

**HIPAA BUSINESS ASSOCIATE AGREEMENT  
(Vendor Agreement with Underlying Agreement)**

This HIPAA Business Associate Agreement (“Business Associate Agreement”), dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, is by and between \_\_\_\_\_ (“Client”), whose address is \_\_\_\_\_, and Login, LLC. whose address is 1855 N 6th Avenue, Tucson, AZ 85705-5601 (“Business Associate”), and is an addendum to the Master Services Agreement and the Service Contract, both dated \_\_\_\_\_, 201\_\_, by and between Client and Business Associate (the “Underlying Agreement”).

**INTRODUCTION**

This Business Associate Agreement is intended by Client and Business Associate to serve as a Business Associate Contract as required by HIPAA and its privacy provisions at 45 C.F.R. Parts 160 and 164 (the "Privacy Rule") and security provisions at 45 C.F.R. Parts 160 and 164 (the "Security Rule") and for compliance with the Privacy Rule, Security Rule, the requirements for notification in the event of a breach of PHI in 45 C.F.R. Part 164, subpart D (“Breach Notification Rule”), and the enforcement provisions in 45 C.F.R. Part 160 (“Enforcement Rule”).

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Client and Business Associate agree as follows.

1. DEFINITIONS

All capitalized and other terms used in this Business Associate Agreement and not otherwise defined herein shall have the meaning ascribed in 45 C.F.R. Parts 160 and 164. All references to sections in the Code of Federal Regulations refer to such sections as they may be amended, supplemented, or replaced from time to time.

2. EFFECT OF BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is incorporated into and made part of the Underlying Agreement. The Login Master Services Agreement supercedes the term sof this agreement where the two conflict. The parties agree that any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits required regulatory compliance. Business Associate may not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law.

### 3. BUSINESS ASSOCIATE OBLIGATIONS

(a) Permitted Uses and Disclosures. Except as otherwise limited in this Business Associate Agreement or the Underlying Agreement, Business Associate may use or disclose PHI as follows:

(i) Business Associate may Disclose PHI as Required By Law. In the event that Business Associate receives a subpoena, search warrant or other legal process regarding the PHI, Business Associate shall immediately notify Client so that Client may seek to quash the subpoena, search warrant or other process or seek a protective order. Business Associate shall cooperate with Client and all reasonable costs, expenses, and time shall be paid by Client.

(ii) Business Associate may not make any other Use or Disclosure of PHI without the written consent of Client. Without limiting the generality of the foregoing, Business Associate may not access the content of any data on the Client server that is co-located on Business Associate's premises (the "Server") or access the content of any transmission of data from Client to the Server except in the ordinary manner of providing contracted services to Client.

(b) Compliance with HIPAA Rules. Business Associate shall comply with all required regulations.

(c) Compliance with the Security Rule. Business Associate shall implement appropriate safeguards to prevent unauthorized use or disclosure of PHI. Such safeguards shall include administrative, physical or technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI in accordance with to prevent use or disclosure of PHI other than as permitted by this Business Associate Agreement and as required by the Security Rule.

(d) Government Access to Records. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Client available to the Secretary of Health and Human Services (the "Secretary") for purposes of determining Client's and Business Associate's compliance with HIPAA. Business Associate shall notify Client in writing of any such audit by the Secretary.

(e) Minimum Necessary Standard. Business Associate shall make uses and disclosures and requests for PHI consistent with Client's minimum necessary standards as provided to Business Associate in written form at the time of the execution of this Agreement or shall be deemed waived.

(f) Reporting of Improper Use or Disclosure.

(i) Business Associate shall immediately, but in any event no later than twenty-four (24) hours after discovery, notify Client in writing of:

(A) any use or disclosure of PHI of which it becomes aware that is not in compliance with the terms of this Business Associate Agreement.

(B) any Security Incident of which it becomes aware which directly impacts Client PHI.

(C) any Breach of Unsecured Client PHI as required by 45 C.F.R. §164.410.

(ii) The notice required by subsections (i) above shall include, to the extent known all relevant information required by law.

(g) Mitigation. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Business Associate Agreement.

(h) Access. To the extent that Business Associate maintains PHI in a Designated Record Set and required by 45 C.F.R. § 164.524, Business Associate shall within ten (10) days after a written request from Client and during normal business hours, provide Client access to such PHI or, if directed by Client, to an Individual, in order to meet the requirements under 45 C.F.R. § 164.524 and all expenses, costs, fees, and time for compliance with this request shall be paid by Client.

(i) Accounting. Business Associate shall document disclosures of PHI and information related to such disclosures as would be required for Client to respond to a request by an Individual for an accounting of uses and disclosures of PHI in accordance with 45 C.F.R. §164.528 and applicable state privacy law. Business Associate need only document disclosures for which an accounting to an Individual is required under HIPAA and applicable state privacy law. Within ten(10) days after Client's written request, Business Associate shall provide to Client or to the requesting Individual, a written accounting of such disclosures of PHI of the Individual to permit Client to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and applicable state privacy law. For any lawful disclosures of PHI, all expenses, costs, fees, and time for compliance with this request shall be paid by Client.

(k) Amendment. At the direction of Client, Business Associate shall make amendments to PHI maintained in a Designated Record Set in accordance with the requirements of 45 C.F.R. § 164.526. All such which result in expenses, costs, fees, and time for compliance with this request shall be paid by Client.

(l) State Privacy Law. Business Associate shall comply with all applicable laws.

#### 4. TERM AND TERMINATION

(a) Term. The Term of this Business Associate Agreement shall begin the date first written above and shall terminate on the later to occur of: (i) 30 days after termination of the Underlying Agreement, or (ii) when all PHI is returned to Client or destroyed or deemed forever inaccessible.

(b) Termination for Cause. Client may terminate this Business Associate Agreement by notice to Business Associate in the event that Business Associate materially breaches any

provision of this Business Associate Agreement. Client in its sole discretion may grant Business Associate a ten (10)-day period in which to cure the breach or end the violation. If granted a cure period and Business Associate fails to end the violation or to cure or take substantial steps to cure such material breach to Client's satisfaction within the cure period, Client may terminate this Agreement upon written notice to Business Associate.

(c) Return or Destruction PHI.

Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Client, or created, maintained, or received by Business Associate on behalf of Client, shall:

(i) Provide Client access to Business Associate's premises in order for Client to retrieve the Server or provide the Server to Client at its sole discretion;

(ii) If Business Associate has accessed or acquired any PHI in violation of this Business Associate Agreement or the Underlying Agreement, return to Client the PHI that the Business Associate maintains in any form or destroy said PHI at its sole discretion;

5. MISCELLANEOUS

(a) Amendment to Comply with Law. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for compliance with the requirements of applicable laws.

(b) Amendment. This Business Associate Agreement may be amended or modified only in a writing signed by the parties.

(c) No Third Party Beneficiaries. Nothing expressed or implied in this Business Associate Agreement is intended to confer, nor shall anything herein confer, upon any person other than Client, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

(d) Governing Law. This Business Associate Agreement shall be governed by and construed in accordance with HIPAA and the laws of the State of Arizona without regard to conflicts of laws principles.

(e) Headings. The headings in this Business Associate Agreement are for convenience only and shall not be used to interpret its meaning.

(f) Notice. Any notice required or permitted by this Business Associate Agreement shall be made in accordance with the notice provisions in the Underlying Agreement.

(g) Entire Binding Agreement; No Waiver; Counterparts. This Business Associate Agreement and the Underlying Agreement(s) constitute the entire agreement between the parties with respect to the subject matter hereof. This Business Associate Agreement shall inure to the benefit of and shall be binding upon the parties hereto, their successors, and permitted assigns. No waiver of any obligation under this Business Associate Agreement shall be effective unless

set forth in writing and signed by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and which together shall constitute one and the same instrument. Signature by telefacsimile shall be a valid signature.

(h) Indemnification.

(1) Client's Indemnity. Client shall defend, indemnify and hold harmless Business Associate and its parents, affiliates, and their respective trustees/directors, officers, employees, and agents and all of their respective successors and permitted assigns (the "Business Associate Indemnified Parties"), from and against any and all Claims or Actions incurred by Business Associate Indemnified Parties and arising from:

i. any breach of this Agreement by Client or any of its employees, agents, or independent contractors; or

ii. any violation of HIPAA by Client or any of its employees, agents, or independent contractors.

(i) Insurance. Business Associate shall maintain in full force and effect during the term of this Agreement and until the expiration of all applicable statutes of limitations insurance in commercially reasonable amounts to cover (i) liability for breach of its obligations pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the day and year first written above.

LOGIN, LLC.

CLIENT: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_