

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between _____ (“Business Associate”) and The David M. Gilston Insurance Agency, Inc. (“Gilston Agency”) effective as of _____ (Effective Date”).

The purpose of this Agreement is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 “HIPAA” privacy and security regulations promulgated by the United States Department of Health and Human Services (“DHHS”), as amended. This agreement is in addition to and not in replacement of any other written agreement between the Gilston Agency and the Business Associate.

TERMS

A. Business Associate agrees to:

1. *Nondisclosure of Protected Health Information (PHI)*: Not to use or disclose the PHI received from the Agency or on behalf of the Agency other than as permitted or required by this Agreement, or as otherwise required by law;
2. *Limitation on Further Use or Disclosure*: Not to further use or disclose the PHI received from or on behalf of the Agency in a manner that would be prohibited by the Privacy and Security Requirements of HIPAA if disclosure was made by the Agency or if either Business Associate or Agency is otherwise prohibited from making such disclosure by any present or future State or Federal law, regulation, or rule;
3. *Safeguards*: To use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by the Agreement or as required by State or Federal law, regulation or rule;
4. *Electronic Protected Health Information (EPHI) Safeguards*: To implement and use reasonable 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 the Agency;
5. *Reporting Unauthorized Disclosures*: To report to the Agency any use or disclosure of PHI or EPHI that is not authorized by the Agreement immediately upon becoming aware of such unauthorized use or disclosure;
6. *EPHI and Subcontractors*: To ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI;
7. *Reporting*: To report to the Agency any security incident within 5 business days of becoming aware of such incident. For the purposes of this paragraph, “security incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system;

8. *Subcontractors and Agents*: To make all reasonable efforts to ensure that any subcontractor or agent to whom Business Associate provides PHI or EPHI received from the Agency agrees to the same restrictions and conditions that apply to Business Associate with respect to such PHI or EPHI;
9. *Mitigation*: To inform the Agency in advance and mitigate, to the extent practicable, any harmful effect that is know to Business Associate of a use or disclosure of PHI or EPHI by Business Associate or by a subcontractor or agent of Business Associate resulting from a violation of this Agreement;
10. *HHS Inspection*: Upon written request, to make available to the Secretary of Health and Human Services (“HHS”) or his designee, Business Associate’s internal practices, books, and records relating to the use and disclosure of PHI or EPHI received from or created or received on behalf of the Agency, in a time and manner designated by the Secretary for purposes of the Secretary determining the Agency’s compliance with the HIPAA Privacy and Security Requirements;
11. *Agency Inspection*: Upon written request, to make available to the Agency during normal business hours Business Associate’s internal practices, books, and records relating to the use and disclosure of PHI or EPHI received from, or created or received on behalf of, the Agency in a time and manner designated by the Agency for the purposes of the Agency determining compliance with the HIPAA Privacy and Security Requirements;
12. *Termination Procedures*: Upon termination of this Agreement for any reason, to return all PHI received on behalf of the Agency, to the Agency, or if specifically requested to do so by the Agency in writing to destroy all PHI or EPHI received on behalf of the Agency. This provision applies when the Business Associate maintains PHI or EPHI on behalf of the Agency in any form. If Business Associate determines that returning or destroying the PHI or EPHI received on behalf of the Agency is infeasible, the Business Associate shall (i) provide to the Agency notification of the conditions that make return or destruction infeasible; (ii) extend the protections of the Agreement to such PHI or EPHI; (iii) limit any further uses and disclosures of such PHI or EPHI to those purposes that make the return or destruction infeasible;

B. Survival of Privacy Provision: Business Associate’s obligations with regard to Agency PHI or EPHI shall survive termination of this Agreement;

C. Amendment Related to Privacy and Security Requirements: The Parties agree to take such action as is necessary to amend this Agreement if the Agency, in its reasonable discretion, determines that amendment is necessary to comply with the Privacy and Security Requirements of HIPAA, as amended, and any other law or regulation affecting the use or disclosure of PHI or EPHI. Any ambiguity in this Agreement shall be resolved to permit the Agency to comply with the Privacy and Security Requirements of HIPAA, as amended;

D. Indemnification: Business Associate agrees to indemnify and hold harmless the Agency and its directors, officers, employees and agents against any and all losses, liabilities, judgments, penalties, awards and costs (including costs of investigation, legal fees and expenses) arising out of or related to (a) a breach of this Agreement relating to the Privacy and Security Requirements by Business Associate, or (b) any negligent or wrongful acts or omissions of Business Associate or its employees, directors, officers, subcontractors or agents, relating to the Privacy and Security Requirements, including failure to perform their obligation under the Privacy and Security Requirements;

E. Assignment: Business Associate may not assign its rights and obligations under this Agreement without the prior written consent of the Agency; the Agency may assign its rights and obligations under this Agreement upon providing prior written notice of assignment to Business Associate;

In Witness Whereof, this agreement has been executed on behalf of the David M. Gilston Insurance Agency, Inc. and on behalf of _____.

BUSINESS ASSOCIATE

David M. Gilston Insurance Agency, Inc.

Print Name: _____

By: _____

Title: _____

Date signed: _____

By: _____

Title: _____

Date signed: _____