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ATTACHMENT 1

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("Addendum") is entered into by and between **Morpace, Inc. ("MORPACE")** and the **State of Wisconsin Department of Employee Trust Funds ("ETF")**, acting on behalf of the State of Wisconsin.

RECITALS:

WHEREAS, ETF and MORPACE have executed a contract pursuant to which MORPACE provides services to ETF, and in connection with those services, ETF discloses or permits the disclosure to MORPACE information that is protected by the Health Insurance Portability and Accountability Act of 1996, ("HIPAA") and its implementing regulations, Title 45, Parts 160 through 164 of the Code of Federal Regulations, as well as by laws and administrative rules of the State of Wisconsin; and

WHEREAS, ETF is a Covered Entity and MORPACE is a Business Associate of ETF, as defined by HIPAA;

WHEREAS, ETF and MORPACE agree to incorporate the terms of this Addendum into **the existing Contract for services related to the Health Insurance Satisfaction Survey, which includes the terms of the current Purchase Order, Request for Bid ETF0005 and any subsequent extensions, clarifications and responses, ("Underlying Contract")** in order to comply with the requirements of HIPAA;

NOW, THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, ETF and MORPACE hereby agree as follows:

DEFINITIONS:

It is the intent of this Addendum to comply with the federal regulations implementing HIPAA concerning privacy and security, including the definitions in 45 C.F.R. Parts 160 through 164. This Addendum also addresses compliance with Wisconsin laws on confidentiality of personal information. In particular, the following words and phrases in this Addendum shall have the meanings specified below, unless the context clearly requires otherwise.

"Business Associate" has the meaning set forth in 45 C.F.R. § 160.103.

"Covered Entity" has the meaning set forth in 45 C.F.R. § 160.103.

"Designated Record Set" has the meaning set forth in 45 C.F.R. § 164.501.

"Individually Identifiable Health Information" has the meaning set forth in 45 C.F.R. § 160.103.

"Individual Personal Information" has the meaning set forth in Wis. Admin. Code § ETF 10.70 (1).

"Medical Record" has the meaning set forth in Wis. Admin. Code § ETF 10.01 (3m).

"Protected Health Information" has the meaning specified in 45 C.F.R. § 160.103.

"Required By Law" has the meaning specified in 45 C.F.R. §164.501.

"Third Party" means a party other than a subcontractor or agent that ETF has approved.

PART I – OBLIGATIONS OF MORPACE

- A. Uses and Disclosures.** MORPACE may use or disclose Protected Health Information or Personal Information it creates for, receives from or is provided access to by ETF or any other Business Associate of ETF only as set forth below:
1. Permitted Uses and Disclosures of Protected Health Information. MORPACE is permitted to use and disclose Protected Health Information:
 - (i) to conduct health insurance satisfaction surveys for ETF, in accordance with the Underlying Contract;
 - (ii) Subject to the limitations on Uses and Disclosures outlined in this Business Associate Addendum, specifically including the State Law Restrictions in Part I, Section A, Subsection 4, MORPACE is permitted to use and disclose Protected Health Information as necessary for MORPACE's proper management and administration, to carry out MORPACE's legal responsibilities, and as Required by Law.
 2. Prohibition on Unauthorized Use or Disclosure. MORPACE will neither use nor disclose Protected Health Information it creates for or receives from ETF or from another Business Associate of ETF, except as permitted or required by this Addendum or as Required By Law or as otherwise permitted in writing by ETF.
 3. Compliance with Regulations. MORPACE will comply with:
 - (i) 45 C.F.R. Parts 160-164 as applicable to a Business Associate of a ETF; and
 - (ii) Applicable state law not preempted pursuant to 45 C.F.R §§ 160.202 and 160.203.
 4. State Law Restrictions. MORPACE shall comply with Wis. Stat. § 40.07 regarding information MORPACE creates for or receives from ETF or from another business associate of ETF. In particular:

- (i) Any Third Party request, including a subpoena, for disclosure of confidential Individual Personal Information as defined by Wis. Admin. Code § ETF 10.70 (1), including but not limited to Medical Records as defined by Wis. Admin. Code § ETF 10.01 (3m) or Individually Identifiable Health Information, shall be referred to ETF in a timely manner;
- (ii) In any event, MORPACE shall not disclose to any Third Party confidential Individual Personal Information that ETF itself may not disclose under Wis. Stat. § 40.07(1), or of Medical Records that ETF itself may not disclose under Wis. Stat. § 40.07(2).

B. Disclosure to MORPACE's Subcontractors and Agents. MORPACE shall require all of its agents or subcontractors to provide reasonable assurance, evidenced by written contract, that the agent or subcontractor will comply with the same privacy and security obligations as MORPACE with respect to Individual Personal Information and Protected Health Information. Before entering into such a contract with an agent or subcontractor, MORPACE shall obtain from ETF approval of the contract.

C. Information Safeguards. MORPACE shall develop, implement, maintain and use reasonable and appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of Protected Health Information under the control of MORPACE, and to prevent intentional or unintentional non-permitted or violating use or disclosure of Protected Health Information. MORPACE will document and keep these safeguards current and furnish documentation of the safeguards to ETF upon request.

D. Reporting Requirements.

1. Reporting of Improper Use or Disclosure. MORPACE shall provide a written report to ETF Privacy Officer containing the details of any use or disclosure of Individual Personal Information, as defined by Wis. Admin. Code § ETF 10.70 (1), Medical Records, as defined by Wis. Admin. Code § ETF 10.01 (3m), or Protected Health Information, not permitted by this Addendum or in violation of 45 C.F.R. Part 164, as soon as possible after MORPACE learns of such non-permitted use or disclosure. This report shall also list the measures taken by MORPACE in accordance with Part I, Section E, to mitigate any harmful effect of the improper use or disclosure.
2. Reporting of Privacy Complaints. MORPACE shall promptly report to ETF any complaint relating to any member's privacy, of which MORPACE becomes aware. The term "Privacy Complaint" includes requests made by members to be removed from survey contact lists.
3. Reporting of Security Incidents. MORPACE shall report to the ETF Privacy Officer any security incident of which MORPACE becomes aware, that directly and materially involves member information, within three (3) business days

after becoming aware of the incident. For purposes of this subsection, a "security incident" that "directly and materially" involves member information means that the incident involves direct access to confidential Individual Personal Information, as defined by Wis. Admin. Code § ETF 10.70 (1), Medical Records, as defined by Wis. Admin. Code § ETF 10.01 (3m), or Protected Health Information, not permitted by this Addendum or in violation of 45 C.F.R. Part 164.

- E. Duty to Mitigate Effect of Misuse or Unauthorized Disclosure.** MORPACE agrees to mitigate, to the extent practicable, any harmful effect that is known to MORPACE of a misuse or unauthorized disclosure of confidential Individual Personal Information, as defined by Wis. Admin. Code § ETF 10.70 (1), Medical Records, as defined by Wis. Admin. Code § ETF 10.01 (3m), or Protected Health Information, by MORPACE in violation of the requirements of this Addendum.
- F. Minimum Necessary.** MORPACE will make reasonable efforts to use, disclose, or request only the minimum necessary amount of confidential Individual Personal Information, as defined by Wis. Admin. Code § ETF 10.70 (1), Medical Records, as defined by Wis. Admin. Code § ETF 10.01 (3m), or Protected Health Information, to accomplish the intended purpose. Internal disclosure of such information to employees of the MORPACE shall be limited only to those employees who need the information and only to the extent necessary to perform their responsibilities under the Underlying Contract and this Addendum.
- G. Access, Amendment and Disclosure Accounting.**
- 1. Access.** At the direction of ETF, MORPACE agrees to provide access to any Protected Health Information held by MORPACE which ETF has determined to be part of ETF's Designated Record Set, in the time and manner designated by ETF, so that ETF may meet its access obligations under 45 C.F.R. § 164.524. All fees related to this access, as determined by MORPACE, shall be borne by the individual requesting the access.
 - 2. Amendment.** At the direction of ETF, MORPACE agrees to amend or correct Protected Health Information held by MORPACE and which ETF has determined to be part of ETF's Designated Record Set, in the time and manner designated by ETF, so that ETF may meet its amendment obligations under 45 C.F.R. § 164.526. All fees related to this amendment, as determined by MORPACE, shall be borne by the individual requesting the access.
 - 3. Documentation of Disclosures.** MORPACE agrees to document such disclosures of Protected Health Information and information related to such disclosures so that ETF may meet its obligations under 45 C.F.R. § 164.528.
 - 4. Accounting of Disclosures.** MORPACE shall maintain a process to provide ETF an accounting of disclosures for as long as MORPACE maintains the

Protected Health Information received from or on behalf of ETF. MORPACE agrees to provide to ETF or to an individual, in a time and manner designated by ETF, information collected in accordance with Subsection 3 of this Addendum, to permit ETF to properly respond to a request by an individual for an accounting of disclosures under 45 C.F.R. § 164.528. Each accounting will provide:

- (i) the date of each disclosure;
- (ii) the name and address of the organization or person who received the Protected Health Information;
- (iii) a brief description of the information disclosed; and
- (iv) for disclosures other than those made at the request of the subject, the purpose for which the information was disclosed and a copy of the request or authorization for disclosure.

5. **Disclosure Tracking Periods.** MORPACE must have available for ETF the disclosure information required by this section for the six-year period preceding ETF's request for the disclosure information (except MORPACE need have no disclosure information for disclosures occurring before the effective date of this Addendum).

H. **Accounting to ETF and Government Agencies.** MORPACE will make its internal practices, books, and records relating to its use and disclosure of Protected Health Information available to ETF to provide to the U.S. Department of Health and Human Services (HHS) in a time and manner designated by HHS for determining ETF's compliance with HIPAA. MORPACE shall promptly notify ETF of any inquiries made to it by HHS concerning ETF's compliance with HIPAA.

PART II – OBLIGATIONS OF ETF

A. **Changes in Permissions to Use and Disclose Protected Health Information.** ETF shall notify MORPACE of any change(s) in, or revocation of, permission by an individual to use or disclose Protected Health Information, to the extent that such change(s) may affect MORPACE's use or disclosure of such Protected Health Information.

B. **Changes in ETF's Notice of Privacy Practices.** ETF shall notify MORPACE of any changes made to ETF's Notice of Privacy Practices that ETF deems relevant to MORPACE's efforts to comply with this Addendum.

C. **Changes in State Law.** ETF shall notify MORPACE of changes in Wisconsin law that ETF deems relevant to MORPACE's efforts to comply with this Addendum.

PART III - TERM, TERMINATION AND AMENDMENT

- A. **Term.** This Addendum shall be effective as of the agreed upon effective date stated at the end of this Addendum. The Addendum shall be co-extensive with the term of the Underlying Contract, including any extensions made to the original Underlying Contract.
- B. **Termination for Breach.** ETF shall have the right to terminate the Underlying Contract if MORPACE, by pattern or practice, materially breaches any provision of this Addendum.
- C. **Reasonable Steps to Cure Breach.** Rather than terminating this Addendum pursuant to Part III, Section B above, ETF may provide MORPACE with an opportunity to cure the material breach. If these efforts to cure the material breach are unsuccessful, as determined by ETF in its sole discretion, ETF may terminate the Underlying Contract and this Addendum, as soon as administratively feasible.
- D. **Effect of Termination: Return or Destruction of Protected Health Information.** Upon cancellation, termination, expiration or other conclusion of the Underlying Contract, MORPACE will, unless expressly prohibited by law (and then only to the extent necessary to comply), return to ETF or destroy all Protected Health Information, in whatever form or medium (including in any electronic medium under MORPACE's custody or control), including all copies of and any data or compilations derived from such Protected Health Information that allow identification of any individual who is a subject of the Protected Health Information. MORPACE will complete such return or destruction as promptly as practicable after the effective date of the cancellation, termination, expiration or other conclusion of the Underlying Contract. MORPACE will not destroy any Protected Health Information or Individual Personal Information without the prior express consent of ETF unless ETF has first been furnished with a copy of that information.
- E. **Continuing Privacy Obligation.** Notwithstanding Part III, Section D above, ETF and MORPACE may mutually agree that it is not feasible to destroy or return to ETF certain specified Protected Health Information, and may provide by mutual agreement what limited use or disclosure of such information by MORPACE may thereafter occur. MORPACE's obligation to protect the privacy of Protected Health Information that cannot feasibly or lawfully be returned or destroyed will be continuous and survive the termination of the Underlying Contract and this Addendum. Any material retained under Part III, Section E of this Addendum is perpetually subject to inspection by ETF upon reasonable notice and during MORPACE's normal business hours.
- F. **Agreement to Amend Addendum.** MORPACE and ETF acknowledge that federal laws relating to transactions, data security and privacy are rapidly evolving and that amendment to this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is

necessary to implement the standards and requirements of the HIPAA and its implementing regulations. Upon the request of either party, the other party agrees to promptly enter negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA and applicable federal regulations. Should this Addendum fail to be amended by the effective date of any final regulation or amendment to final regulations with respect to HIPAA, this Addendum will automatically be amended on such effective date such that the obligations they impose on MORPACE remain in compliance with the regulations then in effect.

PART IV – GENERAL PROVISIONS

- A. Conflict.** The provisions of this Addendum will override and control any conflicting provision of the Underlying Contract. All non-conflicting provisions of the Underlying Contract will remain in full force and effect.
- B. Election to Not Treat As Representative.** Nothing in this Addendum shall be construed to limit the discretion of ETF, under 45 C.F.R. § 164.502 (g) (5), to elect not to treat a person as the representative of an individual.
- C. No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any entity other than ETF and MORPACE, any rights, remedies, obligations or liabilities whatsoever.
- D. Documentation.** All documentation that is required by this Addendum or by 45 C.F.R. Part 164 will be retained by MORPACE for six (6) years from the date of creation or when it was last in effect, whichever is longer.
- E. Survival.** The parties' obligations and rights, with respect to MORPACE's engagement to provide services, will be unaffected by the termination of the Underlying Contract and this Addendum. In particular, the provisions of Part III, Sections D, E, and F, and this section, shall survive termination of the Underlying Contract and this Addendum.

IN WITNESS WHEREOF, ETF, on behalf of the State of Wisconsin, and MORPACE execute this Addendum to be effective on the 15 day of November, 2007.

MORPACE INTERNATIONAL, INC.

BY: Susan J. Semack
Susan J. Semack, Vice President

DATE: 11-15-07

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS**

BY: M. A. McGreevy
Mary Alice McGreevy, Compliance Officer

DATE: 11-26-07