

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“**BAA**”), effective Insert Date (the “**Effective Date**”), is entered into by Customer Name (“**Customer**”), located at Customer Address., and **Consensus Cloud Solutions Canada ULC (“CONSENSUS”)**, located at 201-5190 Dublin Way, Nanaimo, BC, Canada V9T 0H2 (each a “**Party**” and collectively, the “**Parties**”).

WHEREAS, CONSENSUS offers, among other service offerings, secure internet facsimile services that Customer intends to use to send and/or receive messages that could contain PHI; and

WHEREAS, Customer and CONSENSUS are entering into this BAA that, along with the Service Agreement, will govern their respective obligations regarding HIPAA and PHI with respect to the Services.

NOW THEREFORE, in consideration of the foregoing, the mutual promises contained herein, and other good and valuable consideration, the Parties agree as follows:

I. DEFINITIONS

“**Breach**,” “**Business Associate**,” “**Covered Entity**,” and “**Security Incident**” have the same meanings given to them under HIPAA.

“**DHHS**” means the U.S. Department of Health & Human Services.

“**HIPAA**” means the Health Insurance Portability & Accountability Act, the Health Information Technology for Economic & Clinical Health Act (“**HITECH**”), and the regulations enacted thereunder (including 45 C.F.R. Parts 160 and 164), each as amended and as applicable.

“**PHI**” and “**Unsecured PHI**” mean “**protected health information**” and “**unsecured protected health information**,” as those terms are defined under HIPAA, if transmitted via CONSENSUS through Customer’s permitted use of the Services.

“**Service Agreement**” means the service or license agreement in place between Customer and CONSENSUS that covers the Services, as may be amended, and the agreements incorporated therein.

“**Services**” means the SRFax internet facsimile services with the Healthcare Lite, Healthcare Basic or Healthcare Basic Plus plan.

II. APPLICABILITY

- A. Relationship to Service Agreement. This BAA amends the Service Agreement to govern the Parties’ respective obligations regarding HIPAA and PHI. To the extent there is any conflict or inconsistency between this BAA and the Service Agreement, the terms of this BAA will govern. Except as expressly amended by this BAA, the Service Agreement is unchanged and remains in full force and effect.
- B. Parties. This BAA only applies to the extent Customer is acting as a Covered Entity or Business Associate to transmit PHI via the Services and where CONSENSUS, as a result, is deemed to be acting as Customer’s Business Associate.
- C. Services. This BAA only applies to the Services and no other CONSENSUS services. In all instances, the Services must be used and configured in accordance with the Service Agreement and any applicable guidelines provided by CONSENSUS to qualify as applicable under this

BAA. All obligations and representations of CONSENSUS under this BAA are contingent on Customer's agreement, representation, and warranty that it will not create, receive, maintain, or transmit PHI using a CONSENSUS service other than the Services (but only if used and configured in accordance with the Services Agreement and any applicable guidelines provided by CONSENSUS) or another CONSENSUS service for which the Parties have entered into a separate HIPAA business associate agreement.

III. PERMITTED USE & DISCLOSURE

A. By CONSENSUS. CONSENSUS is authorized to access, use, maintain, and disclose PHI as necessary and appropriate to perform the Services. CONSENSUS may also access, use, maintain, and disclose PHI for the proper management and administration of its business operations and to carry out its legal responsibilities, provided that disclosures for such purposes are either required by law or CONSENSUS obtains reasonable assurances from parties to whom PHI is disclosed that:

- the PHI will be held in confidence;
- the PHI will be used or further disclosed only as required by law or for the purpose CONSENSUS disclosed that PHI; and
- CONSENSUS will be notified of any Breach.

CONSENSUS agrees not to access, use, maintain, or disclose PHI other than as provided above.

B. By Customer. Except as otherwise permitted under HIPAA, Customer shall not request CONSENSUS to use or disclose PHI in a manner that would not be permissible under HIPAA if done by Customer. With regard to Customer's management and administration of the Services to its end users, Customer is responsible for using and enforcing the available controls within the Services to support its HIPAA compliance requirements, including by adhering to any applicable guidelines provided by CONSENSUS. Customer agrees that CONSENSUS has no HIPAA obligations under this BAA to the extent Customer creates, receives, maintains, or transmits PHI outside of the Services, including through Customer's use of non-CONSENSUS applications or tools.

C. By Agents & Subcontractors. CONSENSUS will take appropriate steps to ensure that any agents and subcontractors used by CONSENSUS to perform its obligations under the Service Agreement who require access to Unsecured PHI are bound by written obligations that provide materially the same level of restrictions, conditions, and requirements for PHI that apply to CONSENSUS through this BAA.

IV. SECURITY & REPORTING

A. Appropriate Safeguards. With respect to the Services, CONSENSUS and Customer will use appropriate safeguards designed to prevent unauthorized use or disclosure of PHI, consistent with this BAA and as required under HIPAA.

B. Reporting. In compliance with HIPAA, CONSENSUS will report to Customer any of the following events of which it becomes aware:

- Any use or disclosure of Unsecured PHI not provided for by this BAA;
- Any Security Incident; and/or
- Any Breach of Unsecured PHI.

Notification shall be made as soon as reasonably practicable, consistent with the legitimate needs of law enforcement and CONSENSUS' s efforts to comply with applicable law, and after allotting reasonable time for CONSENSUS to investigate the Breach, restore the integrity of its systems and the Services, and mitigate further harm.

- C. Accounting Rights. To the extent applicable, CONSENSUS will make available to Customer any PHI that Customer maintains using the Services, so that Customer may fulfill its HIPAA obligations to provide individuals with their information access, amendment, and accounting rights. Customer is responsible for managing its use of the Services to appropriately respond to such requests by individuals.
- D. Access to Records. To the extent required by law and subject to any applicable privileges and immunities, CONSENSUS will make available to the Secretary of DHHS CONSENSUS' s internal practices, books, and records concerning PHI transmitted by Customer through the Services, in order for the Secretary of DHHS to assess HIPAA compliance.

V. TERM & TERMINATION

- A. Term. The term of this BAA shall commence on the Effective Date and shall continue and terminate contemporaneously with the Service Agreement, unless sooner terminated in accordance with Section V(B) or V(C). In the event that this BAA is terminated earlier than the Service Agreement, Customer may continue to use the Services in accordance with the Service Agreement but must delete any PHI maintained using the Services and cease to create, receive, maintain, and transmit PHI using the Services.
- B. Termination for Cause. In the case of a material breach of this BAA, the non-breaching Party shall provide written notice promptly upon its discovery of such breach. If the breach is not reasonably capable of being cured, the non-breaching Party may terminate this BAA and the Service Agreement ten (10) days after its written notice. If the breach is reasonably capable of being cured, the breaching Party shall be afforded a thirty (30) day opportunity to cure, after which the non-breaching Party may choose to terminate this BAA and the Service Agreement if the breaching Party does not reasonably cure the breach.
- C. Other Termination. This BAA may also be terminated if: (i) the Service Agreement is terminated or amended to no longer cover CONSENSUS' s provision of the Services to Customer; (ii) HIPAA is amended or superseded such that an agreement such as this is not required; or (iii) both Parties mutually agree to terminate this BAA, provided that either a new HIPAA business associate agreement must be put in place or the service relationship between CONSENSUS and Customer must terminate in all respects that involve PHI.
- D. Destruction upon Termination. Upon termination of this BAA, the Parties shall destroy all PHI associated with Customer that has been maintained on CONSENSUS' systems within a reasonable time. To the extent destruction is not feasible, CONSENSUS will extend the protections of this BAA to the remaining PHI and limit further use and disclosure to the purposes that make destruction infeasible.

VI. GENERAL PROVISIONS

- A. Amendments. This BAA shall not be modified or amended except by a written agreement signed by both Parties. The Parties agree to modify or amend this BAA if HIPAA changes in a manner that materially affects the BAA's terms or the obligations of Covered Entities, Business Associates, or sub-contractors.

- B. No Third Party Beneficiaries. This BAA is entered into solely for the benefit of the Parties and has not been entered into for the benefit of any third party, including without limitation, any patients of Customer or their legal representatives.
- C. Non-Delegation & Non-Assignment. Except with respect to agents and subcontractors as provided for in Section III(C), this BAA is not assignable or delegable without the advance written consent of the Party not seeking to assign or delegate.
- D. Invalidity. If any provision of this BAA is determined by a court of competent jurisdiction to be invalid or unenforceable, this BAA shall be construed as though such invalid or unenforceable provision were omitted, provided that the remainder of this BAA continues to satisfy HIPAA requirements for a business associate agreement. If it does not, then the Parties shall immediately renegotiate this BAA so that it does comply with HIPAA, or terminate this BAA and the service relationship between CONSENSUS and Customer in all respects that involve PHI.
- E. Counterparts. This BAA may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.
- F. Integration. This BAA contains the entire agreement between the Parties pertaining to HIPAA and PHI, and supersedes all prior understandings, whether written or oral, regarding the same subject matter.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Business Associate Agreement as of the Effective Date.

You Squared LLC



Signature: _____

Name: John Gonzalez

Title: CEO.

Consensus Cloud Solutions Canada ULC

Signature: Scott Kennedy

Name: Scott Kennedy

Title: Security Officer