

**HITECH ACT COMPLIANT
BUSINESS ASSOCIATE AGREEMENT
BY AND BETWEEN**

_____ (the "COVERED ENTITY")

AND

CASCADE ASSET MANAGEMENT, LLC (the "BUSINESS ASSOCIATE")

WHEREAS, the Business Associate provides Information Technology Asset Disposition services for the Covered Entity which may, from time to time, result in the Business Associate coming into contact with protected health information (PHI) generated or stored by the Covered Entity; and

WHEREAS, the Business Associate and Covered Entity are subject to comply with regulations governing the privacy and security of PHI promulgated in the Health Insurance Portability and Accountability Act of 1997 ("HIPAA") and amended by Title XIII of the American Recovery and Reinvestment Act of 2009 ("ARRA") which is entitled the Health Information Technology for Economic and Clinical Health ("HITECH") Act (hereinafter collectively referred to as "HIPAA");

NOW, THEREFORE, in consideration of the mutual undertakings and responsibilities between the Covered Entity and Business Associate and as herein stated, the parties agree to the following:

1. Definitions

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.

- a. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- b. Equipment. "Equipment" shall mean any information technology assets, electronic or paper media, and other items collected and acceptable for processing by Business Associate as part of the IT Asset Disposition services provided to the Covered Entity.
- c. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- d. Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- e. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
- f. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

2. Obligations and Activities of Business Associate

- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
- b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement not more than twenty-four (24) hours after Business Associate learns of the incident.
- e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- f. Since Business Associate will destroy all data on electronic media provided by Covered Entity, it is understood that the Covered Entity will not be able to get access to Protected Health Information once title to disposed assets is transferred to Business Associate.
- g. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received by Business Associate on behalf of Covered Entity available to the Covered Entity, or to the Secretary, in a reasonable time and manner or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- h. Business Associate agrees to document such disclosures of Protected Health Information 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 Protected Health Information in accordance with 45 CFR § 164.528.
- i. Business Associate agrees to provide to Covered Entity or an Individual, as soon as practical, information collected in accordance with Section "h" of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

3. Permitted Uses and Services by Business Associate

Except as otherwise limited in this Agreement, Business Associate may come in contact with, use or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for the following purposes:

- a. Business Associate may take title to and physical custody of Equipment which may contain Protected Health Information as part of its Information Technology Asset Disposition Services for the Covered Entity.
- b. Business Associate, its employees, subcontractors and agents, will access the Equipment in the manner necessary to destroy Protected Health Information and other data in accordance with the NIST 800-88 Guidelines For Media Sanitization. The mutually agreed upon method for sanitization is (check one):
 - Process Equipment for best use by allowing for the electronic destruction of PHI whenever feasible and practical (in order to facilitate the reuse of the Equipment containing PHI). Equipment not reused will be demanufactured and PHI will be destroyed by the process of shredding and smelting by Business Associate and its subcontractors. The method for electronic destruction of information on electronic media shall be (check one):
 - Successful one-pass overwrite of every drive sector using a software wiping tool;
 - Successful three-pass Department of Defense 5220.22-M compliant overwrite of every drive sector using a software wiping tool;
 - Remove hard disk drives from computers, servers and laptops and shred these media, but resell (when possible) the rest of the Equipment.
 - Physically destroy all Equipment, including media containing PHI by demanufacturing, shredding and/or smelting by Business Associate and its subcontractors.

4. Covered Entity Management of PHI and Electronic Media sent to Business Associate

- a. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.
- b. Covered Entity may adopt and follow a standard to safeguard media that store PHI and which is disposed through the Business Associate. This may include encryption of data stored on media. The Covered Entity's current standard for data encryption is (check one):
 - Not processed by customer in any way; electronic PHI left intact
 - Encrypted with 128 bit or greater encryption method
 - Electronic PHI is identified per 45 CFR 164.502(d)

5. Term and Termination

- a. The Term of this Agreement shall be effective as of the date of full execution by both parties and shall terminate when Services between the Covered Entity and Business Associate cease and all of the Protected Health Information 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.
- b. Termination for Cause: Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall 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 twenty (20) days of written notification by Covered Entity;

c. Effect of Termination.

1. Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Miscellaneous

1. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
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 Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
3. Survival. The respective rights and obligations of Business Associate under Section 5 of this Agreement shall survive the termination of this Agreement.
4. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.

The parties further agree that any other Agreement between the parties not modified by this Agreement shall remain in full force and effect.

IN WITNESS WHEREFORE, the parties hereto have executed this Amendment on this ____ day of _____, 20__.

“COVERED ENTITY”

“BUSINESS ASSOCIATE”

BY: _____

By: _____

NAME: _____

NAME: Neil Peters-Michaud

TITLE: _____

TITLE: Chief Executive Officer

DATE: _____

DATE: _____