

**Assured
Document Destruction, Inc.
On-Site Shredding Services**



Business Associate Agreement

This Business Associate Agreement is made a part of the Service Agreement, including the exhibits thereto, between Assured Document Destruction (“the Company”) and the client (“Client”).

Section I. Definitions

- a. **Breach.** “Breach” shall have the same meaning as the term "breach" in 45 CFR § 164.402.
- b. **Business Associate.** "Business Associate" shall mean the company..
- c. **Covered Entity.** "Covered Entity" shall mean Client.
- d. **Individual.** "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- e. **Privacy Rule.** "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.
- f. **Protected Health Information.** "Protected Health Information" or “PHI” shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- g. **Required By Law.** "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR §164.103.
- h. **Secretary.** "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- i. **Security Rule.** ‘Security Rule’ shall mean the Standards for Security of Individually Identifiable Health Information at 45 CFR part164, subparts A and C.
- j. **Storage and Service Agreement.** Prior agreement signed between Covered Entity and Business Associate in which the Business Associate regularly Uses and/or Discloses protected health information in its performance of services for the Covered Entity.
- k. **Unsecured Protected Health Information.** – “*Unsecured Protected Health Information*” means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in guidance issued under section 13402(h)(2) of Public Law 111–5 .

Capitalized terms used but not otherwise defined in this Addendum shall have the same meaning as ascribed to those terms in 45 *CFR* Parts 160 and 164.

Section II. Obligations and Activities of Business Associate

- a. Business Associate agrees to not Use or Disclose Protected Health Information other than as permitted or required by this Addendum, the Agreement and the HITECH Act, or as Required by Law. Business Associate may Use and Disclose Covered Entity’s PHI only if such Use or Disclosure is in compliance with each applicable requirement of the Privacy Rule’s Business Associate Contract standard [sec. 164.504(e)].

- b. Business Associate agrees to use appropriate safeguards to prevent Use or Disclosure of the Protected Health Information other than as provided for by this Addendum or the Agreement or to carry out other legal responsibilities of Business Associate.
- c. Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity as required by the Privacy Rule, Security Rule, and HITECH Act.
- d. Business Associate recognizes that, as of February 18, 2010, the administrative, physical, and technical standards and implementation specifications of the Security Rule apply to Business Associate in the same manner that they apply to the Covered Entity.
- e. Business Associate agrees to report to Covered Entity any Use or Disclosure of the Protected Health Information not provided for by this Addendum or the Agreement of which it becomes aware. Such notice shall be given promptly and in any event within the timeframe required by 45 CFR 164.410.
- f. Business Associate shall, following the discovery of a Breach, notify the Covered Entity of such breach promptly and in any event within sixty (60) days after the Breach was discovered or should have been discovered. Such notice shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or Disclosed during such breach if Business Associate knows such information.
- g. 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 Covered Entity agrees to the same privacy and security restrictions and conditions that apply through this Addendum to Business Associate with respect to such information.
- h. If PHI is in a Designated Records Set, Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner agreed by both parties, the Protected Health Information in such Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524.
- i. If PHI is in a Designated Records Set, Business Associate agrees to make any amendment(s) to Protected Health Information in such Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner agreed by both parties.
- j. Business Associate agrees to document disclosures of Protected Health Information and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures of Protected Health Information in accordance with the Privacy Rule and the HITECH Act. Business Associate agrees to provide to Covered Entity, in time and manner consistent with terms in the Agreement, information collected to permit Covered Entity to respond to a request

by an Individual for an accounting of Disclosures of Protected Health Information in accordance with the Privacy Rule and the HITECH Act.

- k. Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the Use and Disclosure of Protected Health Information created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner consistent with the terms of the Agreement or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule, Security Rule, or the HITECH Act.
- l. Business Associate agrees to provide to Covered Entity or an Individual, in time and manner consistent with the terms and conditions of the Agreement, information collected in accordance with Section II. of this Addendum, to permit Covered Entity to respond to a request by an Individual for an accounting of Disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

Section III. Permitted Uses and Disclosures by Business Associate

General Use and Disclosure Provisions

a. Services

Business Associate provides services for Covered Entity that involve the Use and Disclosure of Protected Health Information, which services are described in the Agreement. Except as otherwise specified herein, the Business Associate may make any and all Uses of Protected Health Information necessary to perform its obligations as set forth in the Agreement. Additionally, Business Associate may Disclose Protected Health Information for the purposes authorized by this Addendum only (a) to its employees, subcontractors and agents, in accordance with Section I-VI, or (b) as directed by the Covered Entity, if such Use or Disclosure of Protected Health Information would not violate the Privacy Rule or HITECH Act

Section IV. Specific Use and Disclosure Provisions

Except as otherwise limited in this Addendum, 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 the Business Associate.

- a. Except as otherwise limited in this Addendum, Business Associate may Disclose Protected Health Information for the proper management and administration of the 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- b. Except as otherwise limited in this Addendum, Business Associate may Use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

Section V. Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices 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.

- b. Covered Entity 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.
- c. Covered Entity will not ask the Business Associate to undertake any acts inconsistent with the Security Rule, the Privacy Rule or the HITECH Act.
- d. Covered Entity agrees to provide Business Associate with information about Disclosures requested by individuals.
- e. Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, and the HITECH Act to the extent that such restriction may affect Business Associate's Use or Disclosure of Protected Health Information.

Section VI. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under the Security Rule, Privacy Rule or the HITECH Act if done by Covered Entity unless these activities are permitted under Section IV of this Addendum. Covered Entity shall reimburse Business Associate for any damages, costs, fines or penalties incurred by reason of actions taken by Business Associate pursuant to Covered Entity instructions that are in breach of this provision.

Section VII. Term and Termination

- a. Term. The Term, Termination and Effects of Termination of this Addendum shall be the same as the terms and conditions identified in the Agreement. The obligations of Business Associate shall terminate when all of the Protected Health Information 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 Protected Health Information, protections are extended to such information, in accordance with the termination provisions in the Agreement.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall first:
 - 1. Provide a reasonable opportunity, in no case less than 60 days, for Business Associate to cure the breach or, at the discretion of Business Associate, end the violation and terminate the Agreement and this Addendum, subject to the remainder of the terms of the Agreement, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity and by this section;
 - 2. Effective September 23, 2013, any immediately termination of this Agreement and this Addendum, due to incurable breaches or any other reason, is no longer legal.
- c. Effect of Termination.
 - 1. Except as provided in the Agreement and paragraph (2) of this section, upon termination of this Addendum in accordance with the provisions of this Addendum and the Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. 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 infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon the Covered Entity's acceptance that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Addendum to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information. Business Associate shall be entitled to compensation for continued maintenance of Protected Health Information as provided for in Schedule A of the Agreement.

Miscellaneous

- a. Regulatory References. A reference in this Addendum to a section in the Privacy Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for the Parties to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 and regulations issued there under, unless such requirements would be not commercially reasonable or would cause a Party to be out of compliance with its legal obligations.
- c. Survival. The respective rights and obligations of Business Associate under article C of this Section shall survive the termination of the Agreement and this Addendum.
- d. Interpretation. Any ambiguity in this Addendum shall be resolved to permit Covered Entity to comply with the Privacy Rule and the HITECH Act.

This Business Associate Agreement will automatically cover all one time / annual purges clients as well as on-going clients with service agreements that have not returned the Business Associate Agreements that were mailed to each office. This BAA is referenced in all Shredding Appointment Confirmations sent out after 11/1/2014. If the client has a separate and different BAA on file that both parties have signed then that BAA will supersede this BAA.