



HIPAA Business Associate Agreement

This agreement ("Agreement") is entered into between Action Verb, LLC ("AV"), a Nevada limited liability company, and the party named on the signature page ("Customer"), collectively referred to as "Parties".

RECITALS

WHEREAS, AV is engaged in the business of providing an online file storage and transfer service called BrickFTP;

WHEREAS, Customer is a "Covered Entity" or "Business Associate" subject the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 ("HIPAA Rules") and wishes to utilize the BrickFTP service provided by AV;

WHEREAS, As a service provider to Customer as described above, AV may be considered a "Business Associate" of Customer as defined in the HIPAA Rules.

NOW, THEREFORE, Customer and AV agree as follows:

1. Definitions. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Disclosure, Individual, Protected Health Information ("PHI"), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

2. Obligations and Activities of Customer. As a Covered Entity or Business Associate, Customer agrees to:

- (a) Not provide AV with PHI by any means other than through normal operation of the BrickFTP service (such as via email, postal mail, or telephone);
- (b) Not request that AV use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Customer;
- (c) Ensure that the "metadata" stored on BrickFTP, such as file names and folder names (but not file contents), does not contain any PHI;
- (d) Configure BrickFTP for maximum security settings according to the maximum security instructions on BrickFTP's support website and set a backup retention period of thirty (30) days or less;
- (e) Comply with all HIPAA Rules, including Subpart C of 45 CFR Part 164, with respect to all uses of the BrickFTP service;
- (f) Apply encryption in accordance with the Secretary's Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals (without furnishing any encryption keys to AV) to files containing PHI before storing such files on BrickFTP.

3. Obligations and Activities of AV. As a Business Associate, AV agrees to:

- (a) Not use or disclose PHI other than as permitted to provide the BrickFTP service or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- (c) Report to Customer any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any Security Incident of which it becomes aware;
- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of AV agree to the same restrictions, conditions, and requirements that apply to AV with respect to such information; and

(e) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

4. BrickFTP Limitations.

(a) BrickFTP is a generic online file server service and was not explicitly designed for storing or working with PHI. Customer must ensure that its use of BrickFTP is consistent with the HIPAA Rules.

(b) AV is prohibited from accessing PHI (or any file stored on Customer's BrickFTP account) by the BrickFTP Terms of Service. Accordingly, AV is unable to fulfill the requirements set forth in 45 CFR Part 164 that require access to PHI. This includes, but is not limited to 45 CFR Part 164.524 (for record set access), 45 CFR Part 164.526 (for incorporating amendments), and 45 CFR Part 164.528 (for accounting disclosures). Compliance with these sections is the sole responsibility of Customer.

(c) Because AV does not know the nature of PHI contained in Customer's BrickFTP account, it will not be possible for AV to provide information about the identities of the Individuals who may have been affected or a description of the type of information that may have been subject to a Security Incident, Impermissible Use or Disclosure, or Breach.

5. Term and Termination.

(a) The Term of this Agreement will be effective when executed by both Parties, and will terminate when Customer cancels their BrickFTP account or AV terminates Customer's BrickFTP account, which Customer or AV are free to do at any time, with or without breach of this Agreement or any other agreement.

(b) Upon termination of this Agreement for any reason, AV shall within seven (7) days destroy all PHI received from Customer, or created, maintained, or received by AV on behalf of Customer, that AV still maintains in any form. AV shall retain no copies of the PHI.

6. Additional Provisions.

(a) By reference, this Agreement incorporates, but does not supersede or replace, the Terms and Conditions of the BrickFTP service.

(b) Nothing in this Agreement shall be deemed to confer any third party rights or benefits.

(c) Parties will not assign this Agreement, in whole or in part, except in the event that AV sells the majority of its BrickFTP service, in which case AV may assign this Agreement to the new owner of the BrickFTP service.

(d) Neither party will be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by events or circumstances beyond the other party's reasonable control.

(e) If any term of this Agreement is found to be unenforceable or contrary to law, it will be modified to the least extent necessary to make it enforceable, and the remaining portions of this Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day, month and year first set forth below.

Date: _____.

AV:

Action Verb, LLC

Signature: _____

CUSTOMER:

Company: _____

Signature: _____

Title: _____

Title: _____