

## BILLING SERVICES AGREEMENT

This **BILLING SERVICES AGREEMENT** (this “Agreement”) is entered into as of \_\_\_\_\_, 20\_\_ (the “Effective Date”) by and between RSABill, Inc., a California corporation (“RSA”), and \_\_\_\_\_, a California professional corporation (“Company”), with reference to the following facts:

### RECITALS

RSA is an experienced manager of billing and administrative services for medical practices;

Company is a professional medical corporation based in California owned and operated by \_\_\_\_\_ (“Principal Physician”) who is engaged in the practice of medicine; and

Company desires to engage the services of RSA to perform certain administrative, management and oversight functions for Company and Principal Physician as specifically provided herein, in order to permit the Principal Physician to concentrate its efforts on practicing medicine.

NOW, THEREFORE, in consideration of these premises and the covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, Company and RSA agree as follows:

### AGREEMENT

#### ARTICLE 1. DUTIES OF RSA

1.1 Appointment of RSA. Company hereby appoints RSA as the sole and exclusive provider of all billing services, including, without limitation, those other optional management services Company appoints RSA to provide described on Exhibit A (collectively, the “RSA Services”), subject to the terms and conditions set forth in this Agreement.

1.2 Authority of RSA. Subject to applicable law, and consistent with the provisions of this Agreement and the supervision of Company as defined below, RSA shall have the responsibility and commensurate authority to provide the RSA Services. Company authorizes RSA to provide the RSA Services in any reasonable manner that RSA deems appropriate to meet the requirements of Company. Company shall cooperate with RSA in a manner that will permit RSA to efficiently provide the RSA Services pursuant to the terms of this Agreement and within the bounds of all applicable laws and regulations.

1.3 No Control Over Health Care Research Services. Company shall have complete responsibility, authority, supervision and control over the provision of all health care research services. RSA shall have absolutely no responsibility for, or authority, supervision or control over, the provision of health care research services.

## ARTICLE 2. DUTIES OF COMPANY

2.1 Insurance. Company and Principal Physician agree to provide RSA with proof of professional malpractice insurance and errors and omissions insurance for medical billing as of the Effective Date. RSA carries errors and omissions insurance for medical billing for itself only and can provide proof of insurance upon request.

2.2 Insurance Provider Direct Deposit. Company will set up direct deposit, either EFT and ERA, with all insurance providers that provide a direct deposit option.

2.3 Reports. Company will provide any patient billing payments it receives to RSA at least weekly. Company will report to RSA all patient encounter charges and diagnoses via EHR, paper superbill, or a logsheet at least weekly. Company must obtain and verify current insurance and personal demographic information at each patient encounter and provide that information to RSA with the encounter charges. Company is responsible for verifying patient insurance eligibility and benefits and collecting the known or expected patient responsibility amount at the time of the patient encounter.

2.4 HIPAA Compliant Communications. Company is only to transmit patient health information to RSA through: 1) HIPAA secure email, 2) a HIPAA secure portal, 3) a landline facsimile number, 4) USPS, FedEx, or UPS mail services; and 5) a courier or agent covered by an active HIPAA agreement. Any other method of communication must be approved by RSA prior to submission.

## ARTICLE 3. RSA SERVICES

3.1 Financial Services. RSA shall provide bookkeeping and accounting services, including, without limitation, maintenance, custody and supervision of Company's business records, papers and documents, ledgers, journals and reports. Specifically, RSA shall (i) bill and collect on Company's behalf all professional fees and charges resulting from the medical services rendered by Company to patients; (ii) collect all accounts receivable resulting from such billing; (iii) receive payments resulting from such billing from insurance companies, prepayments received from health care plans, Medicare, Medicaid and all other third party payors; and (iv) take possession of and endorse in the name of Company all notes, checks, money orders, insurance payments and other instruments received in payment of such billings or accounts receivable.

3.1.1 With respect to such billings, Company will appoint RSA as its attorney-in-fact and RSA shall have the authority (a) to initiate the institute of legal proceedings in the name of Company to collect any accounts and monies owed, (b) to enforce the rights of Company as creditor under any contract or in connection with the rendering by Company of any service to patients; (c) to receive and open billing related mail addressed to Company; and (d) to contest adjustments and denials by governmental agencies as third party payors.

3.1.2 All such professional fees, charges and billings resulting from medical services to patients described above are herein referred to as "**Gross Billings**."

3.1.3 RSA will provide a direct telephone number for patients to billing representatives to assist with any billing related questions. Customer service representatives are trained in customer service skills and will handle patient communications based on Company's request. RSA will notify Company of any significant issues encountered during phone calls.

3.1.4 RSA will send patient statements at current and 30 days outstanding, make a telephone call and send a pay-protect letter to patient at 60 days outstanding, and make another telephone call to patient and return to Company for collection approval at 90 days outstanding.

3.1.5 For insurance claims, RSA will 1) submit a claim to insurance within seven days after receipt of complete patient and encounter data, 2) correct rejected claims within seven days of receipt of the rejected claim, and 3) submit monthly tracers and/or contact by website or telephone the insurance provider beginning 30 days after claim acceptance. Primary insurance will be contacted until the provider replies with an acceptable and deemed accurate response. Secondary insurance will be submitted one time electronically or confirmed cross-over and one time submitted on paper and then the balance will be transferred to patient to pay or resolve with the insurance provider. Tertiary insurance is submitted one time as a courtesy and immediately transferred to receive patient statements.

3.1.6 Company will not act in a manner which would prevent RSA from performing such management and billing and collections services in any efficient and professional manner that RSA deems reasonable in its good faith business judgment. Any adjustments proposed to be made for uncollectible accounts, professional courtesies, and other activities that do not generate collectible fees or collectible billings for services rendered by Company shall be determined by RSA in a reasonable and consistent manner.

3.1.7 Refunds to patient accounts will be credited on the next statement. Refunds requested more than 120 days after the payment date or refunds requested as a result of Company's mishandling of billing will not be credited. RSA will not be liable for refunds processed after the termination of this Agreement.

3.2 Provision of Management Services. RSA shall provide the management services provided for on Exhibit A ("RSA Management Services") from and after the Effective Date to Company in accordance with all applicable laws, rules and regulations, and in accordance with the terms and conditions of this Agreement. Company shall cooperate with RSA in a manner intended to permit RSA to efficiently manage the operations of the Company.

3.3 Compensation. Company and RSA recognize and acknowledge that RSA will incur substantial costs and expenses in connection with the performance of the RSA Services to be performed by RSA pursuant to this Agreement. Company and RSA further recognize that certain of such costs and expenses will vary to a considerable degree with the volume of services provided by Company. Furthermore, Company and RSA agree that it will be impracticable to ascertain and segregate the exact costs and expenses that will be incurred by RSA from time to time in the performance of its obligations under this Agreement. However, it is the intent of the parties that the fees paid to RSA be reasonable and approximate RSA's costs and expenses in providing services hereunder, plus a reasonable profit therefor. Company and RSA therefore agree that RSA shall receive as compensation (the "**Management Fee**") for the performance of

the services provided for in this Agreement, at such amounts as set forth in Exhibit A. The Management Fee shall be paid, in arrears, on or before the fifth day of each calendar month during the term of this Agreement, commencing with the second such month, and on or before the fifth day of the calendar month immediately following the expiration or the earlier termination of this Agreement by direct deposit per the ACH authorization form attached to Exhibit A. The Management Fee is subject to change by RSA upon 30 days' written notice based upon the performance of the Company as it affects billing efficiency.

3.3.1 Audit and Inspection Rights. RSA shall have the right at any time, and from time to time, to audit and inspect Company's and Principal Physician's books, records and accounts, including, Principal Physician's personal accounts, to ensure all working income is being billed and received through RSA.

3.4 Records. RSA will only maintain paper documentation related to the RSA Services for 90 days.

#### ARTICLE 4. TERM AND TERMINATION

4.1 Initial and Extension Terms. This Agreement shall become effective as of the Effective Date and shall remain in effect for a period of one year, and shall automatically renew for additional one-year terms unless earlier terminated in accordance with this Agreement.

4.2 Termination by Either Party Without Cause. Either party may terminate this Agreement without cause at any time upon written notice to the other party.

4.4 Effects of Termination. Upon any termination or expiration of this Agreement:

(a) Neither party shall have any further obligations under this Agreement, except for (i) obligations accruing before the effective date of the termination or expiration and (ii) obligations that this Agreement expressly provides survive termination or expiration of this Agreement;

(b) Each party shall return to the other party all originals and copies of any Confidential Information, as herein defined, in the possession of the returning party or any person or entity to whom it has delivered originals or copies (other than originals or copies of Confidential Information given to a third party pursuant to Section 5);

(c) Company shall make a final payment to RSA for all postings to date not yet invoiced in addition to a final payment equivalent to one month's average invoice amount determined by the previous six months of invoices; and

(d) RSA and Company shall undertake in good faith all matters reasonably necessary to wind up their activities under this Agreement in an orderly manner.

#### ARTICLE 5. CONFIDENTIAL INFORMATION

5.1 Non-Disclosure Agreement. The parties hereby mutually recognize that due to the nature of this Agreement (including, without limitation, the recognition by Company that any

policies, practices or procedures made available for use by Company hereunder represent the sole and exclusive property and trade secrets of RSA), each party shall have access to information and materials concerning the business, operations, plans, trade secrets and finances of the other party (the “Confidential Information”). Each party agrees that, during the term of this Agreement and for a period of 60 months following termination or expiration of this Agreement, it shall (a) not disclose any Confidential Information of the other party without the other party’s express written authorization, (b) not use any Confidential Information of the other party in any way directly or indirectly detrimental to the other party, (c) keep all Confidential Information of the other party confidential, and (d) ensure that its affiliates or advisors who have access to Confidential Information comply with these nondisclosure obligations.

Notwithstanding the preceding sentence, either party may disclose Confidential Information (a) as required by applicable law or regulation, and (b) to those of its officers and agents who need to know Confidential Information for the purposes of this Agreement, provided that such officers and agents will be informed of the confidential nature of the Confidential Information, will agree to be bound by this Section, and will be directed not to disclose to any other person any Confidential Information. Each party agrees to be responsible for any breach of this Section by its officers, employees and agents.

5.2 Procedure Upon Required Disclosure. If any party is requested or required (by oral questions, interrogatories, requests for information or documents, subpoenas, civil investigative demands, or similar processes) to disclose or produce any Confidential Information of the other party, then the party receiving such request shall (i) provide the other party with prompt notice of the request and copies, if possible, and, if not, a description, of the Confidential Information requested or required to be produced, so that such other party may seek an appropriate protective order or waive compliance with the provisions of this Section and (ii) consult with the other party as to the advisability of the other party’s taking of legally available steps to resist or narrow such request.

5.3 HIPAA Compliance.

(a) RSA agrees to comply with the applicable provisions of the Administrative Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 (“HIPAA”), and the requirements of any regulations promulgated thereunder including without limitation the federal privacy regulations as contained in 45 C.F.R. Part 142 (collectively, the “Regulations”). RSA agrees not to use or further disclose any protected health information, as defined in 45 C.F.R. § 164.504, or individually identifiable health information, as defined in 42 U.S.C. § 1320d (collectively, the “Protected Health Information”), concerning a patient other than as permitted by this Agreement and the requirements of HIPAA or the Regulations. RSA, with the assistance of Company, will implement appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as contemplated by this Agreement. RSA will promptly report to Company any use or disclosure of which RSA becomes aware, of Protected Health Information in violation of HIPAA or the Regulations. RSA will make its internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary to the extent required for determining compliance with HIPAA and the Regulations.

(b) RSA agrees to abide by the terms of the HIPAA Business Associate Addendum attached hereto and incorporated by reference herein as Exhibit B.

(c) The provisions set forth in this Section 5.3 shall survive the expiration or other termination of this Agreement.

## ARTICLE 6. INDEPENDENT RELATIONSHIP

6.1 It is acknowledged and agreed that Company and RSA are at all times acting and performing hereunder as independent contractors. Company and Principal Physician acknowledge and agree there is no goodwill, partnership or other intangible rights by Company or Principal Physician in or to RSA. RSA shall neither have nor exercise any control or direction over the methods by which Company, Principal Physician and any Company professionals practice medicine. The sole function of RSA hereunder is to provide all RSA Services in a competent, efficient and satisfactory manner. RSA shall not, by entering into and performing its obligations under this Agreement, become liable for any of the obligations, liabilities or debts of Company not related to Company's services hereunder, unless otherwise specifically provided for under the terms of this Agreement. In its management role, RSA will have only an obligation to exercise reasonable care in the performance of the management services. RSA shall have no liability whatsoever for damages suffered on account of the willful misconduct or negligence of any employee, agent or independent contractor of Company or Principal Physician. Each party shall be solely responsible for compliance with all state and federal laws pertaining to employment taxes, income withholding, unemployment compensation contributions and other employment related statutes regarding their respective employees, agents and servants.

## ARTICLE 7. MISCELLANEOUS PROVISIONS

7.1 Agreement to Reform. This Agreement shall be construed to the fullest extent possible to be in compliance with and permitted by all federal and state statutes, rules, regulations, principles, interpretations, orders and decrees. If a Triggering Event (as defined below) occurs, the parties agree that they shall amend this Agreement as necessary to comply with applicable statutes, rules, regulations, principles, interpretations, orders and decrees. To the fullest extent possible, any such amendment shall preserve the underlying economic and financial arrangements between RSA and Company with the least changes to the parties' expectations hereunder. For purposes of this Section 7.1, "Triggering Event" means the becoming effective after the date hereof of any statute, rule, regulation, order or decree by a government entity with jurisdiction over Company or RSA that renders illegal any material term of this Agreement.

7.2 Severability. Notwithstanding Section 7.1, if any provision of this Agreement is deemed to be in violation of applicable law and cannot be amended to cure such violation, or is otherwise unenforceable, such provision shall be deemed severed from the remainder of the Agreement and shall not affect the validity of the remainder of the Agreement.

7.3 Force Majeure. Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or other interruption of service deemed to result, directly or indirectly, from acts of God, civil or military authority, acts of public enemy,

war, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other work interruptions by either party's employees, or any other similar cause beyond the reasonable control of either party.

7.4 Additional Acts. Each party shall perform any further acts and shall execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

7.5 Restrictions on Assignment. Neither this Agreement any of the rights, interests or obligations hereunder may be assigned by either party without the prior written consent of the other party.

7.6 Binding Effect. Subject to the restrictions on assignment contained in the preceding Section, this Agreement shall inure to the benefit of be enforceable by and be binding upon the parties, their successors and assigns.

7.7 Entire Agreement. This Agreement and any exhibits and attachments incorporated herein and therein by reference, contain and constitute the entire agreement between RSA and Company and supersede and cancel any prior agreements, representations, warranties or communications, whether oral or written, between the parties relating to the transactions contemplated by this Agreement.

7.8 Modifications. This Agreement may only be modified by an agreement in writing signed by a duly authorized officer of RSA if RSA is the party against whom enforcement of any such waiver, change, modification, extension, discharge or termination is sought, or by Company if Company is the party against whom enforcement of any such waiver, change, modification, extension, discharge or termination is sought.

#### 7.9 Dispute Resolution

7.9.1 Special Meeting. Except as set forth in Section 7.9.5 below, in the event of any dispute or disagreement between the parties with respect to this Agreement, either party may request in writing a special meeting for the resolution of the dispute (a "***Special Meeting***"). The Special Meeting shall be held at a mutually agreeable location within ten days of a written request for the meeting, which request shall specify the nature of the dispute to be resolved. The Special Meeting shall be attended by representatives of RSA and Company (who may or may not be accompanied by legal counsel, in their respective discretion), who shall attempt in good faith to resolve the dispute and shall have reasonable authority to do so.

7.9.2 Mediation. If a dispute has not been resolved within 30 days after the date of the Special Meeting, the parties shall initiate mediation by giving written notice thereof to the other party hereto. Both parties shall attend and participate in the mediation, which shall be binding upon the parties if a mutually agreeable resolution is achieved. The mediation proceeding shall commence not more than 30 days after the written notice initiating the mediation process is given by one party to the other party hereto and shall be conducted in the County of Orange, State of California, by an impartial third party mediator in accordance with the procedures of JAMS/Endispute, Inc. The mediator may be given written statements of the parties and may inspect any applicable documents or instruments. All mediation proceedings

shall be attended by representatives of RSA and Company with reasonable authority to resolve the dispute. The costs and expenses associated with the mediator and the mediation shall be paid equally by RSA and Company regardless of the result of the mediation proceeding. Further, each party shall bear its own attorneys' fees and costs in connection with the mediation process.

7.9.3 Inadmissibility. The Special Meeting and the mediation proceeding shall be subject to California Evidence Code Sections 1152 through 1157, and 1115 through 1128, inclusive.

7.9.4 No Resolution. In the event a dispute or disagreement between the parties is not resolved pursuant to Section 7.9.1 or 7.9.2, and only after exhaustion of such procedures for resolution, either party may litigate the dispute or disagreement in a court of competent jurisdiction.

7.9.5 Injunctive Relief. Notwithstanding the contrary provisions of this Section 7.9 and except as may be expressly provided for otherwise in this Agreement, each of the parties hereto shall have the right to apply for and obtain a temporary restraining order or other temporary, interim or permanent injunctive or equitable relief from court of competent jurisdiction in order to enforce the provisions of any part of this Agreement as may be necessary to protect its rights under those sections.

7.9.6 Statute of Limitations. The dispute resolution procedures under Section 7.9 shall not in any manner affect any statutes of limitation relating to any claim, dispute or other matter arising out of this Agreement, provided that the statute of limitations shall be stayed during any period that the mediation or arbitration process is continuing pursuant to this Section 7.9.

7.9.7 Right Reserved by Parties. The provisions of this Section 7.9 shall not limit, require the postponement of, or in any other way preclude the exercise of any right or remedies otherwise enjoyed by any party hereto under the provisions of this Agreement.

7.10 Governing Law. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of California.

7.11 Schedules and Exhibits. All schedules and exhibits attached to this Agreement are incorporated by reference as a part of this Agreement.

7.12 Waivers. No failure on the part of any party to this Agreement to exercise, and no delay in exercising, any right, power or remedy created under this Agreement shall operate as a waiver of this Agreement, nor shall any single or partial exercise of any right, power or remedy by any such party preclude any other or further exercise of this Agreement or the exercise of any other right, power or remedy. No waiver by any party to this Agreement to any breach of or default in any term or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition of this Agreement.

7.13 Headings. The headings contained this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.



7.14 Counterparts; Facsimile. This Agreement may be executed by facsimile or electronic signatures and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

7.15 Attorneys' Fees. If any litigation is commenced between the parties concerning any provision of this Agreement or the rights and duties of any person in relation thereto, the prevailing party or parties shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for their attorneys' fees in that litigation.

*[Signatures on Next Page]*

IN WITNESS WHEREOF, the parties have executed this Management Services Agreement as of the date first written above.

**RSA:**

RSABill, Inc., a California corporation

By: \_\_\_\_\_

Juli Ann Quinn, its President

**Company:**

\_\_\_\_\_,

a California professional corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_ (signing in his/her capacity as CEO and individually as Principal Physician)

EXHIBIT A

RSA SERVICES AND FEES

Financial Services

\_\_\_\_% of Gross Billing Payments

Adoption of AR prior to RSA effective date = base rate + 5%

Management Services/Extras (if applicable) will be quoted in advance

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Practice management consulting

Credentialing

- New applications
- Change of address or tax ID
- Reattestation
- EFT/ERA application
- CAQH new
- CAQH reattestation
- Validate provider directories

Forms design

- Superbill, new
- Superbill, revised
- Misc office forms

# RSABill.com

11642 Knott Street, Suite 15  
Garden Grove, CA 92841  
(714) 903-7767

## ACH Payment Authorization Form

Schedule a recurring payment to be automatically deducted from your checking or savings account. Just complete and sign this form to get started!

### Here's How ACH Payments Work:

You authorize a regularly scheduled charge to your checking or savings account. You will be charged the amount shown on your monthly invoice on the date or schedule indicated. A receipt for each payment will be emailed to you and the charge will appear on your bank statement as an "ACH Debit." You agree to the 5 day emailed prior-notification of the amount to be debited.

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### Please complete the information below:

I \_\_\_\_\_ authorize RSA Medical Billing to charge my bank account  
(full name)

indicated below for the monthly detailed invoiced amount that will be emailed to the following address

email: \_\_\_\_\_

Payment will be processed  
5 days after invoice date.

Recurring Payment Schedule  
Frequency: Monthly

Start Date: \_\_\_\_\_

End Date: \_\_\_\_\_

#### Bank Account

Checking       Savings  
Name on Acct: \_\_\_\_\_  
Bank Name: \_\_\_\_\_  
Account Number: \_\_\_\_\_  
Bank Routing #: \_\_\_\_\_  
Bank City/State: \_\_\_\_\_



#### Billing Address

Billing Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Phone#: \_\_\_\_\_  
Email: \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

For a Recurring Payment Schedule, I understand that this authorization will remain in effect until I cancel it in writing, and I agree to notify RSA Medical Billing in writing of any changes in my account information or termination of this authorization at least 15 days prior to the next billing date. If the above noted periodic payment dates fall on a weekend or holiday, I understand that the payment may be executed on the next business day. I understand that because this is an electronic transaction, these funds may be withdrawn from my account as soon as the above noted periodic transaction dates. In the case of an ACH Transaction being rejected for Non Sufficient Funds (NSF) I understand that RSA Medical Billing may at its discretion attempt to process the charge again within 30 days, and agree to an additional \$35 charge for each attempt returned NSF which will be initiated as a separate transaction from the authorized recurring payment. I acknowledge that the origination of ACH transactions to my account must comply with the provisions of U.S. law. I agree not to dispute this recurring billing with my bank so long as the transactions correspond to the terms indicated in this authorization form.

EXHIBIT B

FORM OF BUSINESS ASSOCIATE AGREEMENT

## HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is entered into effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“Effective Date”) by and between **RSABill, Inc.**, a California corporation (“Business Associate”) and \_\_\_\_\_, a California professional corporation, on behalf of itself and its affiliates (collectively “Covered Entity”) (each a “Party” and collectively, the “Parties”).

### RECITALS

- A. Covered Entity is a “Covered Entity” as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), as amended, (“HIPAA”), and the regulations promulgated thereunder by the Secretary of the U.S. Department of Health and Human Services (“Secretary”), including, without limitation, the regulations codified at 45 C.F.R. Parts 160 and 164 (“HIPAA Regulations”);
- B. Business Associate performs Services for or on behalf of Covered Entity, and in performing said Services, Business Associate creates, receives, maintains or transmits Protected Health Information (“PHI”);
- C. The Parties intend to protect the privacy and provide for the security of PHI Disclosed by Covered Entity to Business Associate, or received or created by Business Associate, when providing Services in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act (Public Law 111-005) (“the HITECH Act”) and its implementing regulations and guidance issued by the Secretary, and other applicable state and federal laws, all as amended from time to time; and
- D. As a Covered Entity, Covered Entity is required under HIPAA to enter into a BAA with Business Associate that meets certain requirements with respect to the Use and Disclosure of PHI, which are met by this BAA.

### AGREEMENT

In consideration of the Recitals and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

### *DEFINITIONS*

The following terms shall have the meaning set forth below. Capitalized terms used in this BAA and not otherwise defined shall have the meanings ascribed to them in HIPAA, the HIPAA Regulations, or the HITECH Act, as applicable.

“Breach” shall have the meaning given under [42 U.S.C. § 17921\(1\)](#) and [45 C.F.R. § 164.402](#).

“Designated Record Set” shall have the meaning given such term under [45 C.F.R. § 164.501](#).

“Disclose” and “Disclosure” mean, with respect to PHI, the release, transfer, provision of access to, or divulging in any other manner of PHI outside of Business Associate or to other than members of its Workforce, as set forth in [45 C.F.R. § 160.103](#).

“Electronic PHI” or “e-PHI” means PHI that is transmitted or maintained in electronic media, as set forth in [45 C.F.R. § 160.103](#).

“Protected Health Information” and “PHI” mean any information, whether oral or recorded in any form or medium, that: (a) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (c) shall have the meaning given to such term under the Privacy Rule, including, but not limited to, [45 C.F.R. § 160.103](#). Protected Health Information includes e-PHI.

“Security Incident” shall have the meaning given to such term under [45 C.F.R. § 164.304](#).

“Services” shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to any service agreement(s) between Covered Entity and Business Associates which may be in effect now or from time to time (“Underlying Agreement”), or, if no such agreement is in effect, the services or functions performed by Business Associate that constitute a Business Associate relationship, as set forth in [45 C.F.R. § 160.103](#).

“Required by Law” shall have the meaning given to such term under [45 C.F.R. § 164.103](#).

“Unsecured PHI” shall have the meaning given to such term under [42 U.S.C. § 17932\(h\)](#), [45 C.F.R. § 164.402](#), and guidance issued pursuant to the HITECH Act including, but not limited to the guidance issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009) by the Secretary.

“Use” or “Uses” mean, with respect to PHI, the sharing, employment, application, utilization, examination or analysis of such PHI within Business Associate’s internal operations, as set forth in [45 C.F.R. § 160.103](#).

“Workforce” shall have the meaning given to such term under [45 C.F.R. § 160.103](#).

## OBLIGATIONS OF BUSINESS ASSOCIATE

Permitted Uses and Disclosures of Protected Health Information. Business Associate shall not Use or Disclose PHI other than for the following purposes of performing the Services, as permitted or required by this BAA or as Required by Law. Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of the HIPAA Regulations or the HITECH Act if so Used or Disclosed by Covered Entity. However, Business Associate may Use or Disclose PHI (i) for the proper management and administration of Business Associate; (ii) to

carry out the legal responsibilities of Business Associate, provided that with respect to any such Disclosure either: (a) the Disclosure is Required by Law; or (b) Business Associate obtains a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and will not Use and further Disclose such PHI except as Required by Law and for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached; (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity. To the extent that Business Associate carries out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

Prohibited Uses and Disclosures under HITECH. Notwithstanding any other provision in this BAA, Business Associate shall comply with the following requirements: (i) Business Associate shall not Use or Disclose PHI for fundraising or marketing purposes, except to the extent expressly authorized or permitted by this BAA and consistent with the requirements of 42 U.S.C. § 17936; (ii) Business Associate shall not Disclose PHI to a health plan for payment or Health Care Operations purposes if and to the extent that Covered Entity has informed Business Associate that the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, consistent with 42 U.S.C. § 17935(a); (iii) Business Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. § 17935(d)(2). Business Associate shall comply with all the requirements of the HITECH Act related to privacy that apply to Covered Entities.

Adequate Safeguards of PHI. Business Associate shall implement and maintain appropriate safeguards to prevent Use or Disclosure of PHI other than as provided for by this BAA. Business Associate shall comply, as applicable, with the requirements of the HIPAA Security Rule under 45 C.F.R. § 164.306, implement appropriate administrative safeguards as required by 45 C.F.R. § 164.308, disclose/request only the minimum necessary amount of PHI required to fulfill a request and comply with other requirements of 45 C.F.R. § 164.314, and adopt physical safeguards as required by 45 C.F.R. § 164.310, technical safeguards as required by 45 C.F.R. § 164.312, and written policies and procedures as required by 45 C.F.R. § 164.316 that reasonably and appropriately protect the confidentiality, integrity, and availability of e-PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall comply with all requirements of the HITECH Act related to security that apply to Covered Entities.

Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this BAA.

Reporting Non-Permitted Use or Disclosure.

Reporting Security Incidents and Non-Permitted Use or Disclosure. Business Associate shall report to Covered Entity in writing each Security Incident or Use or Disclosure that is made by Business Associate, members of its Workforce, Subcontractors that is not



specifically permitted by this BAA no later than three (3) business days after becoming aware of such Security Incident or non-permitted Use or Disclosure, in accordance with the notice provisions set forth herein. Business Associate shall investigate each Security Incident or non-permitted Use or Disclosure of Covered Entity's PHI that it discovers to determine whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI. Business Associate shall document and retain records of its investigation of any Breach, including its reports to Covered Entity under this Section 2.5.1. Upon request of Covered Entity, Business Associate shall furnish to Covered Entity the documentation of its investigation and an assessment of whether such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach. If such Security Incident or non-permitted Use or Disclosure constitutes a reportable Breach of Unsecured PHI, then Business Associate shall comply with the additional requirements of Section 2.5.2 below.

Breach of Unsecured PHI. Business Associate shall investigate each unauthorized access, acquisition, Use, or Disclosure of Covered Entity's PHI that it discovers to determine whether such unauthorized access, acquisition, Use, or Disclosure constitutes a reportable Breach of Unsecured PHI. If Business Associate determines that a reportable Breach of Unsecured PHI has occurred, Business Associate shall notify Covered Entity of such Breach in writing without unreasonable delay but no later than three (3) calendar days after discovery of the Breach, in accordance with 45 C.F.R. §164.410(c). Business Associate shall cooperate with Covered Entity in meeting Covered Entity's obligations under the HITECH Act with respect to such Breach. Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the Secretary and, if applicable, the media, as required by the HITECH Act. Business Associate shall reimburse Covered Entity for its reasonable costs and expenses in providing the notification, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, and costs of mitigating the harm (which may include the costs of obtaining credit monitoring services and identity theft insurance) for affected individuals whose PHI has or may have been compromised as a result of the Breach.

Availability of Internal Practices, Books, and Records to Government. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with HIPAA, the HIPAA Regulations, and the HITECH Act. Except to the extent prohibited by law, Business Associate shall notify Covered Entity of all requests served upon Business Associate for information or documentation by or on behalf of the Secretary.

Access to and Amendment of Protected Health Information. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate shall make the PHI it maintains (or which is maintained by its Subcontractors) in Designated Record Sets available to Covered Entity for inspection and copying or, as directed by Covered Entity, to an individual, within fifteen (15) days of a request by Covered Entity, to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524. If Business Associate maintains PHI in a Designated Record Set electronically, Business Associate shall provide such information in the electronic form and format requested by the Covered Entity if it is readily reproducible in such form and format, and, if not, in such other form and format agreed to by

Covered Entity to enable Covered Entity to fulfill its obligations under 42 U.S.C. § 17935(e) and 45 C.F.R. § 164.524(c)(2). Business Associate shall notify Covered Entity within fifteen (15) days of receipt of a request for access to PHI.

Accounting. To the extent that Business Associate maintains a Designated Record Set on behalf of Covered Entity, within thirty (30) days of receipt of a request from Covered Entity or an individual for an accounting of disclosures of PHI, Business Associate and Subcontractors shall make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.528 and its obligations under 42 U.S.C. § 17935(c). Business Associate shall notify Covered Entity within fifteen (15) days of receipt of a request by an individual or other requesting party for an accounting of disclosures of PHI.

Use of Subcontractors. Business Associate shall require each of its Subcontractors that creates, maintains, receives, or transmits PHI on behalf of Business Associate, to execute a Business Associate Agreement that imposes on such Subcontractors the same restrictions, conditions, and requirements that apply to Business Associate under this BAA with respect to PHI.

Minimum Necessary. Business Associate (and its Subcontractors) shall, to the extent practicable, limit its request, Use, or Disclosure of PHI to the minimum amount of PHI necessary to accomplish the purpose of the request, Use or Disclosure, in accordance with 42 U.S.C. § 17935(b) and 45 C.F.R. § 164.502(b)(1) or any other guidance issued thereunder.

## TERM AND TERMINATION

Term. The term of this Agreement shall be effective as of the Effective Date and shall terminate as of the date that 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 the PHI, protections are extended to such information, in accordance with Section 3.3.

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

a. Notify Business Associate of the breach in writing, and provide an opportunity for Business Associate to cure the breach or end the violation within ten (10) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period to the satisfaction of Covered Entity, Covered Entity may immediately terminate this BAA upon written notice to Business Associate; or

b. Upon written notice to Business Associate, immediately terminate this BAA if Covered Entity determines that such breach cannot be cured.

### Disposition of Protected Health Information Upon Termination or Expiration.

Upon termination or expiration of this BAA, Business Associate shall either return or destroy all PHI received from, 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. If Covered Entity requests that Business Associate return PHI, PHI shall be returned in a mutually agreed upon format and timeframe, at no additional charge to Covered Entity.

If return or destruction is not feasible, Business Associate shall (a) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity the remaining PHI that Business Associate still maintains in any form; (c) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains the PHI; (d) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI infeasible and subject to the same conditions set out in Section 2.1 and 2.2 above, which applied prior to termination; and (e) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

#### MISCELLANEOUS

Amendment to Comply with Law. This BAA shall be deemed amended to incorporate any mandatory obligations of Covered Entity or Business Associate under the HITECH Act and its implementing HIPAA Regulations. Additionally, the Parties agree to take such action as is necessary to amend this BAA from time to time as necessary for Covered Entity to implement its obligations pursuant to HIPAA, the HIPAA Regulations, or the HITECH Act.

Indemnification. Business Associate hereby agrees to indemnify and hold harmless Covered Entity, its affiliates, and their respective officers, directors, managers, members, shareholders, employees and agents from and against any and all fines, penalties, damage, claims or causes of action and expenses (including, without limitation, court costs and attorney's fees) arising from any violation of HIPAA, the HIPAA Regulations, or the HITECH Act or from any negligence or wrongful acts or omissions, including but not limited to failure to perform its obligations that results in a violation of HIPAA, the HIPAA Regulations, or the HITECH Act, by Business Associate or its employees, directors, officers, subcontractors, agents or members of Business Associate's Workforce.

Notices. Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic mail or facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt requested; (3) by bonded courier or by a nationally recognized overnight delivery service; or (4) by United States first class registered or certified mail, postage prepaid, return receipt, in each case, addressed to a Party on the signature page(s) to this Agreement or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 4.3. Notices shall be deemed received on the earliest of personal delivery; upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed; twenty-four (24) hours following deposit with a bonded courier or overnight delivery service; or seventy-two (72) hours following deposit in the U.S. mail as required herein.

Relationship of Parties. Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to

supervise, manage, contract, direct, procure, perform or cause to be performed all Business Associate obligations under this BAA. Business Associate and Covered Entity expressly agree that, notwithstanding any provisions of this Agreement or other agreement adopted by the parties, Business Associate is not an agent of Covered Entity and Covered Entity is not the principal of Business Associate, as those terms are understood under the federal common law of agency.

Survival. The respective rights and obligations of the Parties under Sections 3.3 and 4.2 of this BAA shall survive the termination of this BAA.

Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California (without regards to conflict of laws principles). The Parties agree that all actions or proceedings arising in connection with this BAA shall be tried and litigated exclusively in the State or federal (if permitted by law and if a Party elects to file an action in federal court) courts located in Orange County, California.

*[Signatures on Next Page]*

The Parties hereto have duly executed this Agreement as of the Effective Date.

“BUSINESS ASSOCIATE”

**RSABill, Inc.**, a California corporation

By: \_\_\_\_\_

Juli Ann Quinn, its President

“COVERED ENTITY”

\_\_\_\_\_,  
a California professional corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_ (signing in his/her capacity as CEO and individually as  
Principal Physician)

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