

Medical Privacy

TechWarrior.Net, Inc Business Associate Contract

Definitions

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.

Business Associate. "Business Associate" shall mean TechWarrior.Net Inc.

Covered Entity. "Covered Entity" shall mean Customer of TechWarrior.Net Inc.

Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR ♦ 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR ♦ 164.502(g).

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.

Protected Health Information. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR ♦ 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR ♦ 164.103.

Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

Obligations and Activities of Business Associate

- A. Business Associate agrees to not use or 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 report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- D. 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.
- E. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, 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 to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- F. 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.

- G. Business Associate agrees to provide to Covered Entity or an Individual information collected in accordance with 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.

Permitted Uses and Disclosures by Business Associate

- A. Except as otherwise limited in this Agreement or other portion of the Agreement, Business Associate may Use or Disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such Use or Disclosure would not violate the Privacy Rule if done by you.
- B. Business Associate's services include the transmission of material over email, web sites, and other means. Business Associate provides the means to ensure that PHI is encrypted so that it will not be Disclosed in ways that would violate the Privacy Rule. It is up to Covered Entity to use the appropriate optional services to ensure the appropriate level of security for the PHI that travels through or is stored in Business Associate's services.

Specific Use and Disclosure Provisions

Except as otherwise limited in this Agreement or other portion of the Agreement, Business Associate may:

- A. Use PHI for the proper management and administration of Business Associate or to carry out its legal responsibilities;
- B. Disclose PHI for the proper management and administration of Business Associate, provided that disclosures are (i) Required By Law, or (ii) 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 will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and Use PHI to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

Obligations of Covered Entity

- A. Covered Entity is obliged to utilize Business Associate's services in a way that ensures that Covered Entity is in compliance with the Privacy Rule.
- B. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.
- C. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to Use or Disclose PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.
- D. Covered Entity shall notify Business Associate of any restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.
- E. Covered Entity shall not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

- F. Covered Entity agrees not to use Business Associate's services for the transmission or storage of ePHI, except for that ePHI which meets one or more of the classes of ePHI supported by Business Associate as defined in Section 2.
- G. Covered Entity agrees to indemnify and hold harmless Business Associate, its directors, officers, shareholders, parents, subsidiaries, affiliates, and agents, from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from Covered Entity's failure to fulfill its obligations under this Agreement to use Business Associate's services in such a manner as to prevent the unauthorized disclosure of PHI.

Term and Termination

- A. Term. The Term of this Agreement shall be effective as of the date when Covered Entity signs this Agreement and it is accepted by TechWarrior.Net, Inc, and shall terminate when all of the PHI 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 either:
 - 1. 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 Covered Entity;
 - 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - 3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary. In the case of legitimate Termination for Cause, Covered Entity may also terminate its accounts with Business Associate without regard any time remaining on Covered Entity's account contracts,
 - 4. though any amounts due to Business Associate at that time will become immediately due.
- 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, within 90 days of termination, all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI after this time.
 - 2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. If return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

Miscellaneous

- A. Regulatory References. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- 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,

the Security Rule, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and all subsequent laws and regulations bearing on the subject matter of this Agreement.

- C. Survival. The respective rights and obligations of Business Associate under Section 6.c of this Agreement shall survive the termination of this Agreement.
- D. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule and Business Associate to comply with the Privacy and Security Rules.

Client Name and Title

TechWarrior.Net, Inc Representative Name/Title

Client Signature/Date

TechWarrior.Net, Inc Signature