



Everbridge, Inc.
HIPAA Business Associate Agreement

Pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended ("**HIPAA**"), the client identified on the Quote to which this applies ("**Covered Entity**") and Everbridge, Inc. a Delaware corporation, or any of its corporate affiliates ("**Business Associate**"), enter into this Business Associate Agreement ("**BAA**") as of the date of the Covered Entity's signature on the Quote (the "**Effective Date**"). This BAA 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. Both parties are committed to complying with the HIPAA Rules and associated regulations. This BAA is intended to ensure such compliance and that the appropriate safeguards are established for Protected Health Information ("**PHI**") (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. The functions, activities and services that Business Associate performs for Covered Entity are defined in the underlying services agreement (the "**Underlying Agreement**"). 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.

1. Definitions. All capitalized terms used in this BAA but not defined herein shall have the meanings set forth in the HIPAA Rules.

2. General Obligations of Business Associate. Business Associate agrees not to use or disclose PHI, other than as permitted or required by this BAA or as Required By Law, or if such use or disclosure does not otherwise cause a Breach of Unsecured PHI. 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 use or disclosure of PHI other than as provided for by the BAA.

3. Mitigation. 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. Safeguards. Business Associate agrees to use appropriate safeguards and comply with security standards for the protection of Electronic Protected Health Information ("**ePHI**") to prevent Use or Disclosure of ePHI other than as provided for by this BAA, pursuant to the Standards for Security of Electronic Protected Health Information in the HIPAA Rules, including those specified in 45 CFR Parts 160 and 164, subparts A and C respectively (collectively, the "**Security Rule**"). Business Associate further agrees to implement appropriate Administrative, Physical, and Technical Safeguards to protect the confidentiality, integrity and availability of any ePHI in accordance with the HIPAA Rules, including the use of written policies and procedures.

5. Breach Notification. Effective as of the Compliance Date, Business Associate will comply with Section 13402 of the HITECH Act and the regulations implementing such provisions, currently 45 CFR part 164, subpart D, as such regulations may be in effect from time to time.

(a) Except as provided in 45 CFR § 164.412, Business Associate will give Covered Entity notice of any Breach of Unsecured PHI promptly, and in any case no later than ten (10) business days after the first day on which the Breach is known to Business Associate.

(b) The notice required by Business Associate in Section 5(a) above shall adhere to the same Content Of Notification standards as set forth in 45 CFR § 164.404(c)(1) and (2).

6. Subcontractors. 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.

7. Designated Record Set; Disclosure. If applicable, Business Associate agrees to make available PHI in a Designated Record Set to the "covered entity" as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.524.

(a) Business Associate agrees to comply with an individual's request to restrict the disclosure of their personal PHI in a manner consistent with 45 C.F.R. 164.522, except where such use, disclosure or request is required or permitted under applicable law.

(b) Business Associate agrees that when requesting, using or disclosing PHI in accordance with 45 C.F.R. 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. Amendments. If applicable, Business Associate agrees to make any amendments to PHI in a Designated Record Set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.

9. Accounting. 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.

10. Records. Business Associate agrees to make available all records, books, policies and procedures relating to the use and/or disclosure of PHI or as required by the Security Rule relating to its administrative, physical and technical

safeguards to the Secretary of HHS for purposes of determining the Covered Entity's or Business Associate's compliance with the HIPAA Regulations, subject to attorney-client and other applicable legal privileges.

11. To the extent that Business Associate is 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).

12. 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 12, 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 directly from the Business Associate. In the case of an EHR that the Business Associate acquired on behalf of the Covered Entity as of January 1, 2009, this paragraph shall apply to disclosures with respect to PHI made by the Business Associate from such EHR on or after January 1, 2014. In the case of an EHR that the Business Associate acquires on behalf of the Covered Entity after January 1, 2009, paragraph (c) above shall apply to disclosures with respect to PHI made by the Business Associate from such EHR on or after the later of January 1, 2011 or the date that it acquires the EHR.

13. General Uses and Disclosures. Pursuant to the Underlying Agreement, Business Associate provides services ("**Services**") for the Covered Entity that involve the use and disclosure of PHI and/or ePHI. Except as otherwise specified herein, the Business Associate may make any and all uses of PHI and/or ePHI necessary to perform its obligations under the Underlying Agreement, this BAA or as Required By Law, provided that any such use or disclosure would not violate the Privacy and Security Rules if done by Covered Entity. All other uses not authorized by the Underlying Agreement, this BAA or by law are prohibited.

14. Business Activities of the Business Associate. Unless otherwise limited herein, the Business Associate may:

(a) use the PHI in its possession within its workforce for its proper management and administration and to fulfill any present or future legal responsibilities of the Business Associate provided that such uses are permitted under state and federal confidentiality laws.

(b) disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of the Business Associate, provided that (i) the disclosures are required by law, as provided for in 45 C.F.R. §164.501, or (ii) the Business Associate has received from the third party satisfactory written assurances regarding its confidential handling of such PHI as required under 45 C.F.R. §164.504(e)(4).

15. Other Activities of Business Associate. In addition to using the PHI to perform the Services set forth in Section 14 above, Business Associate may:

(a) Use PHI to provide Data Aggregation Services to Covered Entity as permitted by HIPAA. Under no circumstances may the Business Associate disclose PHI of one covered entity to another covered entity absent the explicit authorization of the Covered Entity or as required by law.

(b) de-identify any and all PHI provided that the de-identification conforms to the requirements of 45 C.F.R. §164.514(b), and further provided that the Covered Entity maintains the documentation required by 45 C.F.R. §164.514(b) which may be in the form of a written assurance from the Business Associate. Pursuant to 45 C.F.R. §164.502(d)(2), de-identified information does not constitute PHI and is not subject to the terms of this Business Associate Agreement.

16. Obligations of Covered Entity. 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 to the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by 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) 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.

17. No Impermissible Request. 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 14-15 of this BAA.

18. Compliance with Security Rule. Effective April 20, 2005, Business Associate shall comply with the HIPAA Security Rule, which shall mean the Standards for Security of Electronic Protected Health Information at 45 C.F.R. Part 160 and Subparts A and C of Part 164, as amended by ARRA and the HITECH Act. The term "**Electronic Health Record**" or "**EHR**" as used in this BAA shall mean an electronic record of health-related information on an individual that is created, gathered, managed and consulted by authorized health care clinicians and staff.

19. In accordance with the Security Rule, Business Associate agrees to:

(a) Implement the administrative safeguards set forth at 45 C.F.R. 164.308, the physical safeguards set forth at 45 C.F.R. 164.310, the technical safeguards set forth at 45 C.F.R. 164.312, and the policies and procedures set forth at 45 C.F.R. 164.316 to reasonably and appropriately protect the confidentiality, integrity and availability of the ePHI that it creates, receives, maintains or transmits on behalf of Covered Entity as required by the Security Rule. Business Associate acknowledges that, effective on the Effective Date of this BAA, (i) the foregoing safeguards, policies and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to Covered Entity, and (ii) Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements;

(b) Require that any agent, including a Subcontractor, to whom it provides such PHI agrees to implement reasonable and appropriate safeguards to protect the PHI; and

(c) Report to the Covered Entity any Security Incident of which it becomes aware.

20. **Indemnification.** The parties agree and acknowledge that except as set forth herein, the indemnification obligations contained under the Underlying Agreement shall govern each party's performance under this BAA.

21. **Term and Termination.** This BAA shall be in effect as of the Effective Date and shall continue in effect until all obligations of the parties have been met, unless terminated as provided in this Section 21. In addition, certain provisions and requirements of this Business Associate Agreement shall survive its expiration or other termination in accordance with this Section 21.

(a) **Termination by the Covered Entity.** As provided for under 45 C.F.R. §164.504(e)(2)(iii), the Covered Entity may terminate this BAA if the Covered Entity makes the determination that the Business Associate has breached a material term of this BAA provided that Covered Entity provides Business Associate written notice of the existence of the alleged material breach and an opportunity to cure the alleged material breach upon mutually agreeable terms within (30) days of such notice.

(b) **Termination by Business Associate.** If the Business Associate makes the determination that a material condition of performance has changed under this BAA, or that the Covered Entity has breached a material term of this BAA, Business Associate may terminate this BAA provided that Business Associate provides Covered Entity written notice of the existence of the alleged material breach and an opportunity to cure the alleged material breach upon mutually agreeable terms within (30) days of such notice. Business Associate agrees, however, to cooperate with Covered Entity to find a mutually satisfactory resolution to the matter prior to terminating.

(c) **Automatic Termination.** This Business Associate Agreement will automatically terminate without any further action of the parties upon the termination or expiration of the Underlying Agreement.

22. **Effect of Termination.** Upon termination of this BAA, Business Associate agrees to return or destroy (which for purposes of this BAA shall mean destroy all backup tapes and permanently deleting all Electronic Protected Health Information) all Protected Health Information pursuant to 45 C.F.R. §164.504(e)(2)(i), if it is feasible to do so. Prior to doing so, the Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for the Business Associate to return or destroy the PHI, the Business Associate will promptly notify the Covered Entity in writing. Notification shall include: (i) a statement that the Business Associate has determined that it is infeasible to return or destroy the PHI in its possession, and (ii) the specific reasons for such determination. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Business Associate Agreement to the Business Associate's use and/or disclosure of any PHI retained after the termination of this Business Associate Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. If it is infeasible for the Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, the Business Associate must promptly provide a written explanation to the Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Business Associate Agreement to the subcontractors' and/or agents' use and/or disclosure of any PHI retained after the termination of this Business Associate Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

23. **Miscellaneous.** 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 HIPAA Rules and any other applicable law. This BAA may be executed in two or more counterparts, each of which shall be deemed an original. 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. This BAA constitutes the entire agreement between the parties related to the subject matter of this BAA, except to the extent that the Underlying Agreement imposes more stringent requirements related to the use and protection of PHI upon Business Associate. This BAA supersedes all prior negotiations, discussions, representations or proposals, whether oral or written. This BAA may not be modified unless done so 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.

24. **Assignment.** This BAA will follow the Underlying Agreement with respect to any assignments.

25. **Survival.** The respective rights and obligations of Business Associate under Sections 20-22 of this BAA shall survive the termination of this BAA.

26. **Interpretation.** This BAA shall be interpreted in the following manner:

(a) Any ambiguity shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules.

(b) Any inconsistency between the BAA's provisions and the HIPAA Rules, including all amendments, as interpreted by the HHS, court or another regulatory agency with authority over the Parties, shall be interpreted according to the interpretation of the HHS, the court or the regulatory agency.

(c) Any provision of this BAA that differs from those mandated by the HIPAA Rules, but is nonetheless permitted by the HIPAA Rules, shall be adhered to as stated in this BAA.