

## **DOCUMENT C: GENERAL CONFIDENTIALITY AND BUSINESS ASSOCIATE (HIPAA) AGREEMENT**

The County and the Contractor are Parties to a contractual agreement exhibited by the Documents listed in Document A, whereby the Contractor agrees to perform certain services for or on behalf of the County. The County and the Contractor understand the importance of maintaining confidentiality.

1. Furthermore, to comply with requirements of HIPAA, the relationship between the County and the Contractor is such that the Parties believe the Contractor is or may be a "Business Associate" within the meaning of the HIPAA Privacy and Security Rules. Therefore, throughout this Document, the County shall be termed the "Covered Entity" and the Contractor shall be termed the "Business Associate". In relationships where the provisions of the HIPAA Privacy and Security Rules do not apply, the Business Associate will maintain confidentiality of all information obtained during the course of their work with the Covered Entity.

2. The Parties enter this General Confidentiality and Business Associate (HIPAA) Agreement with the intention of complying with the HIPAA Privacy and Security Rules provision that the Covered Entity may disclose electronic protected health information or other protected health information to the Business Associate, and may allow the Business Associate to create or receive electronic protected health information or other protected health information on its behalf, if the Covered Entity obtains satisfactory assurances that the Business Associate will appropriately safeguard the information.

3. Unless otherwise defined, terms used herein shall have the same meaning as those terms defined in the HIPAA Privacy and Security Rules. And, unless another meaning is clearly indicated by context, the following terms in this Document shall have the meaning described below:

- a. "electronic protected health information": see the term defined in 45 CFR 160.103, limited to the information created or received by the Business Associate from or on behalf of the Covered Entity.
- b. "HIPAA": the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- c. "individual": see the term defined in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- d. "Privacy and Security Rules": the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information set out in 45 CFR part 160 and part 164, subparts A and E.
- e. "protected health information": see the term defined in 45 CFR 160.103, limited to the information created or received by the Business Associate from or on behalf of the Covered Entity.
- f. "required by law": see the term defined in 45 CFR 164.103.
- g. "Secretary": the Secretary of the United States Department of Health and Human Services or his designee
- h. "security incident": see the term defined in 45 CFR 164.304

4. The Business Associate agrees to:

- a. not use or disclose electronic protected health information or other protected health information other than as permitted or required by this contractual agreement or as required by law.
- b. implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information and other protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity, as required by the Privacy and Security Rules.

- c. mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of electronic protected health information or other protected health information by the Business Associate in violation of the requirements of this contractual agreement.
- d. report to the Covered Entity (i) any security incident of which it becomes aware and (ii) any use or disclosure of electronic protected health information or other protected health information not provided for by this contractual agreement of which it becomes aware.
- e. ensure that any agent, including a subcontractor, to whom it provides electronic protected health information and/or other protected health information received from, or created or received by the Business Associate on behalf of the Covered Entity both (i) agrees to be bound by the same restrictions and conditions that apply through this contractual agreement to the Business Associate with respect to such information and (ii) agrees to implement reasonable and appropriate safeguards to protect such information.
- f. provide access, at the request of the Covered Entity, to electronic protected health information and other protected health information in a Designated Record Set to the Covered Entity or, as directed by the Covered Entity, to an individual in order to meet the requirements under 45 CFR 164.524.
- g. make any amendments, at the request of the Covered Entity, to electronic protected health information and other protected health information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526.
- h. make available to the Secretary (or to the Covered Entity) internal practices, books, and records, including policies and procedures concerning electronic protected health information and other protected health information, relating to the use and disclosure of electronic protected health information and other protected health information received from, or created or received by the Business Associate on behalf of the Covered Entity, in a time and manner designated by the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with the Privacy and Security Rules, unless otherwise prohibited by law.
- i. document such disclosures of electronic protected health information and other protected health information related to such disclosures as would be required for the Covered Entity to respond to a request by an individual for an accounting of disclosures of electronic protected health information and other protected health information in accordance with 45 CFR 164.528, and to provide this information to the Covered Entity or an individual to permit such a response.

5. The following describe the permitted uses and disclosures of electronic protected health information and other protected health information:

- a. except as otherwise limited in this contractual agreement or by applicable law or other agreements, if this contractual agreement permits, the Business Associate may use or disclose electronic protected health information and other protected health information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in this contractual agreement, provided that such use or disclosure either (i) would not violate the Privacy and Security Rules if done by the Covered Entity or (ii) would not violate the minimum necessary policies and procedures of the Covered Entity.
- b. except as otherwise limited in this contractual agreement or by applicable law or other agreements, if this contractual agreement permits, the Business Associate may use electronic protected health information and other protected health information as necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- c. except as otherwise limited in this contractual agreement or by applicable law or other agreements, if this contractual agreement permits, the Business Associate may disclose electronic protected health information and other protected health information for the proper management and administration of the Business Associate, provided that either (i) disclosures are required by law or (ii) the Business Associate obtains reasonable assurance from the person to whom the information is disclosed that it

will remain confidential and will be 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.

d. except as otherwise limited in this contractual agreement or by applicable law or other agreements, if this contractual agreement permits, the Business Associate may use electronic protected health information and other protected health information to provide data aggregation services to the Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

e. Notwithstanding the foregoing provisions, the Business Associate may not use or disclose electronic protected health information or other protected health information if the use or disclosure would violate any term of this contractual agreement, applicable laws, or other agreements.

6. This Document shall be effective when this contractual agreement becomes effective and shall terminate when this contractual agreement becomes terminated.

a. Upon knowledge by the Covered Entity of a material breach by the Business Associate, the Covered Entity may, at its option, either to (i) provide an opportunity for the Business Associate to cure the breach or end the violation, and, then, terminate this contractual agreement and services provided by the Business Associate, to the extent permissible by law, if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; (ii) immediately terminate this contractual agreement and services provided by the Business Associate, to the extent permissible by law; or (iii) if neither termination nor cure is feasible, report the violation to the Secretary as provided in the Privacy and Security Rules.

b. Upon termination of this contractual agreement and the services provided by the Business Associate, for any reason, the Business Associate shall return or destroy all electronic protected health information and other protected health information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity, except as provided below or in this contractual agreement or in applicable laws or other agreements. This provision shall apply to electronic protected health information and other protected health information that is in the possession of subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the electronic protected health information or other protected health information.

c. In the event that the Business Associate determines that returning or destroying the electronic protected health information or other protected health information is not feasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction not feasible. The Business Associate shall extend the protections of this contractual agreement to such electronic protected health information and other protected health information and limit further uses and disclosures of such electronic protected health information and other protected health information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such electronic protected health information and other protected health information.

7. This Document amends and is part of this contractual agreement. Except as provided in this contractual agreement, all terms and conditions of this contractual agreement shall remain in force and shall apply to this Document as is set forth fully herein. In the event of a conflict in terms between this Document and this contractual agreement, the interpretation that is in accordance with the Privacy and Security Rules shall prevail. In the event that a conflict then remains, this contractual agreement terms shall prevail so long as they are in accordance with the Privacy and Security Rules. A breach of this Document by the Business Associate shall be considered sufficient basis for the Covered Entity to terminate this contractual agreement for cause.

Evidence of signatures on 'Document Signatures' form confirms compliance with these terms.