HIPAA BUSINESS ASSOCIATE AGREEMENT

1. PREAMBLE AND DEFINITIONS.
    1. Pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), the healthcare provider or clinical entity identified in an executed Eysz Order Form ("Covered Entity") and EYSZ, Inc. ("Business Associate"), enter into this Business Associate Agreement ("BAA") as of the Effective Date of the Underlying Agreement (as defined in Section 1.2) that addresses the HIPAA requirements with respect to "business associates," as defined under the privacy, security, breach notification, and enforcement rules at 45 C.F.R. Part 160 and Part 164 ("HIPAA Rules"). A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended.
    2. This BAA is intended to ensure that Business Associate will establish and implement appropriate safeguards for the Protected Health Information (as defined under the HIPAA Rules) that Business Associate may receive, create, maintain, use, or disclose in connection with the functions, activities, and services that Business Associate performs for Covered Entity ("PHI"). The functions, activities, and services that Business Associate performs for Covered Entity are defined in the Eysz SaaS Early Adopter Agreement or applicable Order Form (the “Underlying Agreement”).
    3. Pursuant to changes required under the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act") and under the American Recovery and Reinvestment Act of 2009 ("ARRA"), this BAA also reflects federal breach notification requirements imposed on Business Associate when "Unsecured PHI" (as defined under the HIPAA Rules) is acquired by an unauthorized party, and the expanded privacy and security provisions imposed on business associates.
    4. Unless the context clearly indicates otherwise, the following terms in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, disclosure, Electronic Media, Electronic Protected Health Information (ePHI), Health Care Operations, individual, Minimum Necessary, Notice of Privacy Practices, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured PHI, and use.
    5. A reference in this BAA to the Privacy Rule means the Privacy Rule, in conformity with the regulations at 45 C.F.R. Parts 160-164 (the "Privacy Rule") as interpreted under applicable regulations and guidance of general application published by HHS, including all amendments thereto for which compliance is required, as amended by the HITECH Act, ARRA, and the HIPAA Rules.
2. OBLIGATIONS OF BUSINESS ASSOCIATE.
    1. Business Associate agrees not to use or disclose PHI, other than as permitted or required by this BAA or as Required By Law.

2. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to ePHI, to prevent the use or disclosure of PHI other than as provided for by this BAA.
3. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate as a result of a use or disclosure of PHI by Business Associate in violation of this BAA's requirements or that would otherwise cause a Breach of Unsecured PHI.
4. Business Associate agrees to report to Covered Entity any Breach of Unsecured PHI not provided for by the BAA of which it becomes aware without unreasonable delay, and in no case more than thirty (30) calendar days after "discovery" within the meaning of the HITECH Act. Such notice shall include the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed in connection with such Breach. Business Associate also shall provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach and any other available information that Covered Entity is required to provide to the individual under 45 C.F.R. § 164.404(c) at the time of notification or promptly thereafter as information becomes available. Business Associate's notification of a Breach of Unsecured PHI under this Section shall comply in all respects with each applicable provision of Section 13400 of Subtitle D (Privacy) of ARRA, the HIPAA Rules, and related guidance issued by the Secretary or the delegate of the Secretary from time to time.
5. Business Associate agrees, in accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, to require that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.
6. Business Associate agrees to make available PHI in a Designated Record Set to the Covered Entity as necessary for Covered Entity to satisfy its obligations under 45 C.F.R. § 164.524. Business Associate agrees to make PHI in a Designated Record Set available to Covered Entity for amendment pursuant to 45 C.F.R. § 164.526 and incorporate any amendments to the PHI as may be reasonably requested by Covered Entity in accordance with 45 C.F.R. § 164.526.
7. Business Associate agrees that when requesting, using, or disclosing PHI in accordance with 45 C.F.R. § 164.502(b)(1) that such request, use, or disclosure shall be to the minimum extent necessary, including the use of a "limited data set" as defined in 45 C.F.R. § 164.514(e)(2), to accomplish the intended purpose of such request, use, or disclosure, as interpreted under related guidance issued by the Secretary from time to time.
8. Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.528.
9. Business Associate agrees to make its internal practices, books, and records, including policies and procedures regarding PHI, relating to the use and

disclosure of PHI and Breach of any Unsecured PHI received from Covered Entity, or created or received by the Business Associate on behalf of Covered Entity, available to Covered Entity (or the Secretary) for the purpose of Covered Entity or the Secretary determining compliance with the Privacy Rule.

10. To the extent that, pursuant to the Underlying Agreement or this BAA, Business Associate is responsible to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s).
11. Business Associate agrees to account for the following disclosures:
    a. Business Associate agrees to maintain and document disclosures of PHI and Breaches of Unsecured PHI and any information relating to the disclosure of PHI and Breach of Unsecured PHI in a manner as would be required for Covered Entity to respond to a request by an individual or the Secretary for an accounting of PHI disclosures and Breaches of Unsecured PHI.
    b. Business Associate agrees to provide to Covered Entity, or to an individual at Covered Entity's request, information collected in accordance with this Section 2.11, to permit Covered Entity to respond to a request by an individual or the Secretary for an accounting of PHI disclosures and Breaches of Unsecured PHI.
    c. Business Associate agrees to account for any disclosure of PHI used or maintained as an Electronic Health Record ("EHR") in a manner consistent with 45 C.F.R. § 164.528 and related guidance issued by the Secretary from time to time; provided that an individual shall have the right to receive an accounting of disclosures of EHR by the Business Associate made on behalf of the Covered Entity only during the three years prior to the date on which the accounting is requested from Covered Entity.
12. Business Associate agrees to comply with the "Prohibition on Sale of Electronic Health Records or Protected Health Information," as provided in Section 13405(d) of Subtitle D (Privacy) of ARRA, and the "Conditions on Certain Contacts as Part of Health Care Operations," as provided in Section 13406 of Subtitle D (Privacy) of ARRA and related guidance issued by the Secretary from time to time.
13. Security Incidents and Other Non-Permitted Uses. Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this BAA, and any Security Incident of which it becomes aware, without unreasonable delay and in any event within ten (10) business days after discovery. This Section constitutes notice of unsuccessful Security Incidents (such as pings, port scans, and unsuccessful log-on attempts) that do not result in unauthorized access, use, disclosure, modification, or destruction of PHI, and no further notice of such events is required.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

1. Services. Except as otherwise limited in this BAA, Business Associate may use and disclose PHI only as necessary to perform the functions, activities, and services for Covered Entity described in the Underlying Agreement, including generating, storing, and delivering recordings and reports, operating the care team portal and mobile application, and providing technical support, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity, except as permitted by Sections 3.3 and 3.4.
2. Required By Law. Business Associate may use and disclose PHI as Required By Law.
3. Management and Administration. Business Associate may use PHI for its proper management and administration or to carry out its legal responsibilities. Business Associate may disclose PHI for those purposes only if (a) the disclosure is Required By Law, or (b) Business Associate obtains reasonable assurances from the recipient that the PHI will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed, and that the recipient will notify Business Associate of any instance in which the confidentiality of the PHI has been breached.
4. Data Aggregation. To the extent the Underlying Agreement includes Data Aggregation services relating to the Health Care Operations of Covered Entity, Business Associate may use PHI to provide them in accordance with 45 C.F.R. § 164.504(e)(2)(i)(B).
5. Reporting Violations of Law. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1).
6. Prohibited Uses. Business Associate shall not use or disclose PHI other than as permitted or required by this BAA or as Required By Law, and shall not sell PHI or use or disclose PHI for marketing or fundraising purposes.
7. Product Development and Research. Other than creating de-identified data under Section 3.8, Business Associate shall not use PHI to train, develop, or validate any algorithm, model, or product, or for research, unless Covered Entity has agreed in writing and, where required by HIPAA, a valid authorization under 45 C.F.R. § 164.508 has been obtained from each affected individual (or the individual's personal representative).
8. De-Identification of PHI. Business Associate is expressly authorized to de-identify PHI in accordance with the standards specified in 45 C.F.R. § 164.514(a)–(b). The Parties explicitly agree that data that has been de-identified in compliance with such standards ceases to be PHI, is no longer subject to HIPAA or the terms of this BAA, and may be retained and utilized by Business Associate for machine learning training, algorithmic optimization, medical device validation, and product improvement as and to the extent set forth in Section 5.5 of the Underlying Agreement. For audiovisual recordings and other images, data is de-identified for purposes of this Section only if (a) a qualified expert has determined in writing under 45 C.F.R. § 164.514(b)(1) that the risk of re-identification is very small, or

(b) Business Associate has extracted from the recording derived measurements, features, or annotations that contain none of the identifiers listed in 45 C.F.R. § 164.514(b)(2) (including full-face photographic images and comparable images) and are not otherwise reasonably linkable to an individual. Unaltered recordings that depict an individual's face are not de-identified under clause (b). Business Associate shall not re-identify or attempt to re-identify any de-identified data, shall not disclose it to any third party except under a written agreement that prohibits re-identification and requires compliance with this Section, and shall maintain documentation of the de-identification method used. Any data that does not meet these standards remains PHI subject to this BAA. In the event of any conflict between this BAA and the Underlying Agreement regarding PHI or de-identification, this BAA controls.

4. OBLIGATIONS OF COVERED ENTITY.
    1. Covered Entity shall:
        a. Provide Business Associate with the Notice of Privacy Practices that Covered Entity produces in accordance with the Privacy Rule, and any changes or limitations to such notice under 45 C.F.R. § 164.520, to the extent that such changes or limitations may affect Business Associate's use or disclosure of PHI.
        b. Notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to comply with under 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI under this BAA.
        c. Except to the extent required to comply with law, not change or limit its Notice of Privacy Practices or agree to restrictions or requirements on the use or disclosure of PHI that would adversely affect Business Associate's use or disclosure of PHI as permitted under this Agreement or that would materially and adversely affect Business Associate's ability to perform or its costs to perform under this BAA or the Underlying Agreement.
        d. Notify Business Associate of any changes in or revocation of permission by an individual to use or disclose PHI, if such change or revocation may affect Business Associate's permitted or required uses and disclosures of PHI under this BAA.
    2. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rule if done by Covered Entity, except as provided under Section 3 of this BAA.
5. TERM AND TERMINATION.
    1. This BAA shall be in effect as of the effective date of the Underlying Agreement and shall terminate on the earlier of the date that:
        a. This BAA is terminated under Section 5.2.
        b. All of the PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, is destroyed or

returned to Covered Entity. If it is not feasible to return or destroy PHI, protections are extended in accordance with Section 5.3.

2. Upon either party's knowledge of material breach by the other party, the non-breaching party shall provide an opportunity for the breaching party to cure the breach or end the violation; or terminate the BAA. If the breaching party does not cure the breach or end the violation within a reasonable timeframe not to exceed thirty (30) days from the notification of the breach, or if a material term of the BAA has been breached and a cure is not possible, the non-breaching party may terminate this BAA and the Underlying Agreement, upon written notice to the other party. This BAA will automatically terminate if there is no longer any Underlying Agreement in effect between the parties.
3. Upon termination of this BAA for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
    a. Retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities or that it is not feasible to return or destroy.
    b. Return to Covered Entity or destroy, within thirty (30) days after termination (or any longer period Covered Entity approves in writing), the remaining PHI that the Business Associate still maintains in any form.
    c. Continue to extend the protections of this BAA to the retained PHI, other than as provided for in this Section 5, for as long as Business Associate retains the PHI.
    d. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out in Section 3 above which applied prior to termination.
4. The obligations of Business Associate under this Section 5 shall survive the termination of this BAA.

6. MISCELLANEOUS.
    1. The parties agree to take such action as is necessary to amend this BAA to comply with the requirements of the Privacy Rule, the Security Rule, HIPAA, ARRA, the HITECH Act, the Consolidated Appropriations Act, 2021 (CAA-21), the HIPAA Rules, and any other applicable law.
    2. Nothing in this BAA or the Underlying Agreement is intended to make either Business Associate or Covered Entity an agent of the other. Nothing in this BAA or the Underlying Agreement is intended to confer upon Covered Entity any right or authority to control BAA's conduct pursuant to this BAA or the Underlying Agreement.
    3. This BAA constitutes the entire agreement between the parties related to the subject matter of this BAA. This BAA supersedes all prior negotiations, discussions, representations, or proposals, whether oral or written. This BAA may not be modified unless done in writing and signed by a duly authorized representative of both parties. If any provision of this BAA, or

part thereof, is found to be invalid, the remaining provisions shall remain in effect.

4. This BAA will be binding on the successors and assigns of the Covered Entity and the Business Associate. However, this BAA may not be assigned, in whole or in part, without the written consent of the other party. Any attempted assignment in violation of this provision shall be null and void.
5. This BAA may be executed in two or more counterparts, each of which shall be deemed an original, and shall be deemed executed and agreed upon execution of an Order Form that incorporates this BAA by reference.
6. Except to the extent preempted by federal law, this BAA shall be governed by and construed in accordance with the same internal laws as that of the Underlying Agreement.
7. Order of Precedence. In the event of any conflict between this BAA and the Underlying Agreement or any Order Form regarding PHI, this BAA controls.