



HIPAA BUSINESS ASSOCIATE AGREEMENT

I. PREAMBLE

The parties to this agreement are Hope Therapeutic Services, as a Covered Entity and [insert contractor name here], a Business Associate of the Covered Entity. The parties to this Business Associate Contract agree that there shall be no third-party beneficiaries to this contract, including but not limited to individuals whose protected health information is created, received, used and/or disclosed by this Business Associate in its role as business associate.

The parties acknowledge that the purpose of this Business Associate Contract is to comply with the business associate contract requirements set forth in the HIPAA Privacy Rule, and in particular the Standards for Privacy of Individually Identifiable Health Information. The parties also intend that this contract comply with any relevant provisions of applicable state health care information privacy law.

The parties to this Business Associate Contract acknowledge that in the event of any inconsistency between the provisions of this Business Associate Contract and the HIPAA Privacy Rule, as may be amended from time to time by the United States Department of Health and Human Services (HHS) or as a result of interpretations by HHS, a court, or another regulatory agency, such court or regulatory agency shall prevail. In the event of a conflict among the interpretation of these entities, the conflict will be resolved in accordance with rules of precedence.

Where provisions of this Business Associate Contract are different from those mandated by the HIPAA Privacy Rules, but are still permitted by the Rule, the provisions of this Business Associate Contract shall control.

In connection with this Business Associate's creation, receipt, use or disclosure of Protected Health Information, as described below, this Business Associate and Covered Entity contract as follows.

II. BUSINESS ASSOCIATE CONTRACT PROVISIONS

A. Definitions

Catch-all definition: Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR 160.103 and 164.501.

Examples of specific definitions:

- (a) *Business Associate.* "Business Associate" shall mean [insert contractor name here].
- (b) *Covered Entity.* "Covered Entity" shall mean Hope Therapeutic Services.
- (c) *Individual.* "Individual" means the person who is the subject of protected health information.
- (d) *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.



- (e) *Protected Health Information*. “Protected Health Information” means any information, including demographic information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the HIPAA Regulations.
- (f) *Required By Law*. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR 164.501.
- (g) *Secretary*. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

B. Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule.
- (g) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (h) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with Section (g) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

A. General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as



specified in this Business Associate Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

Specific Use and Disclosure Provisions:

- (a) Except as otherwise limited in this Business Associate Contract, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (b) Except as otherwise limited in this Business Associate Contract, Business Associate may disclose Protected Health Information 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.
- (c) Except as otherwise limited in this Business Associate Contract, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

B. Obligations of Covered Entity

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

- (a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR 164.520, as well as any changes to such notice.
- (b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522.

C. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

IV. TERM AND TERMINATION

- A. Term.** The Term of this Agreement shall be effective as of the date of the signing by Covered Entity, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, 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.
- B. Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. Shall Business Associate fail to cure the breach or end the violation in the time specified by Covered Entity, the Covered Entity may terminate this Business Associate Contract.
- C. Effect of Termination.**
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from



Covered Entity, or created or received by Business Associate on behalf of Covered Entity. 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.

- (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties 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.

D. Miscellaneous

- (a) *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- (b) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- (c) *Survival.* The respective rights and obligations of Business Associate under Section IV.C. of this Agreement shall survive the termination of this Agreement.
- (d) *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

Hope Therapeutic Services:

Signature: _____

Print Name: _____

Title: Director _____

Date: _____

Contractor Name Here:

Signature: _____

Print Name: _____

Title: _____

Date: _____