

Business Associate Agreement

This Business Associate Agreement (“Agreement”), effective as of _____ (“COVERED ENTITY”), with an address at _____ NY, 10003 (each a “Party” and collectively the “Parties”).

WITNESSETH:

WHEREAS, BUSINESS ASSOCIATE will provide Services (as defined below) that are in contact with or for covered entities (each a “Covered Entity” and collectively “Covered Entities”), which Covered Entities are

WHEREAS, COVERED ENTITY has entered into agreements with Covered Entities that require COVERED ENTITY will appropriately safeguard all health information protected under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) supplemented by HITECH (as defined below), as each is amended from time to time (collectively “HIPAA/HITECH”), on behalf of such Covered Entities; and

WHEREAS, HIPAA permits a business associate to disclose PHI (as defined below) to transmit or maintain PHI on a business associate’s behalf for certain purposes, provided there is a written arrangement that the business associate subcontractor will appropriately safeguard the PHI;

WHEREAS, BUSINESS ASSOCIATE and its employees, affiliates, agents or representatives have entered into an agreement with COVERED ENTITY pursuant to either an existing or contemporaneously executed agreement;

WHEREAS, the Parties desire to enter into this Agreement to establish how the Parties will handle PHI as described in this Agreement, whether oral or written, with the execution of this Agreement;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and promises herein, the Parties agree to the following:

1. Definitions

Unless otherwise specified in this Agreement, all capitalized terms used in this Agreement shall have the meanings indicated below. As used in this Agreement, the following defined terms have the meanings indicated below:

1.1 “Breach” means the acquisition, access, use or disclosure of PHI in a manner not permitted by the exclusions set forth, in 45 C.F.R. § 164.402.

1.2 “Breach Notification Rule” means the federal breach regulations, as amended from time to time.

1.3 “Electronic Transactions Rule” means the final regulations concerning standard transactions rules.

1.4 “ePHI” means PHI that is transmitted or maintained in Electronic Media.

1.5 “HITECH” means Subtitle D of the Health Information Technology for Economic and Clinical Health Act, Public Law 111-179, 116 Stat. 17921-17954, and all associated existing and future implementing regulations, when in effect.

1.6 “PHI” means Protected Health Information, as defined in 45 C.F.R. § 160.103, and on behalf of, COVERED ENTITY by BUSINESS ASSOCIATE in performance of the Services.

1.7 “Privacy Rule” means the federal privacy regulations, as amended from time to time.

1.8 “Security Rule” means the federal security regulations, as amended from time to time.

1.9 “Services” means, to the extent and only to the extent they involve the receipt, creation, maintenance, use or disclosure of PHI, the Services provided by BUSINESS ASSOCIATE to COVERED ENTITY pursuant to the Services Agreement.

2. Services Agreements

COVERED ENTITY and BUSINESS ASSOCIATE are parties to a Services Agreement. This Agreement supersedes any previous agreement between the parties. In the event of conflict between the terms of the Services Agreement and this Agreement, the terms of this Agreement shall prevail.

3. Responsibilities of BUSINESS ASSOCIATE

With regard to its use and/or disclosure of PHI, BUSINESS ASSOCIATE agrees to:

3.1 not use and/or further disclose PHI other than as necessary to provide the Services to COVERED ENTITY, as required by 45 C.F.R. § 164.504(e) or as otherwise Required by Law; provided that, to the extent BUSINESS ASSOCIATE is required to disclose PHI, BUSINESS ASSOCIATE will comply with the requirements of the Privacy Rule that apply to that Covered Entity.

3.2 use appropriate administrative, technical and physical safeguards, and comply with applicable laws, regulations, contracts and policies, as provided for in this Agreement.

3.3 report to COVERED ENTITY in writing without unreasonable delay, and in any event within 60 days of discovery, any use or disclosure of PHI not provided for by this Agreement of which BUSINESS ASSOCIATE becomes aware.

3.4 report to COVERED ENTITY in writing without unreasonable delay, and in any event within 60 days of discovery, any use or disclosure of PHI not provided for by this Agreement of which BUSINESS ASSOCIATE becomes aware in accordance with 45 C.F.R. § 164.314.

3.5 notify COVERED ENTITY in writing without unreasonable delay, and in any event c involves an unauthorized acquisition, access, use or disclosure of PHI, even if BUSINES the extent possible, and shall be supplemented on an ongoing basis with: (i) all inform requested by COVERED ENTITY (or the applicable Covered Entity) to perform a risk as Breach of Unsecured PHI occurred; and (iii) all other information reasonably necessary accordance with the Breach Notification Rule. Notwithstanding the foregoing, in COVE other remedy available to COVERED ENTITY at law, equity or contract, including but n BUSINESS ASSOCIATE shall (i) conduct, or pay the costs of conducting, an investigati for all expenses and costs incurred by COVERED ENTITY that arise from an investigati providing, the required notices as set forth in this Section 3.5. COVERED ENTITY on be the Secretary and/or the media if and as required by the Breach Notification Rule unles responsible for said notifications at BUSINESS ASSOCIATE's sole cost and expense.

3.6 in accordance with 45 C.F.R. § 164.502(e)(1)(ii) and 45 C.F.R. § 164.308(b)(2), if ap transmit PHI on behalf of BUSINESS ASSOCIATE agree, in writing, to the same restrict ASSOCIATE with respect to that PHI, including complying with the applicable Security

3.7 make its internal practices, books, and records relating to the use and disclosure of available to the Secretary for purposes of determining the applicable Covered Entity's

3.8 make available, within five (5) calendar days after receiving a written request from maintained by BUSINESS ASSOCIATE in a Designated Record Set about an Individual that the applicable Covered Entity (or COVERED ENTITY on behalf of the applicable C requirements of 45 C.F.R. § 164.524; or (ii) the Individual to whom such PHI relates or requirements of 45 C.F.R. § 164.524.

3.9 make available, within ten (10) calendar days after receiving a written request from maintained by BUSINESS ASSOCIATE in a Designated Record Set about an Individual amendment and incorporate any amendments to the PHI as requested by the applicab C.F.R. § 164.526.

3.10 document, and within seven (7) calendar days after receiving a written request fro available to the applicable Covered Entity (or COVERED ENTITY on behalf of the appli behalf of the applicable Covered Entity) to make an accounting of disclosures of PHI al required by final regulations or the Effective Date, 42 U.S.C. § 17935(c).

3.11 forward to COVERED ENTITY, within five (5) calendar days after its receipt, any re an accounting of disclosures.

3.12 accommodate reasonable requests for confidential communications in accordance behalf of the applicable Covered Entity).

3.13 take all necessary steps, at the request of the applicable Covered Entity (or COVERED ENTITY), to ensure that PHI is not sent to a Health Plan in accordance with 45 CFR § 164.522(a).

3.14 mitigate, to the extent practicable, any harmful effect known to BUSINESS ASSOCIATE.

3.15 request, use and/or disclose only the minimum amount of PHI necessary to accomplish the purposes of the applicable Covered Entity and COVERED ENTITY; provided that, BUSINESS ASSOCIATE shall not:

3.16 not directly or indirectly receive remuneration in exchange for any PHI of an Individual;

3.17 not use or disclose PHI for Marketing purposes under any circumstances.

3.18 secure PHI in accordance with the Breach Notification Rule, as well as any guidance issued by HHS, if such guidance is not maintained by BUSINESS ASSOCIATE.

4. Compliance with EDI Standards, Operating Rules, Standard Transactions Requirements

If BUSINESS ASSOCIATE conducts in whole or part electronic transactions on behalf of COVERED ENTITY, BUSINESS ASSOCIATE will comply, and will require any subcontractor it involves with the EDI Transactions Rule and Operating Rules. BUSINESS ASSOCIATE shall also comply with the Operating Rules, Standard Transactions and Code Sets Regulations, the Parties agree to address that change, if necessary to ensure that this Agreement complies with HIPAA.

5. Permitted Uses and Disclosures of PHI by BUSINESS ASSOCIATE

Unless otherwise limited in this Agreement, BUSINESS ASSOCIATE may use and disclose PHI in accordance with the legal responsibilities of BUSINESS ASSOCIATE, provided that the disclosures of PHI is disclosed for those purposes that: (i) the PHI will be held confidentially and used only for the purposes for which it was disclosed; and (ii) the person will notify BUSINESS ASSOCIATE of any instances of which it becomes aware.

6. Term and Termination.

6.1 Term. This Agreement shall become effective on the Effective Date and shall have a term of five (5) years, in accordance with Section 6.2.

6.2 Termination for Cause. If COVERED ENTITY knows of a pattern of activity or practice that constitutes a breach or violation of this Agreement, COVERED ENTITY may provide written notice of the breach or violation to BUSINESS ASSOCIATE. If BUSINESS ASSOCIATE does not cure the breach or end the violation on or before ten (10) calendar days after receipt of the written notice, within the timeframe, COVERED ENTITY may terminate this Agreement and the Services Agreement. If any of COVERED ENTITY's applicable Covered Entity customers terminates its agreement with BUSINESS ASSOCIATE, this Agreement shall terminate.

6.3 Effect of Termination or Expiration. Within thirty (30) calendar days after the expiration or termination of this Agreement, BUSINESS ASSOCIATE shall return to COVERED ENTITY all PHI, if feasible to do so, including all PHI in possession of BUSINESS ASSOCIATE's Subcontractors.

notify COVERED ENTITY in writing of the reasons return or destruction is not feasible; extend any and all protections, limitations and restrictions contained in this Agreement of this Agreement, and shall limit any further uses and/or disclosures solely to the purpose of this Agreement.

7. Miscellaneous

7.1 Interpretation. Any ambiguity in this Agreement shall be resolved to permit the application of the law of the State of New York.

7.2 Survival. Sections 6.3, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, and 7.11 shall survive the termination or expiration of this Agreement.

7.3 No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to create a right in any third party, and the Parties intend that the Agreement shall not be enforceable by or for the benefit of any third party, successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

7.4 Disputes. If any controversy, dispute or claim arises between the Parties with respect to this Agreement, any disputes arising hereunder shall be venued in a state or federal court located in New York City, New York.

7.5 Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, and all counterparts together shall constitute the entire Agreement. Facsimile copies hereof shall be deemed to be originals.

7.6 Independent BUSINESS ASSOCIATE Relationship. No provision of this Agreement shall be construed to create a partnership, joint venture, agency, or other relationship between COVERED ENTITY and BUSINESS ASSOCIATE other than that expressly provided for in the provisions of this Agreement. Neither of the Parties nor any of their respective representatives shall be deemed to be an agent of the other Party.

7.7 Penalties for Noncompliance. BUSINESS ASSOCIATE acknowledges that it may be liable for civil penalties under the HIPAA Privacy Rule for any breach of the HIPAA Privacy Rule.

7.8 Amendments; Waiver. This Agreement may not be modified, nor shall any provision of this Agreement be waived, orally or in writing, by either Party. The failure of either Party to enforce at any time any provision of this Agreement shall not constitute a waiver of the right of either Party thereafter to enforce each and every such provision of this Agreement as soon as reasonably practicable to address that change, if necessary to effectuate the intent of the Parties.

7.9 Attorney Client Privilege. Nothing herein contained shall be construed to modify, in any way, the attorney-client privilege.

7.10 Indemnification. BUSINESS ASSOCIATE agrees to indemnify COVERED ENTITY, its successors and assigns, and thereafter, from any and all claims, losses, liabilities, penalties, fines, costs (including reasonable attorney's fees), damages and expenses, including reasonable attorney's fees, arising out of or resulting from any breach of this Agreement or violation of HIPAA.

BUSINESS ASSOCIATE's breach of this Agreement or violation of HIPAA.

7.11 Limitation of Liability. EXCEPT FOR FRAUD AND INTENTIONAL MISREPRESENTATION, BUSINESS ASSOCIATE SHALL NOT BE LIABLE FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR INDIRECT DAMAGES, COSTS, EXPENSES, CHARGES OR PENALTIES OF ANY KIND.

7.12 Notices

Any notice required or permitted under this Agreement shall be given in writing and delivered to the following address:

Any notice required or permitted under this Agreement shall be given in writing and by registered mail or certified mail, postage prepaid and return receipt requested or when other addresses or to such other persons' attention as either Party shall advise the other

If to COVERED ENTITY: At the address set forth on page one of this Agreement

With a copy to: Attn: Chief Legal Officer

BUSINESS ASSOCIATE (at the above address or below if filled in):

General Counsel WERQ INC., 33 Irving Pl, New York, NY, 10003

Notice of a change in address of one of the parties shall be given in writing to the other

INTENDING TO BE LEGALLY BOUND, the Parties hereto have duly executed this Agreement

COVERED ENTITY

Print Name:

TITLE:

Signed: _____

WERQ, INC.

BUSINESS ASSOCIATE

Print Name: Neil Patel

TITLE:

Signed: _____



Built by a team of international doctors, health
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Tel: 347-903-4966

33 Irving Pl, New York, NY 10003

Important Links

Business Associate Agreement < <https://werq.com/business-associate-agreement>

Privacy Policy < <https://werq.com/privacy-policy>

Terms of Service < <https://werq.com/terms-of-service>

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