure to those necessary uses or disclosures. Within 30 days, Business Associate will certify an oath in writing to Insurer that such return or destruction has been completed, will deliver to Insurer the identification of any Protected Health Information for which return or destruction is infeasible and, for that Protected Health Information, will certify that it will

only use or disclose such Protected Health Information for those purposes that make return or destruction infeasible.

(ii) Continuing Privacy Obligation

Business Associate's obligation to protect the privacy of the Protected Health Information it created or received for or from Insurer will be continuous and survive termination, cancellation, expiration or other conclusion of the Agent/Agency Contract.

(iii) Other Obligations and Rights

Business Associate's other obligations and rights and Insurer's obligations and rights upon termination, cancellation, expiration or other conclusion of the Agent/Agency Contract will be those set out in the Agent/Agency Contract.

D. General Provisions

1. **Defined Terms.** For purposes of this Addendum, capitalized terms used but not otherwise defined in this Addendum shall have the same meaning as those terms in 45 CFR Parts 160 and 164. The following capitalized terms have the assigned meanings: "Protected Health Information" shall have the meaning set forth in 45 CFR § 164.103, limited however, to the information that Business Associate creates, accesses, or receives on behalf of Insurer (PHI includes EPHI); "Electronic Protected Health Information" or "EPHI" shall have the meaning set forth in 45 CFR § 160.103, limited however, to the information that Business Associate creates, accesses, or receives on behalf of Insurer; "Unsecured Protected Health Information" shall have the meaning set forth in 45 CFR § 164.402, limited however, to the information that Business Associate creates, accesses, or receives on behalf of Insurer; "Security Breach" has the meaning provided in Section C.1 of this Addendum; "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of, or interference with operations to process and maintain, EPHI, except to the extent that such action constitutes a Security Breach or an "Unsuccessful Security Incident"; "Unsuccessful Security Incidents" shall include, but not be limited to, phishing, 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 no such incident results in unauthorized access, use or disclosure of Protected Health Information; and "Secretary" shall mean the Secretary of the Department of Health and Human Services.
2. **Survival.** The terms of Section B.3 ("Disclosure Accounting"), Section B.5 ("Inspection of Books and Records"), Section C.1 ("Reporting"), and Section C.2 ("Obligations upon Termination") shall survive the termination or expiration of this Addendum.
3. **Conflicts.** The terms and conditions of this Addendum will override and control any conflicting term or condition of the Agent/Agency Contract. All non-conflicting terms and conditions of the Agent/Agency Contract remain in full force and effect.
4. **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 Insurer, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
5. **Ownership.** Nothing express or implied in this Addendum is intended to confer upon Business Associate any property rights to Protected Health Information.
6. **Interpretation.** Any ambiguity in this Addendum will be resolved in favor of a meaning that permits Insurer to comply with HIPAA.
7. **Amendment.** The parties acknowledge that this Addendum may be amended from time to time at Insurer's discretion and without prior notice to Business Associate.

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