

## HIPAA BUSINESS ASSOCIATE TERMS

These HIPAA Business Associate Terms ("HIPAA Terms") are legally binding terms governing Your use of the HIPAA-applicable Services to which You have subscribed.

These HIPAA Terms amend the Master Subscription Agreement ("MSA") and/or the Order Form by which you ordered the HIPAA-applicable Services, and form an integral part of that Master Subscription Agreement and/or Order Form (collectively "Agreement").

If you are accepting these HIPAA Terms on behalf of a company or other legal entity, You represent that You have the authority to bind such entity and its Affiliates to these HIPAA Terms, in which the case "You" and "Your" shall refer to such entity and its Affiliates. If you do not have such authority, or if You do not agree with these Supplemental Terms, You must not accept these HIPAA Terms and may not use the HIPAA-applicable Services.

These HIPAA Terms were last updated on October 1, 2015. They are effective between You and Us as of the date You accept them.

The most current version of these HIPAA Terms will be available to you by visiting <http://www.revenuewell.com/legal/>.

### 1 HIPAA TERMS

Customer is a "Covered Entity" as defined in 45 CFR §160.103; RevenueWell is, with respect to Customer, a "Business Associate" as defined in 45 CFR §160.103; and RevenueWell may receive PHI (as defined below) from Customer. The parties acknowledge that in Services to Customer, RevenueWell and its subcontractors, employees, affiliates, agents, or representatives may have reason to access, use, create, maintain or transmit PHI for or on behalf of Customer. Certain PHI may be transmitted by or maintained in electronic media as Electronic PHI. The parties agree to comply with any applicable federal or state law governing the privacy and security of the PHI and Electronic PHI including, without limitation, HIPAA and the HITECH Act as defined below, in accordance with this Business Associate Agreement.

DEFINITIONS. Capitalized terms used, but not otherwise defined, in this Business Associate Agreement shall have the same meaning as those terms in the applicable regulation.

"**Breach**", as it relates to information, has the same meaning as the term "breach" in Section 13400 of the HITECH Act and 45 CFR §164.402

"**Designated Record Set**" has the same meaning as the term "designated record set" in 45 CFR §164.501.

"**Electronic PHI**" has the same meaning as the term "electronic protected health information" in 45 CFR §160.103, limited to the information created or received by RevenueWell from or on behalf of Customer.

"**HIPAA**" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, as each may be amended from time to time.

"**HITECH Act**" means the Health Information Technology for Economic and Clinical Health Act of 2009.

"**Individual**" has 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**" means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

"**PHI**" has the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created or received by RevenueWell from or on behalf of Customer.

"**Required By Law**" has the same meaning as the term "required by law" in 45 CFR §164.103.

"**Secretary**" means the Secretary of the Department of Health and Human Services or his designee.

"**Security Rule**" means the Security Standards at 45 CFR Part 160 and Part 164, Subparts A and C.

"**Unsecured PHI**" has the same meaning as the term "unsecured protected health information" in Section 13402(h) of the HITECH Act and 45 CFR §164.402.

## 2 OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

As a Business Associate, RevenueWell shall have the following obligations:

- (a) RevenueWell agrees to not use or disclose PHI other than as permitted or required by this Business Associate Agreement or as Required by Law. Except as otherwise limited in this Business Associate Agreement, RevenueWell may use or disclose PHI to perform functions, activities, or Services for, or on behalf of Customer as specified in this Business Associate Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Customer. Customer shall provide to RevenueWell and RevenueWell shall request from Customer, only the minimum PHI necessary to perform the Services or fulfill a specific function required under this Business Associate Agreement
- (b) RevenueWell agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Business Associate Agreement, including the implementation of administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic PHI as required by the Security Rule.
- (c) RevenueWell agrees to mitigate, to the extent practicable, any harmful effect that is known to RevenueWell of a use or disclosure of PHI by RevenueWell in violation of the requirements of the HIPAA requirements.
- (d) RevenueWell agrees to report to Customer any use or disclosure of the PHI that it becomes aware of that is not provided for by this Business Associate Agreement. Further, RevenueWell agrees to notify Customer of any Breach of Unsecured PHI of which it becomes aware and otherwise comply with the notification requirements set forth in Section 13401 of the HITECH Act and 45 CFR §164.410.

- (e) RevenueWell agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains or transmits PHI on behalf of RevenueWell agrees to the same restrictions and conditions that apply to RevenueWell with respect to such information.
- (f) RevenueWell agrees to make available PHI in a Designated Record Set to the Customer as necessary to satisfy Customer's obligations under 45 CFR 164.524. RevenueWell may impose a reasonable, cost-based fee as permitted by 45 CFR 164.524.
- (g) RevenueWell agrees to make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by the Customer pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Customer's obligations under 45 CFR 164.526.
- (h) RevenueWell agrees to make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by RevenueWell on behalf of Customer available to the Secretary, at a reasonable time designated by the Secretary, for purposes of the Secretary determining Customer's compliance with the Privacy Rule.
- (i) RevenueWell agrees to document such disclosures of PHI and information related to such disclosures as would be required for Customer to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528, and to provide an accounting of disclosures as necessary for Customer to comply with 45 CFR §164.528. After the first accounting to an Individual, RevenueWell may impose a reasonable, cost-based fee for each subsequent request for an accounting by the same Individual, provided the Individual is notified in advance of the fee.
- (j) RevenueWell agrees not to disclose or exchange any PHI of an Individual for remuneration except as permitted in Section 13405(d)(2) of the HITECH Act and 45 CFR 164.502(a)(5)(ii).

Except as otherwise limited in this Business Associate Agreement, RevenueWell may (i) use PHI for the proper management and administration of the RevenueWell Services or to carry out the legal responsibilities of RevenueWell, and (ii) disclose PHI for the proper management and administration of the Services, provided that disclosures are Required by Law, or RevenueWell obtains reasonable assurances from the person to whom the information is disclosed that it will be held 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 RevenueWell of any instances of which it is aware in which the confidentiality of the information has been breached.

### 3 OBLIGATIONS OF COVERED ENTITY.

Customer shall have the following obligations:

- (a) Customer shall use the encryption features in the Services to encrypt any and all PHI that is provided to RevenueWell. Customer shall defend and indemnify RevenueWell from and against any damages and costs arising from or relating to the failure of Customer to encrypt the PHI.

- (b) Customer shall notify RevenueWell of any limitation(s) in its notice of privacy practices of Customer in accordance with 45 CFR §164.520, to the extent that such limitation may affect RevenueWell's use or disclosure of PHI.
- (c) Customer shall notify RevenueWell of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect RevenueWell's use or disclosure of PHI in providing the Services.
- (d) Customer shall notify RevenueWell of any restriction to the use or disclosure of PHI that Customer has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect RevenueWell's use or disclosure of PHI in providing the Services.
- (e) Customer shall not request RevenueWell to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Customer.
- (f) Customer represents and warrants that it has the right and authority to provide PHI to RevenueWell for RevenueWell to perform its obligations and provide the Services to Customer and that RevenueWell's storage and use of any PHI in providing the Services to Customer is permitted under Customer's privacy policy that Customer maintains with its Patients and under applicable law.

#### 4 TERM AND TERMINATION

- (a) Term. The term of this Business Associate Agreement shall be effective as of the Effective Date and shall terminate when all of the PHI provided by Customer to RevenueWell, or created or received by RevenueWell on behalf of Customer, is destroyed or returned to Customer, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. If either party materially breaches any provision of this Business Associate Agreement, the other party may terminate the Services if the breaching party fails to cure such breach within thirty (30) days after receiving written notice of such breach, or immediately terminate the Services if cure is not possible.
- (c) Effect of Termination.
  - (i) Except as provided in subparagraph (ii) below, upon termination of this Business Associate Agreement, for any reason, RevenueWell shall return or destroy all PHI received from Customer, or created or received by RevenueWell on behalf of Customer. This provision shall also apply to PHI that is in the possession of subcontractors or agents of RevenueWell. RevenueWell shall retain no copies of the PHI.
  - (ii) In the event that RevenueWell determines that returning or destroying the PHI is infeasible, RevenueWell shall provide to Customer notification of the conditions that make return or destruction infeasible. If the return or destruction of PHI is infeasible, RevenueWell shall extend the protections of this Business Associate 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 RevenueWell maintains such PHI.
- (d) Termination Upon Change In Law. If the Secretary provides guidance, clarification or interpretation of HIPAA or the HITECH Act or there is a change in HIPAA or the HITECH Act such that the service relationship between

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RevenueWell and Customer is not considered a Business Associate relationship as defined in HIPAA, this Business Associate Agreement shall terminate and be null and void.

## 5 MISCELLANEOUS

- (a) Regulatory References. A reference in this Business Associate Agreement to a section in a regulation means the section as in effect or as amended.
- (b) Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Customer to comply with the requirements of HIPAA.
- (c) Survival. The respective rights and obligations of RevenueWell under this Business Associate Agreement shall survive the termination of this Business Associate Agreement.
- (d) Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved to permit Customer to comply with HIPAA.
- (e) Indemnification. Customer agrees to indemnify RevenueWell and any employees, directors, officers of RevenueWell (collectively "RevenueWell Indemnitees") against all actual and direct losses resulting from or in connection with any breach of this Business Associate Agreement by Customer, or any violation of HIPAA resulting from any improper use or disclosure of PHI and Electronic PHI pursuant to Customer's direction. Actual and direct losses shall include, but shall not be limited to, judgments, liabilities, fines, penalties, costs, and expenses (including reasonable attorneys' fees) which are imposed upon or incurred by RevenueWell Indemnitees by reason of any suit, claim, action, investigation, or demand by any Individual, government entity, or third party. This obligation to indemnify shall survive the termination of this Agreement.