

HIPPA Business Associate Agreement

This Agreement is entered into by and between Licensee and Licensor in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Regulations enacted hereunder, created by Licensor on behalf of Licensee.

This Agreement shall commence on the Effective Date of the Licensing Agreement Order Form and the obligations herein shall continue in effect so long as Licensor uses, discloses, creates or otherwise possesses any protected health information created or received on behalf of Licensee and until all protected health information created or received by Licensor on behalf of Licensee is destroyed or returned to Licensee pursuant to Paragraph 15 herein.

- 1) Licensee and Licensor hereby agree that Licensor shall be permitted to use protected health information created or received on behalf of Licensee for the following purposes:
 - a) Introducing, training, maintaining, and/or programming electronic medical records within the Online Assessment Application (Software) for Licensee.

It is to be understood by all parties that the permitted uses and disclosures must be within the scope of and necessary to achieve, the obligations and responsibilities of Licensor in performing on behalf of, or providing services to, the Licensee.

- 2) Licensor may use protected health information created or received by Licensor on behalf of Licensee if necessary for the proper management, training and administration of Licensee's implementation of industrial programming and Software provided that any disclosure is:
 - a) Required by law, or
 - b) Licensor obtains reasonable assurances from the person to whom the protected health information is disclosed that (i) the protected health information will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person; and (ii) Licensor will be notified of any instances of which the person is aware in which the confidentiality of the information is breached.
- 3) Licensor hereby agrees to maintain the security and privacy of all protected health information in a manner consistent with the Health insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations hereunder, and all other applicable law.
- 4) Licensor further agrees not to use or disclose protected health information except as expressly permitted by this Agreement, applicable law, or for the purpose of managing and/or training Licensee's designated staff.
- 5) Licensor shall not disclose protected health information to any member of its workforce unless Licensor has advised such person (employee) of Licensor privacy and security obligations and policies under this Agreement, including the consequences for violation of such obligations. The Licensor shall take appropriate disciplinary action against any member of its workforce who uses or discloses protected health information in violations of this Agreement and applicable law.
- 6) Licensor shall not disclose protected health information created or received by Licensor on behalf of Licensee to a person, including any agent or subcontractor of Licensor but not including a member of Licensor's own workforce, until such person agrees in writing to be bound by the provisions of the Agreement.

- 7) Licensors agree to use appropriate safeguards to prevent use or disclosure of protected health information not permitted by this Agreement or applicable law.
- 8) Licensors agree to maintain a record of all disclosures of protected health information, including disclosures not made for the purposes of this Agreement. Such record shall include the date of the disclosure, the name and, if known, the address of the recipient of the protected health information, the name of the individual who is the subject of the protected health information, a brief description of the protected health information disclosed, and the purpose of the disclosure. Licensors shall make such record available to an individual who is the subject of such information or Licensee within five (5) working days of a request.
- 9) Licensors agree to report to Licensee any unauthorized use or disclosure of protected health information by Licensors or their workforce or subcontractors and the remedial action taken or proposed to be taken with respect to such use or disclosure.
- 10) Licensors agree to make their internal practices, books, and records relating to the use and disclosure of protected health information received from Licensee or created or received by Licensors on behalf of Licensee, available to the Secretary of the United States Department of Health and Human Services, for purposes of determining the Covered Entity's compliance with HIPAA.
- 11) Within thirty (30) days of a written request by Licensee, Licensors shall allow a person who is the subject of protected health information, such person's legal representative, or Licensee to have access to and to copy such person's protected health information in the format requested by such person, legal representative, or practitioner unless it is not readily producible in such format, in which case it shall be produced in standard hard copy format.
- 12) Licensors agree to amend, pursuant to a request by Licensee, protected health information maintained and created or received by Licensors, on behalf of the Practitioner. Licensors further agree to complete such amendment within thirty (30) days of a written request by Licensee, and to make such amendment as directed by Licensee.
- 13) In the event Licensors fail to perform the obligations under this Agreement, Licensee may, at its option:
 - a) Require Licensors to submit to a plan of compliance, including monitoring by Licensee and reporting by Licensors, as Licensee, in its sole discretion, determines necessary to maintain compliance with this Agreement and applicable law. Such plan shall be incorporated into this Agreement by amendment hereto: and
 - b) Require Licensors to mitigate any loss occasioned by the unauthorized disclosure or use of protected health information.
- 14) Licensee may immediately terminate this Agreement and related agreements if Licensee determines that Licensors have breached a material term of this Agreement. Alternatively, Licensee may choose to (i) provide Licensors with ten (10) days written notice of the existence of an alleged material breach; and (ii) afford Licensors an opportunity to cure said alleged material breach to the satisfaction of Licensee within (10) days. Licensors' failure to cure shall be grounds for immediate termination of this agreement. Licensee's remedies under this Agreement are cumulative, and the exercise of any remedy shall not preclude the exercise of any other.

- 15) Upon termination of this Agreement, Licensor shall return or destroy all protected health information received from Licensee, or created or received by Licensor on behalf of Licensee and that Licensor maintains in any form, and shall retain no copies of such information with the exception of Licensee's report data stored in Software database. If the parties mutually agree that return or destruction of protected health information is not feasible, Licensor shall continue to maintain the security and privacy of such protected health information in a manner consistent with the obligations of this Agreement and as required by applicable law, and shall limit further use of the information to those purposes that make the return or destruction of the information infeasible. The duties hereunder to maintain the security and privacy of protected health information shall survive the discontinuance of this Agreement.

- 16) Licensee may amend this Agreement by providing ten (10) days prior written notice to Licensor in order to maintain compliance with federal law. Such amendment shall be binding upon Licensor at the end of the ten (10) day period and shall not require the consent of Licensor. Licensor may elect to discontinue the Agreement within the ten (10) day period, but Licensor duties hereunder to maintain the security and privacy of PROTECTED HEALTH INFORMATION shall survive such discontinuance. Licensee and Licensor may otherwise amend this Agreement by mutual written agreement.

- 17) Licensor shall, to the fullest extent permitted by law, protect, defend, indemnify and hold harmless Licensee and his/her respective employees, directors, and agents ("Indemnities") from and against any and all losses, costs, claims, penalties, fines, demands, liabilities, legal actions, judgments, and expenses of every kind (including reasonable attorneys fees, including at trial and on appeal) asserted or imposed against any Indemnities arising out of the acts or omissions of Licensor or any of Licensor's employees, directors, or agents related to the performance or nonperformance of this Agreement.