

HIPAA BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE Agreement ("Agreement") is entered into by and between AbacusRx, Inc. ("BUSINESS ASSOCIATE") and _____, (the "COVERED ENTITY").

RECITALS

- 1) The purpose of this Agreement is to comply with the HIPAA Privacy and Security regulations found at 45 C.F.R. Part 160 and Part 164. This agreement is written to comply with the revisions enacted in the HITECH statute in February 2009, the regulation changes published in August 2009 and further updates published January 25, 2013.
- 2) Terms used in this agreement, including but not limited to "covered entity", "business associate", "Protected Health Information (PHI)", "unsecured protected health information", "use", "disclose", "breach", and "security incident", shall have the same meaning as defined in most current versions of the above referenced regulations.
- 3) COVERED ENTITY is a covered entity and regulated by the HIPAA regulations.
- 4) Per the January 25, 2013 HIPAA Regulation changes, BUSINESS ASSOCIATE is also regulated by the HIPAA regulations, and further agrees to comply with the unique requirements of this agreement.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

- 1) **Allowed Uses and Disclosures of Protected Health Information.** The BUSINESS ASSOCIATE provides services for the COVERED ENTITY. The BUSINESS ASSOCIATE may use and disclose protected health information only as follows:
 - a. BUSINESS ASSOCIATE may use and disclose protected health information for the purposes specifically provided in Attachment A. In performance of the tasks specified in Attachment A, BUSINESS ASSOCIATE may disclose PHI to its employees, subcontractors and agents, in accordance with the provisions of this agreement.
 - b. BUSINESS ASSOCIATE may further use and disclose PHI, if necessary
 - i) for the proper management and administration of the BUSINESS ASSOCIATE's business, and/or
 - ii) to carry out the legal responsibilities of the BUSINESS ASSOCIATEif the disclosure is either
 - i) required by law, or
 - ii) BUSINESS ASSOCIATE obtains reasonable 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 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.
- 2) **Responsibilities of BUSINESS ASSOCIATE.** With regard to its use and disclosure of protected health information, BUSINESS ASSOCIATE agrees to do the following:
 - a. Use and/or disclose the protected health information only as permitted by this Agreement or as otherwise required by law; no further use or disclosure is permitted.
 - b. Use appropriate physical, technical and administrative safeguards to protect electronic PHI, and comply with the requirements of the HIPAA Security Regulations (45 CFR Part 164 Subpart C) which are applicable to business associates.
 - c. Report to the COVERED ENTITY any security incident, and any use or disclosure not provided by this contract, including breaches of unsecured protected health information as required by 45 CFR 164.410.
 - d. Require that subcontractors who create, receive, maintain or transmit ePHI on behalf of Business Associate comply with applicable HIPAA Security regulations by entering into a Business Associate contract with these subcontractors. The Business Associate contract shall meet the specifications of 45 CFR 164.314.
 - e. Make available to the individual any requested protected health information, in accordance with procedures specified by COVERED ENTITY and in compliance with 45 CFR 164.524, "Access of individuals to protected health information".
 - f. Make available for amendment, and incorporate any amendments to protected health information in accordance with the requirements of 45 CFR 164.526, "Amendment of protected health information".
 - g. Make available the information required to provide an accounting of disclosures in accordance with 45 CFR 164.528.
 - h. To the extent that BUSINESS ASSOCIATE is to carry out COVERED ENTITY's obligations under the HIPAA Privacy Regulations, 45 CFR 164 Part E, comply with the requirements of the Privacy Regulations in the performance of those obligations.

- i. Make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of protected health information to the Secretary of HHS for purposes of determining the COVERED ENTITY's compliance with the HIPAA regulations, subject to attorney-client and other applicable legal privileges.
 - j. Return to the COVERED ENTITY or destroy, as requested by the COVERED ENTITY, within 30 days of the termination of this Agreement, the protected health information in BUSINESS ASSOCIATE's possession and retain no copies or electronic back-up copies. If this is not feasible, BUSINESS ASSOCIATE will limit further uses and disclosures to the reason that return/destruction is not feasible, and to extend the protections in this agreement for as long as the protected health information is in its possession.
- 3) **Electronic Transactions.** If Business Associate conducts any electronic transactions on behalf of Covered Entity that are subject to 45 CFR Parts 160 and 162 ("Electronic Transactions Rule") issued by HHS under the authority of HIPAA, Business Associate shall conduct all such transactions using the uniform formats and code sets, as required by the Electronic Transactions Rule.
- 4) **Mutual Representation and Warranty.** Each party represents and warrants to the other party that all of its employees, agents, representatives and members of its work force, who services may be used to fulfill obligations under this Agreement, are or shall be appropriately informed of the terms of this Agreement and are under legal obligation to fully comply with all provisions of this Agreement.
- 5) **Term and Termination.**
- a. **Term.** This Agreement shall become effective on the Effective Date and shall continue in effect until all obligations of the parties have been met, unless terminated as provided herein or by mutual agreement of the parties.
 - b. **Termination.** As provided for under 45 C.F.R. §164.504, the COVERED ENTITY may immediately terminate this Agreement and any related agreement if it determines that the BUSINESS ASSOCIATE has breached a material provision of this Agreement. Alternatively, the COVERED ENTITY may choose to: (i) provide the BUSINESS ASSOCIATE with 30 days written notice of the existence of an alleged material breach; and (ii) afford the BUSINESS ASSOCIATE an opportunity to cure said alleged material breach upon mutually agreeable terms. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of the Agreement.
- 6) **Survival.** The respective rights and obligations of BUSINESS ASSOCIATE and COVERED ENTITY under the provisions of Sections 2(j), detailing BUSINESS ASSOCIATE's return and/or ongoing protections of protected health information, shall survive the termination of this Agreement.
- 7) **Amendment.** This Agreement supersedes any previously negotiated HIPAA Business Associate agreements. Further, it may be modified or amended only in writing as agreed to by each party.
- 8) **Notices.** Any notices to be given hereunder shall be made via U.S. mail or express courier, or hand delivery to the other party's address given below as follows:

If to BUSINESS ASSOCIATE

Christopher Alberro, Vice President
8000 SW 117 Avenue, Penthouse G
Miami, FL 33183

If to COVERED ENTITY:

IN WITNESS WHEREOF, the parties hereto hereby set their hands and seals as of _____.

BUSINESS ASSOCIATE

By: Chris Alberro
Name: Christopher Alberro
Title: VP
Date: 8/10/2017

COVERED ENTITY

By: _____
Name: _____
Title: _____
Date: _____

Attachment A – Permitted Uses and Disclosures

BUSINESS ASSOCIATE is authorized to use protected health information for the purposes of providing software support, claims processing support, computer network support, network management, system backup, recovery testing, training, other computer related activities, and the provision of any other service detailed in the master contract.