

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into between the Covered Entity identified below ("Covered Entity") and Faxbot, LLC, a Delaware limited liability company ("Business Associate"), effective as of the date of last signature below.

RECITALS

WHEREAS, Covered Entity is a "Covered Entity" as defined in 45 C.F.R. § 160.103 and is subject to the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), and the regulations promulgated thereunder, including the Privacy Rule (45 C.F.R. Parts 160 and 164, Subparts A and E), the Security Rule (45 C.F.R. Parts 160 and 164, Subparts A and C), and the Breach Notification Rule (45 C.F.R. Parts 160 and 164, Subparts A and D) (collectively, the "HIPAA Rules");

WHEREAS, Business Associate provides fax transmission and receipt services, including but not limited to electronic fax delivery, storage, and integration services ("Services") to Covered Entity;

WHEREAS, in the course of providing Services, Business Associate may receive, create, maintain, use, or transmit Protected Health Information ("PHI") on behalf of Covered Entity;

WHEREAS, the parties desire to enter into this Agreement to ensure that Business Associate's use and disclosure of PHI complies with the HIPAA Rules and to establish the permitted and required uses and disclosures of PHI by Business Associate;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. DEFINITIONS

1.1 Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the HIPAA Rules.

1.2 "Breach" shall have the same meaning as the term "breach" in 45 C.F.R. § 164.402.

1.3 "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 C.F.R. § 164.501.

1.4 "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.

1.5 "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.6 "Minimum Necessary" shall have the same meaning as the term "minimum necessary" in 45 C.F.R. § 164.502(b).

1.7 "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

1.8 "Secretary" means the Secretary of the Department of Health and Human Services or his or her designee.

1.9 "Services" means the fax transmission, receipt, storage, and integration services provided by Business Associate to Covered Entity, including but not limited to:

- Electronic fax delivery and receipt
- Temporary storage of fax documents
- Integration with Covered Entity's existing systems
- Backend hosting and processing services
- API services for fax management

2. PERMITTED USES AND DISCLOSURES

2.1 Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the underlying service agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

2.2 Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

2.3 Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential 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.

2.4 Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5 Business Associate may use PHI to create de-identified health information, provided that such de-identification meets the requirements of 45 C.F.R. § 164.514(a)-(c).

3. OBLIGATIONS OF BUSINESS ASSOCIATE

3.1 Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law.

3.2 Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.

3.3 Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

3.4 Business Associate agrees to 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.

3.5 Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including Breaches of Unsecured PHI as required by 45 C.F.R. § 164.410, and any security incident of which it becomes aware.

3.6 Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI agrees to implement reasonable and appropriate safeguards to protect it.

3.7 Business Associate agrees to make available PHI in accordance with 45 C.F.R. § 164.524.

3.8 Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by the Covered Entity.

3.9 Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the

Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner as designated by the Covered Entity or the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with the Privacy Rule.

3.10 Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

3.11 Business Associate agrees to provide to Covered Entity or an Individual, in time and manner as designated by the Covered Entity, information collected in accordance with paragraph 3.10 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

4. SPECIFIC TECHNICAL SAFEGUARDS

4.1 Business Associate shall implement and maintain the following technical safeguards:

4.1.1 Access Control: Unique user identification, emergency access procedures, automatic logoff, and encryption and decryption of PHI.

4.1.2 Audit Controls: Hardware, software, and/or procedural mechanisms that record and examine access and other activity in information systems that contain or use PHI.

4.1.3 Integrity: Policies and procedures to protect PHI from improper alteration or destruction.

4.1.4 Person or Entity Authentication: Procedures to verify that a person or entity seeking access to PHI is the one claimed.

4.1.5 Transmission Security: Technical security measures to guard against unauthorized access to PHI that is being transmitted over an electronic communications network.

4.2 Business Associate shall ensure that all fax transmissions are encrypted in transit and that stored PHI is encrypted at rest using industry-standard encryption methods.

4.3 Business Associate shall maintain comprehensive audit logs of all access to PHI, including user identification, date and time of access, and nature of access.

5. BREACH NOTIFICATION

5.1 Business Associate shall, without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach of Unsecured PHI, notify Covered Entity of such Breach.

5.2 The notification required by paragraph 5.1 shall include, to the extent possible:

- A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
- A description of the types of Unsecured PHI that were involved in the Breach;
- Any steps the Business Associate has taken or plans to take to investigate the Breach, mitigate losses, and protect against any further Breaches;
- A description of what the Business Associate is doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
- Contact information for questions.

5.3 Business Associate shall provide such other information, including taking such other steps, as the Covered Entity may reasonably request.

6. LIMITATION OF LIABILITY

6.1 Business Associate's liability under this Agreement shall be limited to direct damages arising from Business Associate's breach of this Agreement, and in no event shall Business Associate's total liability exceed the total amount paid by Covered Entity to Business Associate under the underlying service agreement in the twelve (12) months immediately preceding the event giving rise to liability.

6.2 Business Associate shall not be liable for any damages arising from:

- Actions or omissions of the Covered Entity's chosen SIP provider;
- Errors or failures in third-party software integrated with Business Associate's services;
- Unauthorized access to PHI due to Covered Entity's failure to maintain appropriate security measures;
- Any use or disclosure of PHI that occurs outside of Business Associate's control or systems.

6.3 Business Associate's open-source code is available for audit and inspection at all times, and Covered Entity acknowledges that it has reviewed or had the opportunity to review such code.

7. TERM AND TERMINATION

7.1 Term. The Term of this Agreement shall be effective as of the date first written above and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or

created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

7.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or
- Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible.

7.3 Effect of Termination.

a. Except as provided in paragraph 7.3.b., upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

b. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the condition that makes return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

8. MISCELLANEOUS

8.1 Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

8.2 Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA Rules and the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5.

8.3 Survival. The obligations of Business Associate under Section 7.3 shall survive the termination of this Agreement.

8.4 Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.

8.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of law principles.

8.6 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or agreements relating thereto.

8.7 Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

8.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.9 Electronic Signatures. This Agreement may be executed and delivered by electronic signature, which shall be deemed to be an original signature for all purposes.

SIGNATURES

COVERED ENTITY:

Name: _____

Title: _____

Signature: _____

Date: _____

BUSINESS ASSOCIATE (FAXBOT, LLC):

Name: _____

Title: _____

Signature: _____

Date: _____

Effective Date: _____

Agreement Version: 1.0

Last Updated: December 2024

This Business Associate Agreement is designed to ensure HIPAA compliance for fax services provided by Faxbot, LLC. It should be reviewed by legal counsel before execution.