

Business Associate Agreement and Addendum

(Effective May 2, 2016)

This Addendum hereby modifies all agreement(s) between Client ("Covered Entity") and ACOM Solutions, Inc. ("Business Associate") and amends and is made a part of such agreements. In connection with the services, Covered Entity plans to disclose or provide access to Protected Health Information to Business Associate that is subject to certain restrictions and obligations pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing regulations (45 C.F.R. Parts 160-64) ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act, Division A of Title XIII of the American Recovery and Reinvestment Act of 2009 (the "HITECH Act"). Covered Entity and Business Associate agree to enter into this Addendum to address the obligations and restriction of Business Associate in connection with its access, creation, use, disclosure and destruction of Protected Health Information.

Definitions

Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

- (a) Business Associate. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean **ACOM Health Division and ACOM Medical Billing of ACOM Solutions, Inc.**
- (b) Covered Entity. "Covered Entity" shall generally mean a health plan, or health care provider or such other entity as defined in 45 CFR 160.103, and in reference to the party to this agreement, shall mean the party set out below.
- (c) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (d) HIPAA privacy regulations. "HIPAA privacy regulations" shall mean the regulations at 45 CFR §160 and §164, subpart A and E.
- (e) HIPAA security regulations. "HIPAA security regulations" shall mean the regulations at 45 CFR §160 and 164, subpart C.
- (f) HIPAA Breach Notification Rule. "HIPAA Breach Notification Rule" shall mean the regulations at 45CFR §164, subpart D.

Obligations and Activities of Business Associate

Business Associate agrees to:

- (a) Neither use nor disclose protected health information other than as permitted or required by the Agreement or as required by law;

- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information ("PHI") to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (c) Report to covered entity any use or disclosure of PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured PHI information as required at 45 CFR 164.410, and any security incident of which it becomes aware; Business Associate may, but is not obligated to, perform its own risk assessment, pursuant to 45 CFR 164.402; however, nothing herein provided is intended to relieve Covered Entity of any of its obligations pursuant to the HIPAA Breach Notification Rule;
- (d) Ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information;
- (e) Make available PHI in a designated record set to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- (f) Make any amendment(s) to PHI in a designated record set as directed or agreed to by the covered entity pursuant or take other measures as necessary to satisfy covered entity's obligations under 45 CFR 164.526;
- (g) Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- (h) To the extent the business associate is to carry out one or more of covered entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s); and
- (i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

Permitted Uses and Disclosures by Business Associate

- (a) Business associate may only use or disclose protected health information as necessary to perform the services set forth in the Agreement.
- (b) Business associate may use or disclose protected health information as required by law.
- (c) Business associate agrees to make uses and disclosures and requests for protected health information consistent with covered entity's minimum necessary policies and procedures.
- (d) Business associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by covered entity except for the specific uses and disclosures set forth below.
- (e) 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.
- (f) Business associate may provide data aggregation services relating to the health care operations of the covered entity.

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

Covered Entity shall notify business associate of any limitation(s) in the notice of privacy practices of covered entity under 45 CFR 164.520, to the extent that such limitation may affect business associate's use or disclosure of protected health information. Covered Entity shall also have these additional obligations:

(a) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an individual to use or disclose protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.

(b) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of protected health information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.

Permissible Requests by Covered Entity

Covered Entity shall not request business associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.

Covered Entity may make a request to Business Associate to provide information regarding Business Associate's Security Officer, and general assurance of the use of appropriate safeguards with respect to electronic protected health information, annually. Business Associate will provide information and assurances to the extent and in the manner deemed necessary and appropriate by Business Associate. Covered Entity agrees to be responsible for the costs, fees, and expenses associated with any such provision of information to Covered Entity.

Term and Termination

(a) Term. The Term of this Agreement shall be effective as of the date set out below and shall terminate on the date set out in the contract agreement, if applicable, between the parties as that date may be modified from time to time, or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement [and business associate has not cured the breach or ended the violation within the time specified by covered entity].

(c) Obligations of Business Associate upon Termination. Business associate shall retain protected health information received from covered entity for a period of not more than sixty (60) days from date of termination of the this agreement for whatever cause, or such shorter period during which covered entity shall have made provision for return or authorized destruction of all PHI. Thereafter, business associate shall, destroy, all protected health information business associate still maintains in any form. Business associate shall retain no copies of the protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity. Covered entity is solely responsible for complying with all laws related to retention of medical records, patient access and authorization to release patient data. All costs, fees, and expenses associated with the return or migration of information or data subject to this Addendum or the agreement(s) between Covered Entity and Business Associate shall be paid by Covered Entity or reimbursed by Covered Entity as set forth in the agreement(s) between Covered Entity and Business Associate, and the provisions within such agreements shall govern such payments and obligations of Covered Entity in the event of any conflict between the provisions of the agreement(s) and the provisions of this Addendum.

(d) Survival. The obligations of business associate under this Section shall survive the termination of this Agreement.

General Provisions

- (a) Upon the effective date of any applicable final regulation or applicable amendment to final regulations promulgated by the Department of Health and Human Services, this Addendum and the Agreement of which it is part will automatically be deemed to have been amended so that the parties may remain in compliance with the regulations.
- (b) The parties acknowledge and agree that this Addendum will be deemed to have been jointly prepared by the parties and their respective legal counsel and will not be strictly construed against either party.
- (c) Except as otherwise provided herein, the terms and conditions of this Addendum will override and control any conflicting term or condition of the agreement(s) between Covered Entity and Business Associate. All non-conflicting terms and conditions of such agreement(s) remain in full force and effect.
- (d) Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA or its Business Associate Agreement with its client.
- (e) This Addendum shall be governed in all respects by the laws of the state of California. The parties hereby consent to the exercise of exclusive jurisdiction in the County of Los Angeles, State of California for any claim relating to the enforcement of, or any rights under, this Business Associate Agreement and Addendum.
- (f) This Addendum shall be effective upon its issuance, service upon Covered Entity, and the continued performance of services by Business Associate. The continued performance of services by Business Associate and acceptance of such services by Covered Entity shall establish the validity and enforceability of this Business Associate Agreement and Addendum between Business Associate and Covered Entity, regardless of the presence or absence of any signature of any party to this Addendum hereunder.