

BUSINESS ASSOCIATE AGREEMENT

In order to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") the American Recovery and Reinvestment Act of 2009 ("ARRA") and specifically, the Health Information Technology for Economic and Clinical Health Act provisions of ARRA ("HITECH") and its implementing regulations, 45 C.F.R. Parts 160, 162 and 164 ("Privacy Rule") and ("Security Rule"), _____ ("Covered Entity") and Widgix Software, LLC ("Business Associate" as further defined below), agree as follows:

1. DEFINITIONS. Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Privacy Rule and Security Rules or the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) ("ARRA"), and its applicable regulations defined below.

1.1 "Administrative Safeguards" means administrative actions and policies and procedures used to manage the selection, development, implementation, and maintenance of security measures to protect electronic Protected Health Information and to manage the conduct of the Business Associate's workforce in relation to the protection of that information, as more particularly set forth in 45 C.F.R. §164.308.

1.2 "Breach" means the acquisition, access, use, or disclosure of Protected Health Information not permitted by HIPAA which compromises the security or privacy of Protected Health Information as stated in 45 C.F.R. §164.402.

1.3 "Business Associate" means a person or entity that performs functions on behalf of the Covered Entity which meet the definitions of "Business Associate Activities" in 45 C.F.R. §160.103. In order for Business Associate to perform its obligations, Covered Entity must disclose certain Protected Health Information that is subject to protection under HIPAA.

1.4 "Individual" means "individual" in 45 C.F.R. §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).

1.5 "Physical Safeguards" means the physical measures, policies and procedures used to protect Business Associate's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion, as more particularly set forth in 45 C.F.R. §164.310.

1.6 "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 184, subparts A, D and E.

1.7 "Protected Health Information" or "PHI" means Individually Identifiable Health Information that is (a) transmitted by electronic media; (b) maintained in any medium constituting electronic media, or (c) transmitted or maintained in any other form or medium.

1.8 "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. §164.103.

1.9 "Secretary" means the Secretary of the U.S. Department of Health and Human Services or his designee.

1.10 "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 containing Covered Entity's Protected Health Information, pursuant to 45 C.F.R. §164.304.

1.11 "Security Rule" means the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subparts A and C.

1.12 "Technical Safeguards" means the technology and the policy and procedures for its use that protect electronic Protected Health Information and control access to it, as more particularly set forth in 45 C.F.R. §164.312.

1.13 "Unsecured Protected Health Information" means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary, as stated in 45 C.F.R. §164.402.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

2.1 Business Associate agrees not to use or disclose PHI other than as permitted in this Agreement or as required by Law.

2.2 Business Associate agrees to use reasonable and appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for in this Agreement.

2.3 Business Associate agrees to mitigate, to the extent practicable, and will act in good faith with Covered Entity, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.4 Business Associate agrees to report promptly and no later than five (5) business days to the Covered Entity any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware.

2.5 Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply throughout this Agreement to the Business Associate with respect to such

information.

2.6 Business Associate agrees to make its internal practices, books, and records including policies and procedures relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a prompt and timely manner as designated by the Secretary, for purposes of determining Covered Entity's compliance with the Privacy Rule, Security Rule, and other applicable ARRA and HITECH provisions.

2.7 Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an Accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

2.8 Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner reasonably designated by Covered Entity, information collected in accordance with Section 1.5 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an Accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

3. HIPAA SECURITY RULE REQUIREMENTS. Business Associate agrees to:

3.1 implement and document, as set forth in 45 C.F.R. § 164.316. Administrative Safeguards, Physical Safeguards and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity, as required by 46 C.F.R. Part 164, Subpart C, and specifically, but not exclusively, including the following;

(a) Ensure the confidentiality, integrity, and availability of all electronic Protected Health Information the Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity;

(b) Protect against any reasonably anticipated threats or hazards to the security or integrity of such information;

(c) Protect against any reasonably anticipated uses or disclosures of such information that are not permitted or required under the HIPAA Privacy Rule, HIPAA Security Rule or ARRA; and

(d) Ensure compliance with these sections by its workforce.

3.2 ensure that any agent, including a subcontractor, to whom it provides this information agrees to implement and document reasonable and appropriate Administrative Safeguards and Technical Safeguards, including at least the requirements set forth in this section for the Business Associate;

3.3 report to the Covered Entity within five (5) business days of becoming aware of or discovering any of the following and in order to be in compliance with 45 C.F.R. §164.410 beginning as of the effective date of 45 C.F.R. Part 164, Subpart D: any Security Incident, any Breach, any use or disclosure of PHI not permitted by this Agreement by the Business Associate, its contractors and agents and any Red Flag (as defined at 16 CFR 681.2(b)) the content of such a report of the Business Associate to the Covered Entity shall include, but is not limited to:

(a) A brief description of what happened, including date of Breach or Security Incident or other inappropriate or impermissible or unlawful use or disclosure of PHI, if known; and

(b) A description of the types of PHI that were involved (e.g. SSN, name, DOB, home address, account number or disability code).

3.4 assist the Covered Entity and act in good faith and to assist, and mitigate potential or actual harms or losses and to assist and protect PHI, if appropriate, further Breaches, Security Incidents, or known inappropriate or unlawful use or disclosure of PHI;

3.5 makes its policies and procedures, and documentation required by this section relating to such safeguards, available to the Secretary and to Covered Entity for purposes of determining the Business Associate's compliance with this section; and

3.6 authorize termination of the relationship with Covered Entity if Covered Entity notifies the Business Associate of a pattern of an activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligation under this Agreement and the Business Associate has failed to cure the breach or end the violation in accordance with this agreement.

4. ARRA PROVISIONS

4.1 Without limiting any uses or disclosures expressly permitted in the Agreement, Business Associate will not sell PHI created or received for or from Covered Entity or use or disclose PHI for purposes of marketing or fundraising, as defined and proscribed in the Privacy Rule and the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) ("ARRA").

4.2 Effective upon the compliance date applicable to Covered Entity, Business Associate shall record all disclosures by Business Associate of PHI required to be recorded by regulations promulgated by the Secretary

pursuant to ARRA with respect to the Accounting obligation.

4.3 Business Associate shall limit its uses and disclosures of, and requests for, PHI (a) when practical, to the information making up a Limited Data Set, and (b) in all other cases subject to the requirements of 45 C.F.R. §164.502(b), to the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure or request.

4.4 In the event Business Associate breaches the Agreement and termination of the service agreement(s) between the parties is not feasible, the Business Associate shall report the breach to the Covered Entity and to the Secretary, if applicable, consistent with 45 C.F.R. §164.504(e)(1)(i) and ARRA.

4.5 Business Associate's existing obligation to implement safeguards to protect electronic Protected Health Information shall be interpreted to require administrative, technical and physical safeguards that comply with the terms of the Security Rule set forth at 45 C.F.R. Part 164, Subparts A and C. To the extent Business Associate is acting as a Business Associate of Covered Entity, Business Associate shall be subject to the penalty provisions specified in § 13404 of ARRA.

4.6 Nothing in the Agreement shall be construed to create an agency relationship between the parties.

5. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Agreement between the parties, provided that such use or disclosure would not violate the Privacy Rule or Security Rule if done by Covered Entity.

6. SPECIFIC USE AND DISCLOSURE PROVISIONS. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and the Business Associate may disclose the Protected Health Information for its proper management and administration or to carry out the legal responsibilities of the Business Associate if the Business Associate obtains reasonable written assurances from the person to whom the 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 the Business Associate and the person will notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached, or impermissibly used or disclosed in violation of this Agreement.

7. OBLIGATIONS OF COVERED ENTITY

7.1 Covered Entity shall make available to Business Associate a copy of its Notice of Privacy Practices that Covered Entity produces in accordance with 45 C.F.R. §164.520, as well as any changes to such notice.

7.2 Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

7.3 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to if such restriction affects Business Associate's permitted or required uses and disclosures in accordance with 45 C.F.R. §164.522.

7.4 Covered Entity shall obtain any consent, authorization, or permission that may be required by the Privacy Rule or applicable state laws and/or regulations prior to furnishing Business Associate the Protected Health Information pertaining to the Individual.

8. TERM AND TERMINATION

8.1 Term. The Term of this Agreement shall be effective as of date first written below, and shall terminate when 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 infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions of this Section.

8.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, not less than thirty (30) days. Covered Entity may require Business Associate to submit reports to demonstrate that the breach has been cured or the violation has ended.

8.3 Effect Upon Termination. Except as provided in Section 8.2, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that

return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

9. MISCELLANEOUS

9.1 Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy Rule and Security Rule means the section as in effect or as amended, and for which compliance is required.

9.2 Amendment. The parties agree to enter into good faith negotiations to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act, Public Law 104-191, U.S.C. §§1320d through 1320d-8 and the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and its applicable regulations.

9.3 Survival. The respective rights and obligations of Business Associate under Section 7.3 of this Agreement shall survive the termination of this Agreement until all PHI received from Covered Entity has been returned or destroyed.

9.4 Construction of Terms and Interpretation. The terms of this Agreement shall be construed in light of any applicable interpretation or guidance on HIPAA and/or the Privacy Rule and Security Rule or ARRA issued by the U. S. Department of Health and Human Services (HHS) or the Office For Civil Rights and the Center for Medicare and Medicaid Services at HHS and the U.S. Federal Trade Commission from time to time. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Privacy Rule and Security Rule or ARRA and its applicable regulations.

9.5 Contradictory Terms. Any provision of any underlying services agreement entered into between the parties ("Underlying Agreement") that is directly contradictory to one or more terms of this Agreement ("Contradictory Term") shall be superseded by the terms of this Agreement as of the Effective Date of this Agreement to the extent and only to the extent of the contradiction, only for the purpose of the Covered Entity's compliance with the HIPAA Privacy Rule and Security Rule or ARRA and its applicable regulations and only to the extent that it is reasonably impossible to comply with both the Contradictory Term and the terms of this Agreement.

9.6 Ownership of PHI. The Protected Health Information to which Business Associate, or any agent or subcontractor of Business Associate has access under this Agreement shall be and remain the property of Covered Entity.

9.7 Notices. Any notice, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and will be deemed to have been given when actually delivered (by whatever means) to the party designated to receive such notice, or on the next business day following the day sent by overnight courier with delivery confirmation, or on the third (3rd) business day after the same is sent by certified United States mail, postage and charges prepaid, directed to the addresses noted below, or to such other or additional address as any party might designate by written notice to the other party.

9.8 Severability. If any provision of this Agreement is rendered invalid or unenforceable by the decision of any court of competent jurisdiction, that invalid or unenforceable provision shall be severed from this Agreement and all other provisions of this Agreement shall remain in full force and effect if it can reasonably be done in conjunction with the original intent of this Agreement.

9.9 Assignment. No assignment of the rights or obligations of either party under this Agreement shall be made without the express written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, a party may assign this Agreement to a party taking assignment of the Underlying Agreement in accordance with its terms. This Agreement shall be binding upon, and shall inure to the benefit of, the parties, their respective successors and permitted assignees.

9.10 No Waiver. Waiver of breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.

9.11 Amendment. This Agreement may be amended only by the mutual written consent of the parties. The parties agree to negotiate in good faith any modification to this Agreement that may be necessary or required to ensure consistency with amendments to and changes in applicable federal and state laws and regulations, including without limitation regulations promulgated pursuant to HIPAA or ARRA.

9.12 Headings. The headings or captions provided throughout this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

9.13 Governing Law. This Agreement will be construed and governed pursuant to the laws of the State of Colorado.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of _____ 201_ ("Effective Date").

WIDGIX SOFTWARE, LLC

LICENSEE: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____