



## TERMS OF SERVICE AGREEMENT

The following Terms of Service (the "Agreement") is effective as of the last date signed below (the "effective date")

**BETWEEN:**                    **Secure Telehealth, Inc.** (the "Service Provider"), a corporation (Tax ID 27-1728534) organized and existing under the laws of Pennsylvania, located at:  
9150 Harmony Drive  
Pittsburgh, Pa. 15237

**AND:**                        **The County Board of Arlington County, Virginia** (the "County"), located at:  
2100 Clarendon Blvd  
Arlington, VA 22201

WHEREAS, the Service Provider is in the business of supplying secure video conferencing meeting rooms and professional services to Health Care Providers, and

WHEREAS, this agreement contains the Service Provider's terms of engagement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto, intending to be legally bound, agree as follows;

### 1. SERVICES PROVIDED

- a. The Service Provider provides a cloud-based video conferencing platform comprised of software, licenses, and professional services to Company, as described in the Proposal (Appendix "A").
- b. The Service Provider provides a secure, reliable, HIPAA-compliant, video conferencing platform for the safe transmission of protected health information.
- c. The Service Provider provides unlimited (24x7) direct user support to all video conferencing endpoints, whether inside or outside the Company's organization.

### 2. CALCULATION OF FEES

- a. Fee is \$60 per month per provider for basic licenses limited to single meetings– includes license plus training and support services.
- b. Fee is \$80 per month per provider for group rooms - includes license plus training and support services.



### **3. BILLING ARRANGEMENTS**

- a. Service provider will provide County with IRS form W9 which identifies Service Provider's taxpayer identification number.
- b. Service Provider will email bills to County once per month.
- c. Bills are payable within 30 days of the date of invoice.
- d. County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.
- e. All payments by the County to the Contractor pursuant to this agreement are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

### **4. OTHER BINDING COVENANTS**

- a. Service Provider and County are both bound by applicable state and federal Laws, including HIPAA, as amended or supplemented by the Health Information Technology for Economic and Clinical Health (HITECH) Act, which prohibits unauthorized disclosure of protected health information.
- b. Service Provider and County are bound by a (separate) HIPAA Business Associate Agreement (the "BAA") (attached as Appendix B), binding the Service Provider to safeguard any protected health information belonging to County with which it comes into contact in the normal course of business, and to report any security incident to the County.

### **5. INSURANCE**

- a. The Contractor shall provide to the Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the coverage below prior to the start of any work under the contract and agrees to maintain such insurance until the completion of the contract. All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia and acceptable to the County. The minimum insurance coverage shall be:



Commercial General Liability - \$1,000,000 combined single limit coverage with \$2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this project. Evidence of Contractual Liability coverage shall be typed on the certificate.

Additional Insured - Arlington County shall be named as an additional insured in the Contractor's Commercial General Liability policy; evidence of the Additional Insured endorsement shall be typed on the certificate.

Cancellation - A thirty (30) day notice of cancellation or nonrenewal in writing shall be furnished by the Contractor's insurance carrier(s) or insurance agent(s) to the County Purchasing Agent.

Contract identification - The insurance certificate shall state contract number and title.

Professional Liability - The Contractor shall carry Professional Liability insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render professional services under the contract, in the amount of \$1,000,000.

Cyber Liability - \$2,000,000 per occurrence

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final acceptance of the work by the County.

The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self-insurance for all or any part of the insurance required, provided that the alternative coverages are acceptable to the County.



b. Service Provider shall provide the County with certificates of insurance or other written evidence of the insurance policies required by this section as requested by the County before work begins.

**6. INDEMNIFICATION**

- a. Service Provider shall indemnify and hold harmless Company and its officials, directors, officers, employees and agents from and against any and all claims, causes of action, liabilities, losses, damages, penalties, assessments, judgements, awards or costs, including reasonable attorney's fees and costs, arising out of, resulting from, or relating to: (1) the breach of this agreement by Service Provider, or (2) the negligent or intentionally wrongful acts or omissions of Service Provider or any employee or agent of Service Provider in the performance of Company's obligations under this agreement.



**7. TERM and TERMINATION**

- a. This Agreement shall commence on the Effective Date at the bottom of this document.
- b. County may terminate this agreement by giving Service Provider a written notice at any time and will be liable for all fees incurred up to that time. If Company does not provide such notice, it will be obliged to pay all fees incurred until such written notice is provided.

**8. OTHER PROVISIONS**

- a. This agreement is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.
- b. No claim arising under or related to this Contract may be subject to arbitration.
- c. Neither party shall be liable for any failure to perform its responsibilities under this agreement if the failure results from any act of nature or other cause beyond the party's reasonable control.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed on the date indicated above.

**Secure Telehealth, Inc.**

**County Board of Arlington County, Virginia**

  
Authorized Signature

*Sharon Lewis*

Authorized Signature

James A. Mountain, President  
Print Name and Title

Sharon Lewis  
Print Name and Title

3/20/2020  
Date

03/21/2020  
Date

## **BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement ("Agreement") is entered into on, by and among the County Board of Arlington County, Virginia (herein "Covered Entity") and **Secure Telehealth** (herein "Business Associate") in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191)("HIPAA"), 42 U.S.C. Section 1320d, et. seq., the Health Information Technology for Economic and Clinical Health Act (P.L. 111-005)("HITECH ACT") and any regulations promulgated thereunder, as amended from time to time. Further, this Agreement is entered into to protect the confidentiality and integrity of Protected Health Information (PHI) required by law, policy, professional ethics, and accreditation requirements. Parties to this Agreement shall fully comply with the provisions of the regulations implementing HIPAA.

### **RECITALS**

WHEREAS the parties must comply with provisions of HIPAA, the Privacy Rule and Security Rule requirements and applicable provisions of the "HITECH standards" (defined below);

WHEREAS the parties agree and understand that the Covered Entity must receive satisfactory written assurance from the Business Associate that the Business Associate will safeguard all Protected Health Information, as defined by HIPAA;

WHEREAS the parties intend to protect the privacy and provide for the security of PHI disclosed to the BA pursuant to its contract with the Covered Entity in compliance with HIPAA and the HITECH Act and the regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws;

WHEREAS the Business Associate agrees to take all reasonable and accepted efforts to ensure that PHI is rendered unusable, unreadable or indecipherable to unauthorized individuals (e.g. encrypted, destroyed) whenever appropriate;

WHEREAS the Business Associate hereby provides such assurances;

In consideration of mutual promises and covenants below, the parties intending to be legally bound, agree as follows:

#### **1. Definitions.**

As used in this Agreement, the terms below will have the following meanings intended to be consistent with HIPAA and the HITECH Act:

##### **1.1 Agreement.**

"Agreement" shall mean this Business Associate Agreement.

##### **1.2 Affected Individuals.**

"Affected individuals" shall mean person who were affected by a Breach, as defined below, or whose unsecured protected health information has been, or is reasonably believed to have been, breached.

##### **1.3 Breach.**

"Breach" shall mean the unauthorized acquisition, access, use or disclosure of PHI in a manner not permitted by the HIPAA Privacy Rule which compromises the security or privacy of such information except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. And any other such exceptions to this definition as set forth at 42 USC 17921 section 13400 (1) and any guidance related thereto.

1.4 Business Associate.

"Business Associate" shall mean **Secure Telehealth**

1.5 Covered Entity.

"Covered Entity" shall mean the County Board of Arlington County, Virginia.

1.6 Designated Record Set.

"Designated Record Set" shall mean a group of records maintained by or for a covered entity that is:

(a) The medical records and billing records about individuals maintained by or for a covered health care provider;

(b) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or

(c) Used, in whole or in part, by or for the covered entity to make decisions about individuals

1.7 Discovered.

"Discovered" shall mean the first day the Breach is known or reasonably should have been known by the Business Associate, including any person, other than the person committing the breach, that is an employee, officer or other agent of the Business Associate

1.8 HITECH Standards.

"HITECH Standards" shall mean the privacy, security and security Breach notification provisions applicable to a Business Associate under Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), which is Title XIII of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and any regulations promulgated thereunder.

1.9 Individual.

"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). This term includes "Covered Individual" and "Covered Person/s as used herein."

1.10 Plan.

"Plan" shall have the same meaning as set forth in HIPAA and HITECH Act,

1.11 Privacy Rule.

"Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.

1.12 Protected Health Information.

"Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. §160.103. PHI is limited to information created or received by Business Associate from or on behalf of Covered Entity. PHI means individually identifiable information created or received by a health care provider, health plan, employer or health care clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to the individual, or the past, present or future payment for provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. PHI includes protected information provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.

**1.13 Required by Law.**

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

**1.14 Secretary.**

"Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

**1.15 Summary Health Information.**

"Summary Health Information" shall mean information, which may be Protected Health Information, (1) that summarizes the claims history, claims expenses, or types of claims and (2) from which the identifiers specified in 45 C.F.R. §164.514(b)(2)(i) have been deleted (except that the zip code information described in 45 C.F.R. §164.514(b)(2)(i)(B) may be aggregated to the level of a five (5) digit zip code).

**1.16 Underlying Agreement.**

"Underlying Agreement" refers to the County contract necessitating this Business Associate Agreement.

**1.17 Unsecured Protected Health Information.**

"Unsecured Protected Health Information" or "Unsecured PHI" shall mean Protected Health Information (PHI) that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or a methodology specified by the Secretary in guidance.

**2. STATEMENT OF AGREEMENT.**

**2.1 HIPAA Compliance and Agents.**

Business Associate hereby agrees to fully comply with the "Business Associate" requirements under HIPAA, throughout the term of this Agreement. Further, Business Associate agrees that to the extent it has access to PHI, Business Associate will fully comply with the requirements of HIPAA and this Agreement with respect to such PHI; and, further, that every agent, sub-Business Associate, employee, subsidiary, and affiliate of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will be required to fully comply with HIPAA, and will be bound by written agreement to the same or substantially similar restrictions and terms and conditions as set forth in this Agreement. Covered Entity shall have the option to review and approve all such written agreements between Business Associate and its agents and sub-Business Associates prior to their effectiveness.

**2.2 Uses and Disclosures of PHI.**

Business Associate shall not use PHI otherwise than as expressly permitted by this Agreement, or as required by law. However, Business Associate may use PHI for purposes of managing its internal business processes relating to its functions under this Agreement. Business Associate shall not disclose PHI to any member of its workforce except to those persons who have authorized access to the information, who have received privacy training in PHI, and who have signed an agreement to hold the information in confidence.

**2.3 Required or Permitted Uses & Disclosures.**

Business Associate agrees that it is permitted to use or disclose PHI only: (a) upon obtaining the authorization of the patient to whom such information pertains in accordance with 45 C.F.R. §164.502(a)(1)(iv) and §164.508, (b) upon obtaining the consent of a patient to whom such information pertains, if the use or disclosure is for purposes of treatment, payment, or health care operations, in accordance with 45 C.F.R. §164.502(a)(1)(ii) and §164.506, or (c) without an authorization or consent, if in accordance with 45 C.F.R. §164.506, §164.510, §164.512, §164.514(e), §164.514(f), §164.514(g), or as otherwise permitted or required by agreement or law.

**2.3.1 Disclosure Tracking.**

Business Associate will record each disclosure and Breach of Covered Persons' Protected Health Information, which is not exempt from disclosure accounting that Business Associate makes to the Plan or to a third party.

The information about each disclosure that Business Associate must record ("Disclosure Information") is



(a) the disclosure date, (b) the name and (if known) address of the person or entity to whom Business Associate made the disclosure, (c) a brief description of the Protected Health Information disclosed, and (d) a brief statement of the purpose of the disclosure.

For repetitive disclosures of Covered Persons' Protected Health Information that Business Associate makes for a single purpose to the same person or entity (including the Plan), Business Associate may record (a) the Disclosure Information for the first of these repetitive disclosures, (b) the frequency, periodicity or number of these repetitive disclosures, and (c) the date of the last of these repetitive disclosures.

#### **2.3.2 Exceptions from Disclosure Tracking.**

Business Associate is not required to record disclosure information or otherwise account for disclosures of PHI that this Agreement or the Plan in writing permits or requires: (i) for the purpose of the Business Associate's payment activities or health care operations, (ii) to the individual who is the subject of the PHI disclosed, or to that individual's personal representative; (iii) to persons involved in that individual's health care or payment for health care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, (vi) to law enforcement officials or correctional institutions regarding inmates; (vii) pursuant to an authorization; (viii) for disclosures of certain PHI made as part of a limited data set; (ix) for certain incidental disclosures that may occur where reasonable safeguards have been implemented; and (x) for disclosures prior to April 14, 2003.

#### **2.3.3 Disclosure Tracking Time Periods.**

Business Associate will have available the disclosure Information required for the six (6) years immediately preceding the date of the Covered Entity's request for the Disclosure Information.

#### **2.3.4 Use and Disclosure; Rights.**

Business Associate acknowledges that this Agreement does not in any manner grant Business Associate any greater rights than Covered Entity enjoys, nor shall it be deemed to permit or authorize Business Associate to use or further disclose PHI in a manner that would otherwise violate the requirements of HIPAA if done by Covered Entity.

#### **2.4 Accounting for Disclosures.**

Accounting of Disclosures. Business Associate shall maintain an ongoing log of the details relating to any disclosures of PHI it makes (including, but not limited to, the date made, the name of the person or organization receiving the PHI, the recipient's address, if known, a description of the PHI disclosed, and the reason for the disclosure). Business Associate shall, within thirty (30) days of Covered Entity's request, make such log available to Covered Entity, as needed for Covered Entity to provide a proper accounting of disclosures to its patients.

Disclosure to U.S. Department of Health and Human Services (DHHS). Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) available to the Secretary of DHHS or its designee for purposes of determining Covered Entity's compliance with HIPAA and with the Privacy Regulations issued pursuant thereto. Business Associate shall provide Covered Entity with copies of any information it has made available to DHHS under this section of this Contract.

#### **2.4.1 Report of Improper Use or Disclosure.**

Business Associate shall report to Covered Entity within thirty (30) days of discovery any information of which it becomes aware concerning any use or disclosure of PHI that is not provided for by this Agreement. See also section 2.8 herein.

#### **2.5 Administrative Obligations.**

##### **2.5.1 Safeguards.**

Business Associate agrees to develop implement and maintain appropriate procedural, physical, and

electronic safeguards to prevent the use, disclosure or misuse of PHI otherwise than as provided by this Agreement including but not limited to administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality and integrity and availability of the PHI, in accordance with 45 C.F.R. §§ 164.308, 164.310, 164.312, 164.314 and 164.315. Business Associate agrees to comply with policies and procedures and documentation requirement of the HIPAA Security Rule. Business Associate agrees to notify Covered Entity of the location of any PHI disclosed by Covered Entity or created by Business Associate on behalf of Covered Entity and held by or under the control of Business Associate or those to whom Business Associate has disclosed such PHI.

#### 2.5.2 Minimum Necessary.

Business Associate must limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of HIPAA. Business Associate represents that all uses, disclosures, and requests it will make shall be the minimum necessary in accordance with HIPAA requirements. Covered Entity may, pursuant to HIPAA, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate. Business Associate acknowledges that if Business Associate is also a covered entity, as defined by HIPAA, Business Associate is required, independent of Business Associate's obligations under this Agreement, to comply with the HIPAA minimum necessary requirements when making any request for PHI from Covered Entity.

#### 2.5.3 Designated Record Set.

Business Associate shall maintain a designated record set, as defined by HIPAA, for each individual patient for which it has PHI. In accordance with an individual's right to access to their own PHI under HIPAA, Business Associate shall make available all PHI in that designated record set to the individual to whom that information pertains, or such individual's representative, all PHI in that designated record set, upon a request by such individual or such individual's representative.

#### 2.5.4 Records; Covered Entity Access.

Business Associate shall maintain such records of PHI received from, or created or received on behalf of, Covered Entity and shall document subsequent uses and disclosures of such information by Business Associate as may be deemed necessary and appropriate in the sole discretion of Covered Entity. Upon reasonable request Business Associate shall provide the Covered Entity with reasonable access to examine and copy such records and documents of Business Associate during normal business hours within 30 days of a request for such information. Business Associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of HIPAA and any investigation of Covered Entity regarding compliance with HIPAA conducted by the U.S. Department of Health and Human Services ("DHHS"), Office of Civil Rights, or any other administrative or judicial body with jurisdiction.  
Accounting.

#### 2.5.5 Access to Protected Information.

Business Associate shall make PHI maintained by the Business Associate or its agents or subcontractors in Designated Record Sets available to the Covered Entity for inspection and copying within ten (10) days of the request by Covered Entity to enable Covered Entity to fulfill its obligations under the Privacy Rule, including but not limited to, 45 C.F.R. §164.524. If Business Associate maintains an electronic health record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including but not limited to, 42 USC §17935(e).

#### 2.5.6 Accounting of Disclosures.

Within twenty (20) days of a request by the Covered Entity or individual, Business Associate shall provide information to the Covered Entity to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, including but not limited to, 45 C.F.R. §164.528, and the HITECH Act, including but not limited to 42 USC §17935(C), as determined by the Covered Entity. Business Associate agrees to implement a process that allows for such an accounting to be collected and

maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request. Additional time may be extended so long as the Covered Entity remains in compliance with and the time periods outlined at 45 C.F.R. 164.5280(1)(ii).

## **2.6 Workforce Provisions.**

### **2.6.1 Confidentiality Agreement.**

Business Associate must have a confidentiality agreement in place with individuals of its workforce who have access to PHI. Issuing and maintaining these confidentiality agreements will be the responsibility of the Business Associate. Covered Entity shall have the option to inspect the maintenance of said confidentiality agreements.

### **2.6.2 Employee Sanctions.**

Business Associate shall implement and maintain sanctions for any employee, sub-Business Associate, or agent who violates the requirements in this Contract or the HIPAA privacy regulations. Business Associate shall, as requested by Covered Entity, take steps to mitigate any harmful effect of any such violation of this Contract.

## **2.7 Amendment of and Access to PHI; Notification.**

Business Associate shall make an individual's PHI available to Covered Entity within thirty (30) days of an individual's request for such information as notified by Covered Entity.

Business Associate shall make available PHI for amendment and shall incorporate any amendments to PHI within thirty (30) days of notification by Covered Entity. Business Associate shall make reasonable efforts to notify persons, organizations, or other entities, including other business associates, known by Business Associate to have received the erroneous or incomplete information and who may have relied, or could foreseeably rely, on such information to the detriment of the individual patient. Business Associate must update this information when notified by Covered Entity.

Business Associate shall make available PHI or any other information required to provide, or assist in preparing, an accounting of disclosures in accordance with HIPAA. Right of Access.

## **2.8 Compliance with HITECH Standards.**

### **2.8.1 Breach Notification to Covered Entity.**

To ensure proper and timely notification by Covered Entity following a breach of unsecured protected health information, the Business Associate shall in writing provide initial Notice of any Breach following Discovery of the Breach. Such initial Notice to the Covered Entity must be given immediately or without delay, as applicable. Thereafter, no later than thirty (30) days after Discovery by the Business Associate, additional written Notice must be provided to Covered Entity, to the extent possible, to include the following information in the format and order provided below. If additional information becomes available later, it shall be promptly provided to the Covered Entity:

1. Total number of Affected Individuals per Breach;
2. A brief description of what happened, including the date of the breach, the date of the discovery of the breach and who impermissibly used or to whom the information was impermissibly disclosed.;
3. A detailed description of the type of Unsecured PHI that was involved in the Breach (e.g. name, social security number, date of birth, health information etc.);
4. Any steps Affected Individuals should take to protect themselves from potential harm resulting from the Breach;
5. A description of the Business Associate's investigation into the Breach, efforts to mitigate of harm to affected individuals, and to protect against future breaches;
6. Contact procedure for follow-up, which must include a toll-free number, an email address and a website or postal address;

7. The identify of each Affected Individual whose unsecured protected health information has been, or is reasonably believed to have been, breached; and,
8. Any further information known to the Business Associate, which it determines in its discretion could assist the Covered Entity to comply with the HITECH Standards.

#### 2.8.2 Other HITECH Standards.

The Business Associate shall also comply with the following HITECH Standards, including, but not limited to:

1. compliance with the requirements regarding minimum necessary under HITECH §13405(b);
2. requests for restrictions on use or disclosure to health plans for payment or health care operations purposes when the provider has been paid out of pocket in full confident with HITECH §13405(d)
3. the prohibition of sale of PHI unless an exception under HITECH §13405(d) applies;
4. the prohibition on receiving remuneration for certain communications that fall within the exceptions to the definition of marketing under 45 C.F.R. §164.501 unless permitted by this Agreement and Section 13406 of HITECH;
5. the requirements relating to the provision of access to certain information in electronic access under HITECH §13405(e);
6. compliance with each of the Standards and Implementation Specifications of 45 C.F.R. §§164.308 (Administrative Safeguards), 164.310 (Physical Safeguards); 164.312 (Technical Safeguards) and 164.316 (Policies and Procedures and Documentation Requirements); and,
7. the requirements regarding accounting of certain disclosures of PHI maintain in an Electronic Health Records under HITECH §13405(c).
8. If an impermissible disclosure of PHI has occurred and is not subject to the notification requirements at section 2.8.1 above, Business Associate shall promptly notify Covered Entity of the disclosure and if the Business Associate determines that a disclosure is not a Breach under HITECH Standards, the Business Associate shall provide a brief explanation as to why the disclosure does not "pose significant risk of financial, reputational or other harm to the individual/s" as provided in the Interim Final Rule at 45 C.F.R. Parts 160 and 164.

#### 2.9 Termination Rights.

This Agreement authorizes Covered Entity to terminate the Agreement, if Covered Entity determines, in its sole discretion, that Business Associate has violated a material term of the Agreement required by HIPAA, the HITECH Act or the regulations promulgated there under. This Agreement shall remain in effect throughout the Contract Term and any Subsequent Contract Term of the Underlying Agreement unless terminated for cause by Covered Entity with immediate effect, or until terminated by either party with not less than thirty (30) days prior written notice to the other party, which notice shall specify the effective date of the termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any Documents or otherwise under this Agreement before the effective date of termination.

Within thirty (30) days of expiration or earlier termination of this Contract, Business Associate shall return or destroy all PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) that Business Associate still maintains in any form and retain no copies of such PHI. Business Associate shall provide a written certification that all such PHI has been returned or destroyed, whichever is deemed appropriate. If such return or destruction is infeasible, Business Associate shall use such PHI only for purposes that make such return or destruction infeasible and the provisions of this Contract shall survive with respect to such PHI.

#### 2.10 Breach or Violation; Knowledge.

If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a

material breach or violation of Business Associate's obligations under this Agreement, Covered Entity shall take any steps reasonably necessary to cure such breach or end such violation, and, if such steps are unsuccessful, shall either (a) terminate this Agreement, if feasible, pursuant to §12, or (b) if termination is not feasible, report the breach or violation to DHHS. If Business Associate as a covered entity, defined by HIPAA, violates the terms and conditions of this Agreement in its capacity as a business associate of another covered entity, Business Associate will be in noncompliance with the standards, implementation specifications, and requirements of HIPAA.

**2.11 Breach or Violation; Knowledge.**

In compliance with 42 USC 17934 (b), if the Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under this Agreement, Business Entity shall take any steps reasonably necessary to cure the breach or end the violation. If the steps are unsuccessful, Business Associate must terminate the Contract or if termination is not feasible, report the problem to the Secretary. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of the Covered Entity that Business Associate believes constitutes a material breach or violation of the Covered Entity's obligations under the Contract within five (5) days of discover and shall meet with the Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

**3 MISCELLANEOUS.**

**3.1 Regulatory References.**

A reference in this Business Associate Agreement to a section in the Privacy Rule, Security Rule, HIPAA or the HITECH Act means the section as in effect or as amended.

**3.2 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, HIPAA and the HITECH Act. Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the United States or of Virginia relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, Covered Entity may, by written notice to the Business Associate, amend this Agreement in such manner as Covered Entity determines necessary to comply with such law or regulation. If Business Associate disagrees with any such amendment, it shall so notify Covered Entity in writing within thirty (30) days of Covered Entity's notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, either of them may terminate this Agreement by written notice to the other.

**3.3 Survival.**

The respective rights and obligations of Business Associate under Section 2 of this Agreement shall survive the termination of this Agreement.

**3.4 Interpretation.**

This Business Associate Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule and to ensure compliance by the Covered Entity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the above.

**3.5 Data Ownership.**

Business Associate acknowledges that business Associate has no ownership rights with respect to PHI.

**3.6 Party Notices.**

All notices and other communications under this Agreement to any Party shall be in writing and the following contact information shall be used:

For Business Associate

For Covered Entity (3)



Contact: James A Mountain  
President  
Address: 9150 Harmony Dr  
Pittsburgh, PA 15237  
Phone: 412-837-9320

(1) Jan Longman  
DHS Privacy Officer  
2100 Washington Boulevard. Suite 400  
Arlington, VA 22204  
Phone: 703-228-1613

Fax: 703/228-1119

(2) Marcy Foster  
County Privacy Officer  
2100 Clarendon Blvd. Suite 511  
Arlington, Virginia 22201  
Phone: 703/228-3443

(3) Stephen MacIsaac  
County Attorney  
2100 Clarendon Blvd, Suite 403  
Arlington, Virginia 22201  
Phone: 703/228-3100  
Fax: 703/228-7106

**3.7 Severability; Governing Law.**

With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

**3.8 Further Assurances.**

Each Party shall execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other Party to carry out the purpose and intent of this Agreement.

**3.9 Entire Agreement.**

This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter of this Agreement.

**3.10 Conforming Amendment.**

This Agreement incorporates by reference the provisions of HIPAA, the Privacy Rule, Security Rule and the applicable provisions of HITECH, all regulations promulgated thereunder and other applicable laws relating to the security and confidentiality of PHI. To the extent that the law/s or governing regulations are amended thereto, those amendments are incorporated herein as if set forth in full text. The parties thereafter shall negotiate an amendment to this Agreement.

**3.11 Disclaimer.**

Covered Entity makes no warranty or representation that compliance by Business Associate with this Agreement, HIPAA, the HITECH Act or regulations promulgated thereunder will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding safeguarding of PHI.

**3.12 Indemnification, Defense and Save Harmless.**

The indemnification provision in the Underlying Agreement applies to the breach, negligent or otherwise,

of the terms of this Agreement, HIPAA or the HITECH Act and any regulations promulgated thereunder. Any limitation of liability provision contained in the Underlying Agreement does not apply to this Business Associate Agreement.

IN WITNESS thereof this Business Associate Agreement acknowledged and agreed to by:

  
\_\_\_\_\_  
DHS Privacy Officer

3/20/2020  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Business Associate  
Authorized Representative

3/15/2020  
\_\_\_\_\_  
Date

James A. Mountain  
\_\_\_\_\_  
(print name)

**Video Conferencing Software:**

Secure Telehealth provides software and support for high-quality, HIPAA-compliant pc/mac-based video-conferencing to healthcare professionals. The service is used for assessments, therapy, care coordination and follow-up. All video conference sessions are encrypted at the highest level to insure confidentiality. Secure video conference sessions may be safely conducted from any location, including physicians' homes and patients' homes. No firewall changes are necessary, so the solution is portable. Sessions may be conducted from anywhere that a laptop or iPad or smart phone is connected to the Internet.

**Telehealth Options:**

Physicians, Psychologists, Nurse Practitioners, LCSW's and other health professionals may conduct evaluations, med checks, or therapy sessions from a laptop at home, at an office, or at a hospital. They may see patients in their homes, in hospitals, community mental health clinics, skilled nursing facilities, and Doctors' offices in any state where the provider has a license to practice. The distant provider might have two monitors installed on their telehealth computer, one for video and another for typing patient notes into your existing EMR program. Secure Telehealth software is for video conferencing only. It does not integrate with the EMR. It just runs along side the EMR program. There is no patient information saved into Secure Telehealth software.

**Waiting Room:**

Secure Telehealth software includes a waiting room where patients are placed until they are admitted into the meeting by the provider.

**Security:**

We sign HIPAA BAA, Military grade encryption (end-to-end), No patient data stored in system. No payment information stored in system.

**Support:**

Industry leader serving the behavioral health community for 10 years. Fully trained support available 24/7 with focus on supporting non-technical medical staff and pts. We are familiar with your staff and the setup at each of your locations. This accelerates the troubleshooting process and preserves your telehealth schedule.



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## **Secure Telehealth Pricing –**

### **Prepared for:**

### **Arlington County Human Services**

2100 Washington Blvd

Arlington, VA 22204

**Attn: Rudbel Alfaro**



### **Secure Telehealth Fee –**

Quantity (175) @ \$60/month/provider (single basic rooms)=\$10,500

Quantity (35) @ \$80/month/provider (group pro rooms) = \$2,800

Total monthly fee = \$13,300

For virtual meeting rooms where you meet with your patients (24x7 support is included - provided directly to providers and to your patients).

Price includes setup help and training, and support for all endpoints, inside or outside your organization.

HIPAA-compliant (including Business Associate Agreement).

Up to 12 users may join a meeting at the same time from Mac or Windows computers or iPads/iPhones/Android devices

Hardware (priced separately below) and Secure Telehealth software may be installed on any number of computers without affecting the price.

**Term: Two months**

### **Hardware:**

1. We work with all laptops, webcams and microphones.
2. We work with all smartphones and tablets
3. If adding webcams to desktop computers, we recommend the Logitech C920 Webcam (\$70 on Amazon)
4. If adding external microphones to desktop computers, we recommend the Plantronics P420 (\$75 on Amazon)

**For more information,**

Visit our web site at [www.securetelehealth.com](http://www.securetelehealth.com)



March 21, 2020

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Call us at (412) 837-9320

Email [jim.mountain@securetelehealth.com](mailto:jim.mountain@securetelehealth.com)