

HIPAA PRIVACY COMPLIANCE AND BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is executed by and among NEW USER (hereinafter known as "User") and MED DATALINK, an LLC organized in the State of Texas and a web domain and secure data portal (hereinafter known as "Business Associate"). User and Business Associate shall collectively be known herein as "the Parties".

WHEREAS, User is a health care provider whose activities are generally described as ordering, performing or interpreting medical diagnostic tests;

WHEREAS, Business Associate is in the business of providing services to the health care industry and its activities are generally described as: providing a secure portal for On-Demand Web-Conferencing, Scheduled Live Support, and Database Management;

WHEREAS, User wishes either to initiate a trial period of service or to continue an existing business relationship with Business Associate;

WHEREAS, the nature of the existing contractual relationship between User and Business Associate may involve the exchange of Protected Health Information ("PHI") as that term is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including all pertinent regulations issued by the Department of Health and Human Services ("HHS");

The premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

A. Definitions.

1. **Individual.** "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
2. **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.
3. **Protected Health Information.** "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of User.
4. **Required By Law.** "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
5. **Secretary.** "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

B. Use or Disclosure of PHI by Business Associate. Business Associate's use and disclose of PHI is strictly limited to those instances where it is necessary to the performance of duties contractually delegated to it by User in a separate services agreement. The Parties have or plan to soon enter into a separate written contract (Data Management Service Agreement) that details the duties of the Parties.

Furthermore, any specific listing of duties or functions to be performed by Business Associate for User contained in a separate contract (or addendum thereto) between the Parties is hereby incorporated by reference into this agreement for the sole purpose of further elaborating duties and functions that Business Associate is contractually undertaking on behalf of User.

In all instances, Business Associate shall not use or disclose PHI obtained from User in a manner that would violate the Privacy Rule of HIPAA or the pertinent regulations of HHS.

C. Duties of Business Associate relative to PHI .

1. Business Associate shall not use or disclose PHI other than as permitted or required by this agreement or by law.
2. Business Associate shall use appropriate safeguards recognized under the law and HHS regulations to prevent use or disclosure of the PHI other than as allowed for by this agreement.
3. Business Associate shall immediately report to User any use or disclosure of PHI that is in violation of this agreement. In the event of disclosure of PHI in violation of this agreement, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.
4. Business Associate shall ensure that any agent or a subcontractor to whom it provides PHI received from User agrees to the same restrictions and conditions with respect to such information that apply through this agreement to Business Associate.
5. Business Associate shall, upon request with reasonable notice, provide User access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.
6. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. Section 164.528. Should an individual make a request to User for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. Section 164.528, Business Associate agreement to promptly provide User with information in a format and manner sufficient to respond to the individual's request.
7. Business Associate shall, upon request with reasonable notice, provide User with an accounting of uses and disclosures of PHI provided to it by User.
8. Business Associate shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from User available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this agreement, Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to User that seeks documents or other information held by Business Associate.
9. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide "data aggregation" services to User as permitted by 42 C.F.R. Section 164.504(e)(2)(i)(B).
10. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. Sec. 164.502(j)(1).
11. Except as otherwise limited in this Agreement, Business Associate may disclose PHI 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.

D. Term and Termination.

1. Term. The Term of this Agreement shall be effective as of the date given on page 1 hereof, and shall terminate when all of the Protected Health Information provided by User to Business Associate, or created or received by Business Associate on behalf of User, is destroyed or returned to User, 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 this Section.
2. Termination for Cause. Upon User's knowledge of a material breach by Business Associate, User shall either:
 - a. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by User;
 - b. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - c. If neither termination nor cure is feasible, User shall report the violation to the Secretary.
3. Effect of Termination.
 - a. Except as provided in paragraph D.(3)(b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from User, or created or received by Business Associate on behalf of User. 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.
 - b. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to User written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement 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.
 - c. Right of Termination of Existing Service Contracts. Should Business Associate make a disclosure of PHI in violation of this Agreement, User shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties.

E. Nothing in this agreement shall be construed as an admission on the part of either Party that the relationship between User and Business Associate is one of "Covered Entity" and "Business Associate" as those terms are known and construed under HIPAA and pertinent regulations issued by the Secretary. However, the duties and obligations of Business Associate under this agreement remain in full force and effect regardless of whether or not

the relationship between the Parties is determined to be one between a "Covered Entity" and a "Business Associate" as those terms are known and construed under HIPAA and pertinent regulations issued by the Secretary.

F. Consideration. Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by User in choosing to continue or commence a business relationship with Business Associate.

G. Remedies in Event of Breach. Business Associate hereby recognizes that irreparable harm will result to User, and to the business of User, in the event of breach by Business Associate of any of the covenants and assurances contained in Paragraphs B or C of this agreement. As such, in the event of breach of any of the covenants and assurances contained in paragraphs B or C above, User shall be entitled to enjoin and restrain Business Associate from any continued violation of Paragraphs B or C. The remedies contained in this paragraph G shall be in addition to (and not supersede) any action for damages and/or any other remedy User may have for breach of any part of this Agreement.

H. Modification. This Agreement may only be modified in writing by the Parties and, thus, no oral modification hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for User to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

I. Interpretation of this contract in relation to other contracts between the Parties. Should there be any conflict between the language of this contract and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless in a subsequent written agreement the Parties specifically refer to this Agreement by its title and date and, also, specifically state that the provisions of the later written agreement shall control over this Agreement.

J. Miscellaneous.

1. Any ambiguity in this Agreement shall be resolved to permit User to comply with the Privacy Rule.
2. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
3. **Notice to User.** Any notice required under this Agreement to be given User shall be made via email to the User's registered email address on Med DataLink.com.
4. **Notice to Business Associate.** Any notice required under this Agreement to be given Business Associate shall be made via email to: admin@statlinkmd.com

IN WITNESS WHEREOF,

The User acknowledges acceptance and agreement with the Business Associate by selecting "I agree".