

# Oklahoma State University

## Center for Health Sciences

1111 West 17<sup>th</sup> Street

Tulsa, OK 74107

## Business Associate Agreement

*Pursuant to the*

### Health Insurance Portability and Accountability Act of 1996 (HIPAA)

This Agreement is effective this \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, as to the Agreement between the parties, Oklahoma State University and its designated healthcare components, (hereinafter “UNIVERSITY”) and \_\_\_\_\_, (hereinafter “CONTRACTOR”). The following provision is added to the Agreement:

#### 1. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

#### Specific definitions:

- (a) CONTRACTOR. “Contractor” shall have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement.
- (b) UNIVERSITY. “University” shall have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Oklahoma State University (UNIVERSITY).
- (c) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH).

#### 2. Obligations and Activities of Business Associate/CONTRACTOR

CONTRACTOR agrees to:

- (a) Not use or disclose protected health information, which includes: written, oral, and electronic PHI, other than as permitted or required by the Agreement or as required by law;
- (b) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement;
- (c) Report to UNIVERSITY any use or disclosure of protected health information not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
  - i. CONTRACTOR will notify UNIVERSITY immediately if a breach incident has occurred by the CONTRACTOR or a Subcontractor or such agent.
  - ii. CONTRACTOR and its subcontractors will follow all applicable laws and regulations regarding breach notification as defined by the HIPAA Rules. This includes but not limited to notifying the individuals affected, potentially notifying the media, notifying the HHS Office for Civil Rights (OCR), and any other notification rules that may apply.
- (d) In accordance with 45 CFR §164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the CONTRACTOR agree to the same restrictions, conditions, and requirements that apply to the CONTRACTOR with respect to such information;

- (e) Make available protected health information in a designated record set to the UNIVERSITY as necessary to satisfy UNIVERSITY'S obligations under 45 CFR §164.524 promptly;
- (f) Make any amendment(s) to protected health information in a designated record set as directed or agreed to by the UNIVERSITY pursuant to 45 CFR §164.526, or take other measures as necessary to satisfy UNIVERSITY'S obligations under 45 CFR §164.526. The CONTRACTOR will respond within 10 calendar days so as UNIVERSITY may comply with the time requirement set forth in said section.
- (g) Maintain and make available the information required to provide an accounting of disclosures to the UNIVERSITY as necessary to satisfy UNIVERSITY's obligations under 45 CFR §164.528. The CONTRACTOR will forward such information it may have in an electronic format to the UNIVERSITY within 10 calendar days upon receipt of request by UNIVERSITY, so the UNIVERSITY may comply with the time requirements set forth in said section and any other applicable law. The information provided must be in a plain and easy to read format for the individuals who requested such an accounting.
- (h) To the extent the CONTRACTOR is to carry out one or more of UNIVERSITY'S obligation(s) under the HIPAA Security Rule, comply with the requirements of Subpart E that apply to the UNIVERSITY in the performance of such obligation(s); and
- (i) Make its internal practices, books, and records available to the Secretary of the Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

### **3. Permitted Uses and Disclosures by CONTRACTOR**

- (a) CONTRACTOR may use or disclose protected health information as set forth in UNIVERSITY'S Notice of Privacy Practices (which may be found on UNIVERSITY'S public website <http://centernet.okstate.edu/compliance/> and upon request) and as set forth in this document.
  - i. CONTRACTOR may provide data aggregation services relating to the health care operations of the UNIVERSITY.
  - ii. CONTRACTOR may not use or further disclose the information other than as permitted by the contract or by law.
- (b) CONTRACTOR may use or disclose protected health information as required by law.
- (c) CONTRACTOR agrees to make uses and disclosures and requests for protected health information consistent with UNIVERSITY's minimum necessary policies and procedures.
- (d) CONTRACTOR may not use or disclose protected health information in a manner that would violate the HIPAA Security Rule if done by UNIVERSITY.
- (e) CONTRACTOR may use and/or disclose protected health information for the proper management and administration of CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR, provided the disclosures are required by law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.
- (f) CONTRACTOR may provide data aggregation services relating to the health care operations of the covered entity.

### **4. Provisions for UNIVERSITY to inform CONTRACTOR of Privacy Practices and Restrictions**

- (a) UNIVERSITY shall notify CONTRACTOR of any limitation(s) in the notice of privacy practices of UNIVERSITY under 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR's use or disclosure of protected health information.
- (b) UNIVERSITY shall notify CONTRACTOR of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect CONTRACTOR'S use or disclosure of protected health information.
- (c) UNIVERSITY shall notify CONTRACTOR of any restriction on the use or disclosure of protected health information that UNIVERSITY has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect CONTRACTOR'S use or disclosure of protected health information.

### **5. Term and Termination**

- (a) Term: The Term of this Agreement shall be effective as the date listed on Page 1 and shall terminate on the date covered entity terminates for cause as authorized in paragraph (b) of this Section.
- (b) Termination for Cause: CONTRACTOR authorizes termination of this Agreement by UNIVERSITY, if UNIVERSITY determines CONTRACTOR has violated a material term of the Agreement and/or legal action.

- (c) **Obligations of CONTRACTOR Upon Termination:** Upon termination of this Agreement for any reason, CONTRACTOR shall return to UNIVERSITY all protected health information received from UNIVERSITY, or created, maintained, or received by CONTRACTOR on behalf of UNIVERSITY that the CONTRACTOR still maintains in any form. CONTRACTOR shall retain no copies of the protected health information. CONTRACTOR may also properly dispose of PHI if agreed to by UNIVERSITY.
- (d) **Survival:** The obligations of CONTRACTOR under this Section shall survive the termination of this Agreement.

The **CONTRACTOR** recognizes that any breach of confidentiality or misuse of information may result in the termination of this Agreement and/or legal action. Unauthorized disclosures may cause irreparable injury to the patient or to the owner of such information and, accordingly, the patient or the owner of such information may pursue legal remedies against the **CONTRACTOR**.

Except as otherwise limited in this Agreement, the **CONTRACTOR** may use or disclose PHI to perform the functions, activities, and services for, or on behalf of, the **UNIVERSITY** as specified in this Agreement, provided that such use or disclosure would not violate HIPAA if done by the **UNIVERSITY**. When and to the extent required to do so, the **UNIVERSITY** will post its Notice of Privacy Practices and make copies available upon request by **CONTRACTOR**.

By signing below as a duly authorized signatory for \_\_\_\_\_,  
 Name of Company

**CONTRACTOR** agrees to the provisions of this Business Associate Agreement.

\_\_\_\_\_  
 Name Printed

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date