

Exhibit A – Business Associate Agreement

This Business Associate Agreement, dated as of _____ (“Agreement”), supplements and is made a part of the Services Agreement (as defined below) by and between _____ (“Organization”) and KenSci, Inc. (“KenSci”).

WHEREAS, Organization and KenSci are parties to the “Services Agreement” (as defined below) pursuant to which KenSci provides KenSci services (collectively the “Services”) to Organization.

WHEREAS, this Agreement defines the rights and responsibilities of each party with respect to Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, as each may be amended from time to time (collectively, “HIPAA Regulations”) with respect to the provision of the Services.

WHEREAS, this Agreement is intended to satisfy any applicable obligations of Organization under 45 C.F.R. Sections 164.308(b), 164.314(a) and 164.504(e) and shall be applicable only in the event and to the extent KenSci meets, with respect to Organization, the definition of a Business Associate set forth at 45 C.F.R. §160.103, or applicable successor provisions with respect to the provision of the Services.

WHEREAS, in light of the foregoing and the requirements of HIPAA Regulations, including as amended pursuant to the HITECH Act, Organization and KenSci agree to be bound by the following terms and conditions.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

- (a) General. Terms used, but not otherwise defined, in this Agreement shall have the same meaning given to those terms by HIPAA Regulations, including as amended pursuant to the HITECH Act, as in effect or as amended from time to time, or in the Services Agreement.
- (b) Specific.
 - (i) “Breach” shall have the same meaning as the term “breach” in the 45 C.F.R. §164.402.
 - (ii) “Business Associate” shall mean KenSci, Inc..
 - (iii) “Electronic Protected Health Information” or “Electronic PHI” shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. § 160.103, limited to the information that Business Associate creates, receives, maintains, or transmits from or on behalf of Organization under the Services Agreement.
 - (iv) “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).
 - (v) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 164, Subpart E.
 - (vi) “Protected Health Information” or “PHI” shall mean “protected health information,” as that term is defined in 45 C.F.R. § 160.103, limited to the information that Business Associate creates, receives, maintains, or transmits from or on behalf of Organization under the Services Agreement.
 - (vii) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 160.103.
 - (viii) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (ix) “Security Rule” shall mean the Security Standards at 45 C.F.R. Part 164, Subpart C.
 - (x) “Services Agreement” shall mean any present or future agreements, either written or oral, between Organization and Business Associate under which Business Associate provides services to Organization which involve the access, use or disclosure of PHI.
 - (xi) “Unsecured Protected Health Information” or “Unsecured PHI” shall have the same meaning as the term “unsecured protected health information” in 45 C.F.R. §164.402.

2. Obligations and Activities of Business Associate.

- (a) Use and Disclosure. Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by the Services Agreement or this Agreement, or as permitted or Required by Law.
- (b) Appropriate Safeguards. Business Associate agrees to use reasonable and appropriate administrative, physical, and technical safeguards to prevent the use or disclosure of the Electronic Protected Health Information other than as provided for by the Services Agreement or this Agreement. Except for the specific uses and disclosures set forth in the Services Agreement and this Agreement, Business Associate may not use or disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Organization.
- (c) Reporting of Improper Access, Use, or Disclosure. Business Associate agrees to report to Organization any impermissible acquisition, access, use or disclosure of Protected Health Information of which it becomes aware as required by 45 C.F.R. § 164.410. Continuing notice is hereby deemed provided, and no further notice will be provided, for unsuccessful attempts at unauthorized access, use, disclosure, modification, or destruction of PHI or interference with the Services. Business Associate’s obligation to report under this Section 2(c) is not and will not be construed as an acknowledgement by Business Associate of any fault or liability with respect to any use, disclosure, or Breach.
- (d) Mitigation. Business Associate agrees to mitigate, to the extent reasonably practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate or its agents or subcontractors in violation of the requirements of this Agreement.
- (e) Agents. Business Associate agrees to obtain from any agent, including a subcontractor to whom it provides Protected Health Information, reasonable assurances that it will adhere to the same restrictions and conditions that apply to Business Associate under this Agreement with respect to such information.

The details of this SOW are confidential.

- (f) Privacy Rule Compliance. To the extent Business Associate is to carry out one or more of Organization's obligation(s) under the Privacy Rule, comply with the requirements of the Privacy Rule that apply to Organization in the performance of such obligation(s).
- (g) Organization Access and Amendment. All Protected Health Information maintained by Business Associate in a Designated Record Set for Organization will be available to Organization in a time and manner that reasonably allows Organization to comply with the requirements under 45 C.F.R. §§ 164.524 and 164.526. Business Associate shall not be obligated to provide any such information directly to any Individual or person other than to Organization.
- (h) Access to Books and Records. Business Associate agrees to make internal practices, books, and records available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary's determining Organization's or Business Associate's compliance with the Privacy Rule and Security Rule; provided, however, that time incurred by Business Associate in complying with any such request to assess Organization's such compliance that exceeds its normal customer service parameters shall be charged to Organization at Business Associate's then-current standard hourly rate.
- (i) Accounting. In the event that Business Associate makes disclosures of Protected Health Information to Individuals or any person other than to Organization, it shall document the disclosure as would be required for Organization to respond to a request by an Individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528, and shall provide such documentation to Organization promptly upon request.

3. Permitted Uses and Disclosures by Business Associate.

- (a) Services Agreement. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Organization as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Organization.
- (b) Minimum Necessary. When practicable, Business Associate shall limit its use, access and disclosure of Protected Health Information to the minimum amount required to accomplish the intended purpose of the use, access or disclosure.
- (c) Use for Administration of Business Associate. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information obtained to provide the Services for the proper management and administration of the Business Associate and to carry out the legal responsibilities of the Business Associate.
- (d) Disclosure for Administration of Business Associate. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that (i) disclosures are Required by Law, or (ii) 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.
- (e) Use for Data Aggregation Services to Covered Entity. Business Associate may provide data aggregation services relating to the health care operations of Organization.
- (f) Violations of Law. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities.
- (g) De-identified Data. Business Associate may de-identify Protected Health Information in accordance with 45 C.F.R. §164.514 and use and disclose such de-identified data for its business purposes, including to improve its algorithms and to provide reporting and other services to Organization.

4. Organization Obligations.

- (a) Data Security. Organization will use appropriate safeguards to maintain the confidentiality, privacy and security of PHI in transmitting same to Business Associate pursuant to this Agreement. Organization agrees to comply with any data security safeguards assigned to Organization in any Services Agreement.
- (b) Privacy Notice. Organization shall notify Business Associate of any change(s) in Organization's notice of privacy practices in accordance with 45 C.F.R. § 164.520 to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (c) Changes of Permission of Individual. Organization shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (d) Restrictions on Use or Disclosure. Organization shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Organization has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.
- (e) Requested Uses and Disclosures. Organization agrees that it will 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 Organization.
- (f) Permissions. Organization warrants that it has obtained any necessary authorizations, consents, and other permissions that may be required under applicable law prior to placing data, including without limitation PHI, on the Business Associate's systems.

5. Term and Termination.

The details of this SOW are confidential.

- (a) Term. The term of this Agreement shall continue for the term of the Services Agreement and following termination of the Services Agreement until all Protected Health Information is destroyed or returned to Organization or its designee.
- (b) Termination. Breach of this Agreement shall be a material breach of the Services Agreement giving rise to a right of termination (subject to the applicable right to cure) under the Services Agreement.
- (c) Effect of Termination. Upon termination of the Services Agreement for any reason, Business Associate shall return or destroy all Protected Health Information not necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate as well as Business Associate itself. When such information is returned or destroyed, Business Associate shall retain no copies of the Protected Health Information. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide Organization notification of the conditions that make return or destruction infeasible. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information. In the event that Organization requires Business Associate to retain the Protected Health Information after termination of the Services Agreement, Organization shall bear the reasonable cost of storage of such Protected Health Information for as long as storage by Business Associate is required.

6. Miscellaneous.

- (a) Amendment. Each party agrees to take such action as is reasonably necessary to amend this Agreement from time to time as is necessary for Organization to comply with the requirements of HIPAA Regulations as they may be amended from time to time; provided, however, that if such an amendment would materially increase the cost of Business Associate providing service under the Agreement, Business Associate shall have the option to terminate the Agreement on thirty (30) days advance notice.
- (b) Survival. The respective rights and obligations of the parties under this Agreement shall survive the termination of this Agreement and the Services Agreement.
- (c) Interpretation. Any ambiguity in the Agreement shall be resolved to permit either the Business Associate or Organization to comply with HIPAA Regulations.
- (d) Miscellaneous.
 - (i) The terms of this Agreement are hereby incorporated into the Services Agreement. In the event of a conflict between the terms of this Agreement and the terms of the Services Agreement, the terms of this Agreement shall prevail.
 - (ii) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington, exclusive of conflict of law rules.
 - (iii) The Services Agreement together with this Agreement constitutes the entire agreement between the parties with respect to the subject matter contained herein, and this Agreement supersedes and replaces any former business associate agreement or addendum entered into by the parties.
 - (iv) This Agreement may be executed in counterparts, each of which when taken together shall constitute one original. Any PDF or facsimile signatures to this Agreement shall be deemed original signatures to this Agreement.
 - (v) No amendment or modification to the Agreement or waiver of any provision hereof shall be effective except in a writing duly signed by both parties.
 - (vi) A waiver with respect to one event will not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

Customer:

KenSci, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____