

**THIS BUSINESS ASSOCIATE AGREEMENT** (this "Agreement") is made as of \_\_\_\_\_ the ("Effective Date"), by and between ("Covered Entity") **Norton City Schools** (Tax ID) \_\_\_\_\_ and Healthcare Billing Services, Inc. ("Business Associate"), each individually a "Party" and together the "Parties".

## **BACKGROUND STATEMENTS**

A. **Purpose.** The purpose of this Agreement is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the associated regulations, 45 C.F.R. parts 160-164, as may be amended (the "Privacy Rule" and "Security Rule"). Specifically sections §164.308(b)(1), §164.314(a)(2)(i), §164.502(e)(2) and §164.504(e)(2). Unless otherwise defined in the Agreement, capitalized terms have the meanings given in 45 C.F.R. parts 160-164. The Privacy Rule requires Covered Entity to obtain written assurances from Business Associate that Business Associate will appropriately safeguard Protected Health Information ("PHI").

B. **Relationship.** Covered Entity and Business Associate have entered into a relationship under which Business Associate may receive, use, obtain, access or create Protected Health Information from or on behalf of Covered Entity in the course of providing the following services (collectively, the "Services") for Covered Entity:

Processing, translation, transmission and/or printing of Health Care EDI Transactions

(ie: Claims, Eligibility, Remittance, etc.)

## **AGREEMENT**

The Parties hereby agree as follows:

### **Section 1. Permitted Uses and Disclosures.**

Business Associate may use and/or disclose PHI only as permitted or required by this Agreement or as otherwise required by Law. Business Associate may disclose PHI to, and permit the use of PHI by, its employees, contractors, agents, or other representatives only to the extent directly related to and necessary for the performance of the Services. Business Associate will request from Covered Entity no more than the minimum PHI necessary to perform the Services. Business Associate will not use or disclose PHI in a manner (i) inconsistent with Covered Entity's obligations under the Privacy Rule, or (ii) that would violate the Privacy Rule if disclosed or used in such a manner by Covered Entity.

### **Section 2. Safeguards for the Protection of PHI.**

Business Associate will implement and maintain commercially appropriate security safeguards to assure that PHI obtained by or on behalf of Covered Entity is not used or disclosed by Business Associate and / or any of its employees or agents in violation of this Agreement. Such safeguards shall be designed to protect the confidentiality and integrity of such PHI obtained, accessed or created from or on behalf of Covered Entity. Security measures maintained by Business Associate shall include administrative safeguards, physical safeguards, technical security services and technical security mechanisms as necessary to protect such PHI. Upon request by Covered Entity, Business Associate shall provide a written description of such safeguards.

Covered entity will provide to the Business associate the contact information for covered entity's security officer. Business Associate will make available a login and password to a secure website that classifies and reports security incidents by level as the data is made available. The security officer for the covered entity will also be notified by email of a level one incident within 5 days of the occurrence.

If email addresses or security officer demographic information changes, it is the covered entity's responsibility to notify the business associate of the change.

### **Section 3. Reporting and Mitigating the Effect of Unauthorized Uses and Disclosures.**

If Business Associate has knowledge of any use or disclosure of PHI not provided for by this Agreement, then Business Associate will immediately notify Covered Entity in accordance with Paragraph 10.5. Business Associate will establish and implement procedures and other reasonable efforts for mitigating, to the greatest extent possible, any harmful effects arising from any improper use and/or disclosure of PHI.

### **Section 4. Use and Disclosure of PHI by Subcontractors, Agents, and Representatives.**

Business Associate will require any subcontractor, agent, or other representative that is authorized to receive, use, or have access to PHI obtained or created under the Agreement, to agree, in writing, to adhere to the same restrictions, conditions and requirements regarding the use and/or disclosure of PHI and safeguarding of PHI that apply to Business Associate under this Agreement.

### **Section 5. Individual Rights.**

Business Associate will comply with the following Individual rights requirements as applicable to PHI used or maintained by Business Associate:

5.1 Right of Access. Business Associate agrees to provide access to PHI, at the request of Covered Entity and in the time and manner designated by Covered Entity, to Covered Entity or, as directed, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.

5.2 Right of Amendment. Business Associate agrees to make any amendment(s) to PHI that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity or an Individual, and in any reasonable time and manner designated by Covered Entity.

5.3 Right to Accounting of Disclosures. Business Associate agrees to document such disclosures of PHI as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Business Associate agrees to provide to Covered Entity or any authorized Individual, in a reasonable time and manner designated by Covered Entity, such information collected in order to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

### **Section 6. Use and Disclosure for Business Associate's Purposes.**

6.1 Use. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the responsibilities of Business Associate pursuant to the Services Agreement.

6.2 Disclosure. Except as otherwise limited in the Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided the disclosures are authorized by law, or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and be used or further disclosed only as authorized by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

### **Section 7. Audit, Inspection and Enforcement by Covered Entity.**

Business Associate will make its internal practices, books, records, and policies and procedures relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Federal Department of Health and Human Services ("HHS"), the Office for Civil Rights ("OCR"), or their agents or to Covered Entity for purposes of monitoring compliance with the Privacy Rule.

### **Section 8. Term and Termination.**

8.1 Term. This Agreement will become effective on the Effective Date. Unless terminated sooner pursuant to Paragraph 8.2, this Agreement shall remain in effect for the duration of all Services provided by Business Associate and for so long as Business Associate shall remain in possession of any PHI received from, or created or received by Business Associate on behalf of Covered Entity, unless Covered Entity has agreed in accordance with Paragraph 8.3 that it is not feasible to return or destroy all PHI.

8.2 Termination. Covered Entity will provide Business Associate with written notice of the existence of the material breach and afford Business Associate thirty (30) days to cure the

material breach. In the event Business Associate fails to cure the material breach within such time period, Covered Entity may immediately terminate the Agreement. Covered Entity may also report the material breach to the Secretary of HHS or OCR.

8.3 Effect of Termination. Upon termination of this Agreement, Business Associate will recover any PHI relating to the Agreement in the possession of its subcontractors, agents, or representatives. Business Associate will return to Covered Entity or destroy all such PHI plus all other PHI relating to the Agreement in its possession, and will retain no copies. If Business Associate believes that it is not feasible to return or destroy the PHI as described above, Business Associate shall notify Covered Entity in writing. The notification shall include: (i) a statement that Business Associate has determined that it is not feasible to return or destroy the PHI in its possession, and (ii) the specific reasons for such determination. Business Associate will ensure that any and all protections, requirements and restrictions contained in this Agreement will be extended to any PHI retained after the termination of the Agreement, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the PHI not feasible.

### **Section 9.Limitation of Liability.**

Limitation of Liability. Neither party shall be liable to the other party for any incidental, consequential, special, or punitive damages of any kind or nature, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability), or otherwise, even if the other party has been advised of the possibility of such loss or damages, except as provided for in the Service Agreement.

### **Section 10.Miscellaneous.**

10.1 Survival. The respective rights and obligations of the Parties under Section 7 (Audit and Inspection Rights), 8.3 (Effect of Termination), 9 (Limitation of Liability) and 10 (Miscellaneous) will survive termination of the Agreement indefinitely.

10.2 Amendments; Waivers. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. It may not be modified, nor will any provision be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event will not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

10.3 Compliance with Privacy Rule. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule. The Parties agree to amend this Agreement from time to time as necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

10.4 No Third Party Beneficiaries. Except as provided in Section 4, nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors and permitted assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

10.5 Notices. Any notice to be given under this Agreement to a Party shall be made via U.S. Mail, commercial courier or hand delivery to such Party at its address given below, and/or via facsimile to the facsimile telephone number listed below, or to such other address or facsimile number as shall hereafter be specified by notice from the Party. Any such notice shall be deemed given when so delivered to or received at the proper address.

**BUSINESS ASSOCIATE**

**COVERED ENTITY**

Healthcare Billing Services, Inc.  
55 High Street  
Carroll, OH 43112  
Attention: Daniel A. Thomas  
Phone: 740-639-4218

Norton City Schools  
4128 South Cleveland-Massillon Roa  
Norton, OH 44203  
Attention: \_\_\_\_\_  
Phone: \_\_\_\_\_

Print Name: Daniel A. Thomas  
Signature: \_\_\_\_\_  
Title: President  
Date: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## AMENDMENT OF AGREEMENT

Amendment of existing agreement between MSB Consulting Group, LLC ("MSB") and **Norton City Schools** ("District") for Medicaid Billing and Consultation services contract dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

- A.) Whereas MSB and the District entered into a contract through which MSB would provide Medicaid Billing and Consultation services relating to the Ohio Medicaid School Program (MSP). Whereas Article 17 (iv) of the Contract allows the parties to amend the Contract, as long as they both agree to do so in writing.
- B.) Whereas all of MSB's services were to be provided in the software format known as Waypoynt and/or X Logs™, which is proprietary to MSB.
- C.) Whereas in consideration for MSB's performance of the Contract it is to be paid 8% of the District's gross reimbursements from the Program, both during the Interim Claiming period and during any cost reconciliation period, known as the Final Settlement Process.
- D.) Whereas the District has been notified by MSB that it will enter into an arrangement with Healthcare Billing Services ("HBS") an Ohio Corporation, to acquire MSB's Ohio based operations,
- E.) Whereas HBS is an experienced and knowledgeable provider of Medicaid School Program services to school districts throughout the State of Ohio utilizing its proprietary software known as the "HBS Medicaid School Program Online Documentation System".
- F.) Whereas HBS is routinely paid 7% of its client District's Medicaid School Program revenues for its services.

- G.) Whereas the District in consideration of the opportunity to have HBS as its Medicaid Billing agent and consultant is willing to agree to the transition of its Medicaid billing services from MSB to HBS for the remainder of the existing MBS Contract.

Therefore, the parties to this Agreement being **Norton City Schools**, (the District), MSB Consulting Group, LLC and Healthcare Billing Services, Inc. (HBS) hereby agree as follows:

1. The Acknowledgments set forth above are material to this contract and are hereby incorporated herein as being fully restated herein.
2. Effective August 1<sup>st</sup>, 2016 the District engages HBS as its exclusive provider of Medicaid billing services in place of MSB.
3. Effective August 1<sup>st</sup>, 2016 HBS will provide the services outlined in Exhibit "A" of the existing contract between the District and MSB, utilizing HBS software instead of MSB's Waypoynt X Logs™ software. HBS will provide the requisite software and training to the District's employees, and HBS warrants that its software will perform in a manner that is consistent with industry standards.
4. In exchange for HBS's performances, the District will fulfill the responsibilities as set forth in Exhibit "B" of the existing contract between the District and MSB, with the understanding that there will be a change of software as provided above which will be utilized by HBS going forward, and the District agrees to provide the information referenced in Exhibit "B" to HBS rather than to MSB.
5. HBS will be paid eight percent (8%) of the Medicaid Final Settlement reimbursements received by the District for the school years 2013-14, 2014-15 and 2015-16. The funds will be remitted within Thirty (30) days after the District's receipt of HBS's invoice,

which in no event will be before the District receives the Final Settlement funds from the Program.

6. MSB for its part waives any and all rights it has or had to receive funds from the District for any services it has rendered to the District and MSB acknowledges that HBS's execution of a separate Agreement between MSB and HBS is sufficient consideration for MSB to waive these rights.
7. For the Medicaid billing services that HBS provides to the District for the 2016/17 school year and beyond, the district will pay HBS seven percent (7%) of what the district receives in Medicaid reimbursement, including Interim Claiming revenue and Final Settlement revenue.
8. Except as amended expressly herein, the provisions of the original Agreement between the District and MSB shall survive this amendment, except that in all instances MSB and its Waypoynt and X Logs Licensed System will be replaced by HBS and its HBS Medicaid School Program Documentation System software and support system.

Executed by:

\_\_\_\_\_  
As an Authorized Agent of  
Norton City Schools

\_\_\_\_\_  
Date

\_\_\_\_\_  
Daniel A. Thomas, President  
Healthcare Billing Services, Inc.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Meroff, Executive Director  
MSB Consulting Group, LLC

\_\_\_\_\_  
Date