

## BUSINESS ASSOCIATE AGREEMENT

By clicking “Accept,” you (“**Provider**”) agree to be bound by the Business Associate Agreement (“**Agreement**”) set forth below. The date of your acceptance shall be referred to herein as the “**Effective Date**”.

A. Provider and Push Health Inc. (“**Business Associate**”) have entered into, or are entering into, or may subsequently enter into, agreements or other documented arrangements (collectively, the “**Business Arrangements**”), including but not limited to the Affiliation Agreement, dated as of the date hereof (the “**Services Agreement**”), pursuant to which Business Associate may provide services for Provider that require Business Associate to access, create and use health information that is protected by state and/or federal law;

B. Pursuant to the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”), the U.S. Department of Health & Human Services (“**HHS**”) promulgated the Standards for Privacy of Individually Identifiable Health Information (the “**Privacy Standards**”), at 45 C.F.R. Parts 160 and 164, requiring certain individuals and entities subject to the Privacy Standards (each a “**Covered Entity**”, or collectively, “**Covered Entities**”) to protect the privacy of certain individually identifiable health information (“**Protected Health Information**”, or “**PHI**”), and has issued the Security Standards (the “**Security Standards**”), at 45 C.F.R. Parts 160, 162 and 164, for the protection of electronic protected health information (“**EPHI**”), as amended by applicable provisions of the Health Information Technology for Economic and Clinical Health Act (Title XIII, Subtitle D) and its implementing regulations (the “**HITECH Act**”) (collectively, the “**HIPAA Regulations**”);

C. In order to protect the privacy and security of PHI, including EPHI, created or maintained by or on behalf of the Covered Entity, the Privacy Standards and Security Standards require a Covered Entity to enter into a “business associate agreement” with certain individuals and entities providing services for or on behalf of the Covered Entity if such services require the use or disclosure of PHI or EPHI; and

D. Business Associate and Provider desire to enter into this Business Associate Agreement.

**NOW THEREFORE**, in consideration of the mutual promises set forth in this Agreement and the Business Arrangements, and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

### 1. **Business Associate Obligations.**

1.1 Business Associate may receive from Provider, or create or receive on behalf of Provider, health information that is protected under applicable state and/or federal law, including without limitation, PHI and EPHI. All capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the HIPAA Regulations, as applicable, and all references to PHI herein shall be construed to include EPHI. Notwithstanding the foregoing, any reference to PHI is limited when used herein to the PHI created or received by Business Associate from or on behalf of Provider. Business Associate shall use appropriate safeguards, and comply, where applicable, with the Security Standards with respect to EPHI, to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement. Business Associate agrees not to use or disclose PHI in a manner that would violate the requirements of the HIPAA Regulations if the PHI were used or disclosed by Provider in the same manner, except as otherwise set forth herein. Business Associate shall, to the extent Business Associate is to carry out Provider’s obligations under the HIPAA Regulations, comply with the requirements of the HIPAA Regulations that apply to Provider in the performance of such obligations.

1.2 Business Associate will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of Provider. Business Associate agrees to the following

reporting procedures for Security Incidents that result in unauthorized access, use, disclosure, modification, or destruction of EPHI or interference with system operations (“**Successful Security Incidents**”) and for Security Incidents that do not result in unauthorized access, use, disclosure, modification, or destruction of EPHI or interference with system operations (“**Unsuccessful Security Incidents**”). Business Associate will promptly report to Provider any Successful Security Incident of which it becomes aware. To avoid unnecessary burden on either party, Business Associate shall report to Provider any Unsuccessful Security Incident of which it becomes aware only upon request of Provider. The frequency, content, and format of the report of Unsuccessful Security Incidents shall be mutually agreed upon by the parties.

1.3 In the event that Business Associate discovers, as determined in accordance with 45 C.F.R. § 164.410, that a Breach of Unsecured PHI of Provider has occurred, Business Associate shall notify Provider of the identification of each individual who has been or is reasonably believed to have been affected by the Breach, along with any other information that Provider as a Covered Entity will be required to include in its notification of the individual under the HITECH Act or its implementing regulations, if known.

2. **Use of PHI.** Except as otherwise permitted herein or required by law, Business Associate shall use PHI only for the purpose of performing services for Provider as such services are described in the Business Arrangements, and as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Provider as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B). Business Associate may de-identify any and all PHI provided that the de-identification conforms to the requirements of the Privacy Standards.

3. **Disclosure of PHI.** Subject to any limitations in this Agreement, Business Associate may disclose PHI to any third party person or entity as necessary to perform its obligations under the Business Arrangements and as permitted or required by applicable federal or state law. Further, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that (i) such disclosures are required by law, or (ii) Business Associate (a) obtains reasonable assurances from any third party to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (b) requires the third party to agree to notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached. If any subcontractors create, receive, maintain or transmit PHI on behalf of Business Associate, Business Associate shall, in accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), require such subcontractors to agree in writing to the same or substantially similar restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Provider any use or disclosure of PHI not provided for by this Agreement, of which it becomes aware. Business Associate agrees to mitigate, to the extent practical and unless otherwise requested by Provider in writing, any harmful effect that is known to Business Associate and is the result of a use or disclosure of PHI by Business Associate in violation of this Agreement.

4. **Individual Rights Regarding Designated Record Sets.** If Business Associate maintains a Designated Record Set on behalf of Provider, Business Associate shall (i) provide access to, and permit inspection and copying of, PHI by Provider or, as directed by Provider, an individual who is the subject of the PHI under conditions and limitations required under 45 CFR § 164.524, as it may be amended from time to time, and (ii) amend PHI maintained by Business Associate as requested by Provider.

5. **Accounting of Disclosures.** Business Associate shall make available to Provider in response to a request from an individual, information required for an accounting of disclosures of PHI with respect to the individual, in accordance with 45 CFR § 164.528, as it may be amended from time to time, incorporating exceptions to such accounting designated under the regulation.

6. **Records and Audit.** Business Associate shall make available to the HHS or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Provider for the purpose of determining Provider's compliance with the HIPAA Regulations or any other health oversight agency, in a time and manner designated by the Secretary of the HHS. Except to the extent prohibited by law, Business Associate agrees to notify Provider immediately upon receipt by Business Associate of any and all requests by or on behalf of any and all government authorities served upon Business Associate for PHI.

7. **Obligations of Provider.**

7.1 Provider shall not request Business Associate to use or disclose PHI in any manner that would violate this Agreement or the HIPAA Regulations.

7.2 Provider shall notify Business Associate of any limitation(s) in its notice of privacy practices of Provider in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

7.3 Provider hereby agrees to ensure that it obtains an Individual's authorization or the authorization of Individual's personal representatives, to the extent required under the Privacy Standards and in the form required by the Privacy Standards, for Business Associate's uses and disclosures of PHI contemplated by this Agreement and the Business Arrangements and to inform Business Associate of any changes in, or withdrawal of, such written authorization provided to Provider by Individuals or their personal representatives, including without limitation revocations of authorizations pursuant to 45 C.F.R. § 164.508.

7.4 Provider hereby agrees to promptly notify Business Associate, in writing and in a timely manner, of any arrangements permitted or required of Provider under the Privacy Standards that may impact in any manner the use or disclosure of PHI by Business Associate under this Agreement or the Business Arrangements, including without limitation restrictions on the use or disclosure of PHI agreed to by Provider, as provided for in 45 C.F.R. § 164.522 as amended by the HITECH Act.

8. **Term and Termination.**

8.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section 8; *provided, however*, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

8.2 If Provider determines that Business Associate has violated a material term of this Agreement, Provider shall either: (i) provide an opportunity for Business Associate to cure the breach or end the violation within the time specified by Provider, and terminate this Agreement and the Business Arrangements if Business Associate does not cure the breach or end the violation, or (ii) immediately terminate this Agreement and the Business Arrangements if cure is not possible.

8.3 Upon the termination of all Business Arrangements, either party may terminate this Agreement by providing written notice to the other party.

8.4 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Provider, or to destroy, all PHI received from Provider or otherwise through the performance of services for Provider, that is in the possession or control of Business Associate. In the case of PHI which is not feasible to "return or destroy," Business Associate shall extend the protections of this Agreement to

such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. The obligations under this Section 8.4 shall survive termination of this Agreement and shall continue as long as Business Associate maintains such PHI.

## 9. Miscellaneous.

9.1 **Notice.** Except as otherwise expressly permitted herein, all notices required or permitted to be given hereunder shall be in writing and shall be deemed effective when personally delivered, when received by telegraphic or other electronic means (including email), when delivered by overnight courier or three (3) days after being deposited in the United States mail, with postage prepaid thereon, certified or registered mail, return receipt requested, addressed as follows:

If to Associate:

1730 E. Holly Ave.  
El Segundo, CA 90245  
Email: help@pushealth.com

If to Provider:

Email and physical address associated with Provider's account with Associate or to such other address or number, and to the attention of such other person or officer, as any party may designate, at any time, in writing in conformity with these notice provisions.

9.2 **Waiver.** No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

9.3 **Assignment.** Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, any assignment permitted under the Services Agreement shall be permissible hereunder.

9.4 **Severability.** Any provision of this Agreement that is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

9.5 **Entire Agreement.** This Agreement constitutes the complete agreement between Business Associate and Provider relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Business Arrangements or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Business Arrangements are more strict with respect to PHI and comply with the HIPAA Regulations, or the parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. No obligation on either party to enter into any transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and permitted assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

9.6 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the of California. Each party hereby irrevocably and unconditionally agrees that the exclusive venue for any litigation arising out of or relating this Agreement shall be the state or federal court located in the City of Los Angeles, California (the “*California Courts*”), and each party hereby waives any objection to the laying of venue of any such litigation in the California Courts and agrees not to plead or claim in any California Court that such litigation brought therein has been brought in an inconvenient forum.

9.7 **Equitable Relief.** Business Associate understands and acknowledges that any use, disclosure or misappropriation of any PHI in violation of this Agreement will cause Provider irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Provider shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as Provider shall deem appropriate. Such right of Provider is to be in addition to the remedies otherwise available to Provider at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Provider.

9.8 **Nature of Agreement.** None of the provisions of this Agreement are intended to create, nor shall be deemed or construed to create any relationship between the parties hereto other than that of independent contractors. Neither Business Associate nor any of its employees, subcontractors, or other agents shall be deemed to be an “agent,” “employee,” “servant,” or “joint employee” of Provider.

9.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement of this Agreement is sought.

9.10 **Modifications to Comply with Standards.** In the event that additional regulations are promulgated under the HIPAA Regulations, or any existing HIPAA Regulations are amended, and a party determines in good faith that any such regulation adopted or amended after the execution of this Agreement shall cause any paragraph or provision of this Agreement to be invalid, void, or in any manner unlawful or subject either party to penalty, then the parties agree to negotiate in good faith to modify and amend this Agreement in a manner that would eliminate any such risk.