



BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is effective as of the 15th day of November, 2022, between

Right Angle Solutions, Inc. (Business Associate") and Newark Public Schools (NPS) ("Partner").

WHEREAS, on even date herewith, the parties hereto have entered into that certain Participation Agreement, pursuant to which Partner, as a covered entity under HIPAA, will make available to Business Associate certain Protected Health Information that is confidential and must be afforded special treatment and protection; and

WHEREAS, Business Associate will agree to limit its use and disclosure of such Protected Health Information in accordance with this Agreement and the Privacy and Security Rules;

NOW, THEREFORE, Partner and Business Associate agree as follows:

1. Definitions. Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the Privacy Rule.

(i) "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any amendments thereto.

(ii) "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A of the American Recovery and Reinvestment Act of 2009, and the regulations promulgated thereunder and any amendments thereto.

(iii) "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 CFR § 164.502(g).

(iv) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

(v) "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Partner.

(v) "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Partner.

(vi) "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.

(vii) "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her ~~designee~~

(viii) "Security Rule" shall mean the Security Standards for Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, Subparts A and C.

2. Obligations and Activities of Business Associate.

(i) Business Associate shall comply with 45 CFR §§ 164.308, 164.310, 164.312 and 164.316 and relevant provisions of Subtitle D of the HITECH Act and its related regulations, as such provisions and regulations become effective and as applicable to business associates, as defined by 45 CFR § 160.103.

(ii) Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by 45 CFR § 164.504(e), this Agreement, including all Appendices and Addenda thereto, or as Required by Law.

(iii) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement, including all Appendices and Addenda thereto, and 45 CFR § 164.504(e).

(iv) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement, including all Appendices and Addenda thereto.

(v) Business Associate agrees to report to Partner any use or disclosure of its Protected Health Information not provided for by this Agreement, including all Appendices and Addenda thereto, of which it becomes aware. Business Associate also agrees to report to Partner in writing the discovery of any Breach of its Unsecured Protected Health Information (as those terms are defined in 45 CFR § 164.402) within twenty-four (24) hours of becoming aware of such Breach. Business Associate shall include in such report, or provide to Partner as promptly thereafter as the information becomes available, the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during such Breach and a brief description of what happened, including the date of the Breach and the date of the discovery of the Breach. Business Associate shall not contact any individuals suspected to be affected by the Breach without prior written approval of Partner.

(vi) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of, Partner agrees to the same restrictions and conditions that apply through this Agreement, including all Appendices and Addenda thereto, to Business Associate with respect to such information.

(vii) Business Associate agrees to provide access, at the request of a Partner, and in the time and manner reasonably designated by such Partner, to Protected Health Information in a Designated Record Set, to such Partner in order to meet the requirements under 45 CFR § 164.524.

(viii) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that any Partner directs or agrees to pursuant to 45 CFR § 164.526 at the request of such Partner, and in the time and manner reasonably designated by such Partner.

(ix) Business Associate agrees to make internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information, available to Partner and to the Secretary, in a time and manner designated by the Partner or the Secretary, for purposes of the Secretary determining Business Associate's or Partner's compliance with the Privacy Rule.

(x) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Partner to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 and relevant provisions of Subtitle D of the HITECH Act and its related regulations.

(xi) Business Associate agrees to provide to Partner, in a time and manner reasonably designated by such Partner, information collected in accordance with paragraph (x) of this Section 2 of this Agreement, to permit Partner to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 and relevant provisions of Subtitle D of the HITECH Act and its related regulations.

3. Permitted Uses and Disclosures by Business Associate.

(i) Except as otherwise limited in this Agreement, including all Appendices and Addenda thereto, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Partner as specified in this Agreement, including all Appendices and Addenda thereto, provided that such use or disclosure would not violate the Privacy Rule if done by Partner or the minimum necessary policies and procedures of the Partner.

(ii) Except as otherwise limited in this Agreement, including all Appendices and Addenda thereto, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate.

(iii) Except as otherwise limited in this Agreement, including all Appendices and Addenda thereto, Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(iv) Business Associate, and its agents or subcontractors, shall only request, use and disclose the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use or disclosure.

4. Obligations of Partner.

- (i) Partner shall notify Business Associate of any limitation(s) in the notice of privacy practices of Partner in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- (ii) Partner shall notify Business Associate of any changes in, or revocation of, permission by an 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.
- (iii) Partner shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Partner has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

5. Permissible Requests by Partner.

Partner shall not request that Business Associate use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Partner.

6. Term and Termination.

(i) Term. The term of this Agreement shall remain in effect until all of the Protected Health Information provided by Partner to Business Associate, or created or received by Business Associate on behalf of such Partner, is destroyed or returned to such Partner, or, if it is not feasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Agreement.

(ii) Termination for Cause. Upon Partner's knowledge of a material breach by Business Associate, Partner shall either:

- (1) Provide a reasonable opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure

the breach or end the violation within the time specified by Partner; or

(2) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

(3) If neither termination nor cure is feasible, Partner shall report the violation to the Secretary.

(iii) Effect of Termination.

(1) Except as provided in subparagraph (2) of this paragraph, upon termination of this Agreement, for any reason, Business Associate shall return to Partner or destroy all Protected Health Information received from Partner, or created or received by Business Associate on behalf of Partner. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Partner notification of the conditions that make return or destruction not feasible. Upon written notification that return or destruction of Protected Health Information is not feasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information, including but not limited to the confidentiality and security protections provided for in this Agreement until such time as Partner's Protected Health information is returned to Partner. Notwithstanding anything to the contrary herein, it is hereby acknowledged and agreed that upon termination of this Agreement, it will not be feasible for Business Associate to return or destroy the Protected Health Information due to the nature of the services being provided by Business Associate.

7. Security Standards.

(i) Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the e-PHI that it creates, receives, maintains or transmits on behalf of the Partner in accordance with 45 CFR Part 164 (the "HIPAA Security Rule").

(ii) Business Associate will ensure that any agent, including a subcontractor, to whom it provides e-PHI that was created, received, maintained or transmitted on behalf of the Partner agrees to implement reasonable and appropriate safeguards to protect the e-PHI.

(iii) Business Associate agrees to alert Partner of any security incident (as defined by the HIPAA Security Rule) of which it becomes aware.

8. Miscellaneous.

(i) Regulatory References. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.

(ii) Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Partner to comply with the requirements of the Privacy Rule and HIPAA and other applicable Jaws relating to the security or confidentiality of Protected Health Information.

(iii) Survival. The respective rights and obligations of Business Associate under Sections 6(iii) of this Agreement shall survive the termination of this Agreement.

(iv) Severability. If any section or portion of this Agreement shall be determined to be invalid, such determination shall not affect the enforceability or validity of the remainder of this Agreement.

(v) No Waiver. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any proceeding breach of the same provision. No delay in action with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach.

(vi) No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Partner, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

(vii) Interpretation. Any ambiguity in this Agreement shall be resolved to permit Partner to comply with the Privacy Rule and the Security Rule.

BM-NBOE Legal

(viii) Choice of Law. This Agreement shall be governed by the laws of the State of ~~New York~~ "New Jersey" without regard to conflict of laws principles thereof.

IN WITNESS WHEREOF, Business Associate and Partner have caused this Agreement to be signed and delivered by their duly authorized representatives.

Right Angle Solutions, Inc

Newark Public Schools (NPS)



By: Raj Juttukonda

By: _____

Title: Principal

Title: _____

Date: 01/13/2023

Date: _____