

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between designated grantee(s), administering Ryan White, (collectively the “Grantee(s)”) and _____ (“Associate”) as a business associate of the Grantee(s), whereby Associate can assist the Grantee(s) in providing health services to Maricopa and/or Pinal County residents and others. Associate and Grantee(s) agree to this Agreement in order to comply with the use, storage and handling of Protected Health Information (“PHI”) under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. §§ 160.103, 164.501 et seq., as amended (“Privacy Standards”). Unless otherwise provided, all capitalized terms in this Agreement will have the same meaning as provided under the Privacy Standards (45 CFR Parts 160 and 164). Associate and Grantee(s) will comply with the terms of this Agreement effective from March 1, 2008 to February 28, 2011.

Definitions for terms in this Agreement:

- A. **Business Associate** means an entity that performs or assists in the performance of a function on behalf of a Covered Entity, which involves the use, or disclosure of Individually Identifiable Health Information as defined in 45 C.F.R. § 160.103. The terms “Business Associate” and “Contractor” are synonymous. Notwithstanding this definition, if Contractor does not have access to or create Protected Health Information under this Contract, Contractor is not a Business Associate, and the terms of this Attachment do not apply to Contractor.
- B. **Individual** means the Individual who is the subject of the Protected Health Information.
- C. **Individually Identifiable Health Information** (“Protected Health Information”) means the health information that is created or received by a Covered Entity; and relates to the physical condition, mental health or other health condition of an Individual, or to the provision of health care to the Individual (including but not limited to the payment for such health care); and identifies or can be used to identify the Individual as defined in 45 C.F.R. § 160.103.
- D. **Protected Health Information (“PHI”)** means the same as Individually Identifiable Health Information

Associate agrees to the following:

- 1. **Uses and Disclosures of Protected Health Information.** Associate will use and disclose PHI only for those purposes necessary to perform its duties, obligations and functions under the Contract, or as otherwise expressly permitted in this Agreement or required by other law. Associate will not use or further disclose any PHI in violation of this Agreement.
- 2. **Safeguards.** Associate will implement appropriate safeguards to prevent any use or disclosure of PHI not otherwise permitted in this Attachment.
- 3. **Reports of Impermissible Use of Disclosure.** Associate will report to Grantee(s) any use or disclosure of PHI not permitted by the contract between Associate and Grantee(s) within five business days of Associate’s learning of such use or disclosure.
- 4. **Agents and Subcontractors.** Associate will ensure that any agent(s), including a subcontractor, to whom it provides PHI received from, or created or received by Associate on behalf of, Grantee(s) agree to the same restrictions and conditions that apply to Associate with respect to such information.
- 5. **Obligations Regarding Associate Personnel.** Associate will appropriately inform all of its employees, agents, representatives and members of its workforce (“Associate Personnel”), whose services may be used to satisfy Associate’s obligations under the Contract and this Agreement of the terms of this Agreement. Associate represents and warrants that the Associate Personnel are under legal obligation to

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Associate, by contract or otherwise, sufficient to enable Associate to fully comply with the provisions of this Agreement.

6. Access to PHI.

- a. **Grantee(s) Access.** Associate will make available PHI in accordance with 45 C.F.R. §164.524.
- b. **Other Business Associates Access.** Associate is permitted to disclose PHI to other Grantee(s) Business Associates for treatment, operations and payment purposes so the Grantee(s) can administer the Ryan White Program and for other lawful purposes, provided that the Grantee(s) Business Associate(s) assures that the PHI it receives shall be protected according to Privacy Standards.
- c. **Patient Access.** If a Ryan White service recipient (herein known as the “client”) requests access to PHI directly from Associate, Associate will within five business days forward such request in writing to Grantee(s). Grantee(s) will be responsible for making all determinations regarding the grant or denial of a Patient’s request for PHI and Associate will make no such determinations. Only Grantee(s) will release PHI to the Patient pursuant to such a request.

7. Amendment of PHI. Associate will make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. §164.526.

8. Accounting of Disclosures; Requests for Disclosure.

- a. **Disclosure Records.** Associate will make available the information required to provide an accounting of disclosures in accordance with 45 C.F.R. § 164.528.
- b. **Patient Request to Associate.** If a client requests an accounting of disclosures directly from Associate, Associate will make its records of disclosures available to the client and will be responsible to prepare and deliver the records of disclosure to the client. Associate will not provide an accounting of its disclosure directly to the Individual.

9. Government Access. Associate will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Associate on behalf of, Grantee(s) available to the Secretary of the Department of Health and Human Services for purposes of determining Grantee(s)’ compliance with Part 164, Subpart E.

10. Responsibilities upon Termination

- a. **Return of PHI; Destruction.** At the termination of the contract, if feasible, Associate will return or destroy all PHI received from, or created or received by Associate on behalf of, Grantee(s) that Associate still maintains in any form and retain no copies of such information.
- b. **Alternative Measures.** If Associate believes that returning or destroying PHI at the termination of the Contract is not feasible, Associate will extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

11. Termination. Grantee(s) may immediately terminate the Contract upon written notice to Associate if Grantee(s) determines that Associate has violated a material term of this Attachment.

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- 12. **Amendment to Comply with Law.** Grantee(s) and Associate acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Attachment may be required to ensure compliance with such developments. Should such developments occur, and upon either Party's good faith request, the other Party agrees to enter good faith negotiations concerning the terms of an amendment to this Attachment.

- 13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona

- 14. **Third-Party Rights.** Except as expressly stated in this Agreement or the HIPAA Security and Privacy Rules, the parties to this Agreement do not intend to create any rights in any third parties.

- 15. **Assignment.** Associate may not assign its respective rights and obligations under this Agreement without the prior written consent of the Grantee(s).

- 16. **Survival.** Associate's respective rights and obligations under Section 10 of this Agreement shall survive the termination of this Agreement.

- 17. **Notices.** Any notices required under this Agreement will be sent to the parties at the following address by first class mail, fax or hand delivery:

Grantee(s):

Associate:

Maricopa County

301 W. Jefferson St. # 3200

Phoenix, AZ 85003

Agreed to by Grantee(s) and Associate by:

Grantee(s) Signature

Associate Signature

Title

Title

Date

Date

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**BUSINESS ASSOCIATE ASSURANCE FOR RELEASE
OF INFORMATION TO THIRD PARTIES**

1. _____ (“Associate”) is a business associate of Ryan White grantees (Grantee(s)) pursuant to the agreement between Associate and Grantee(s) dated _____ (“Agreement”). Pursuant to that Agreement, Associate is required to comply with the requirements for the use, storage and handling of Protected Health Information (“PHI”) from the Grantee(s) as set forth in the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. 164.501 et. seq. as amended from time to time (“Privacy Standards”).
2. Associate is permitted to disclose PHI to _____ (“Recipient”) for the necessary management and administration of Associate and to carry out the legal responsibilities of the Associate, provided that Recipient provides Associate with the following assurances for Recipient’s use and disclosure of PHI.
3. Associate seeks to disclose PHI to Recipient for the following management, administration or legal responsibilities of Associate: _____.
4. The disclosure of PHI to Recipient is conditioned upon Recipient’s assurance that, and Recipient agrees that it will:
 - a. Hold the PHI confidentially and make no redisclosure to any third party without Associate’s express advance written consent;
 - b. Use or disclose the PHI only as required by law or for the purposes set forth above; and
 - c. Notify Associate in writing of any breaches in the confidentiality of the PHI within three days of discovery of any such breach.

ASSOCIATE:

RECIPIENT:

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____