



## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is hereby entered into on \_\_\_\_\_ (“Effective Date”) by and between \_\_\_\_\_, (“Business Associate”) and Sage Telehealth Services, LLC (“Customer”). The parties desire through this Agreement to amend the underlying Independent Contractor Agreement (“Service Agreement”) consistent with the requirements of the Health Insurance Portability and Accountability Act of 1996, as it may be amended from time to time (“HIPAA”), including the regulatory revisions implemented pursuant to the Health Information Technology for Economic and Clinical Health Act (the “HITECH ACT”).

### 1. Definitions.

(a). “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164. The HIPAA Privacy Rule is the Standards for Privacy of Individually Identifiable Health Information at 45 CFR, part 160 and part 164, subparts A and E. The HIPAA Security Rule is the HIPAA Security Standards (45 C.F.R. Parts 160 and 164, Subpart C). The HIPAA Breach Notification Rule is the Notification in the Case of Breach of Unsecured Protected Health Information, as set forth at 45 CFR Part 164 Subpart D.

(b). Capitalized terms not otherwise defined in this Agreement or the Service Agreement shall have the meanings given to them in the HIPAA Rules and are incorporated herein by reference.

### 2. Obligations of Business Associate.

To the extent (if any) that Business Associate creates, transmits, maintains or receives any protected health information (as defined in the HIPAA Privacy Rules) on behalf of Customer (“Protected Health Information” or “PHI”), including any electronic protected health information (as defined in the HIPAA Privacy Rules) (“Electronic PHI”), Business Associate will maintain the privacy and security of such PHI as required by this Agreement. Business Associate agrees:

(a) not to use or further disclose PHI other than as required to carry out its Service obligations to Customer and as expressly permitted or required by this Agreement or Law, consistent with the HIPAA Rules. When making such use, disclosure or request of PHI Business Associate agrees to make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request;

(b) to use reasonable and appropriate safeguards to prevent the Use or Disclosure of PHI in any manner other than as permitted by this Agreement;

(c) to report to Customer any Use or Disclosure of PHI not provided for by this Agreement of which it becomes aware. In addition, Business Associate will report, following discovery and without unreasonable delay, any “Breach” of “Unsecured Protected Health Information” consistent with the HIPAA Rules

(d) ensure that any agents, including Subcontractors of Business Associate, to whom Business Associate provides PHI agree to substantially the same restrictions and conditions that apply to Business Associate with respect to such information.

(e) To the extent (if any) that Business Associate maintains a Designated Record Set for Covered Entity, to make available PHI maintained by Business Associate in a Designated Record Set to Customer as required for Customer to comply with its obligation to give an individual the right of access as set forth in 45 CFR 164.524. Customer shall reimburse Business Associate for the applicable reasonable costs incurred by Business Associate in complying with such request. The provision of the access to the individual’s PHI and any denials of access to the PHI shall be the responsibility of Customer.

(f) To the extent (if any) that Business Associate maintains a Designated Record Set for Covered Entity, to make available PHI maintained by Business Associate in a Designated Record Set to Customer as required for Customer to comply with its obligation to amend PHI as set forth in 45 CFR 164.526. The amendment of an individual’s PHI and all decisions related thereto shall be the responsibility of Customer;



(g) to make available to Customer information regarding disclosures made by Business Associate for which an accounting is required under 45 CFR Section 164.528 so Customer can meet its requirements to provide an accounting to an individual in accordance with 45 CFR 164.528;

(h) to make its internal practices, books and records relating to the HIPAA Rules available to the Secretary of Health and Human Services for purposes of determining Customer's compliance with the HIPAA Rules;

(i) at termination of this Agreement, if feasible, return or destroy all PHI as set forth in the Service Agreement, that Business Associate maintains in any form and to retain no copies of such information, or, if such return or destruction is not feasible in the sole discretion of Business Associate, extend the protections of this Agreement to the PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI infeasible.

(j) Business Associate is not prohibited from disclosing PHI for its proper management and administration or to carry out its legal responsibilities if the disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it 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. Business Associate will further require that the person to whom information is disclosed inform the Business Associate of any breach of confidentiality or violation of the HIPAA Rules with respect to that information.

(k) Business Associate is not prohibited from using PHI to report violations of Law to appropriate Federal and State authorities consistent with the Privacy Rule.

(l) With respect to Electronic PHI, Business Associate will (i) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of such Electronic PHI, as required by the Security Rule; and (ii) report to Customer any Security Incident affecting PHI of which it becomes aware.

(m) Data Aggregation Services: Business Associate may use PHI to provide Data Aggregation Services related to Customer's Health Care Operations. Business Associate also may de-identify PHI it obtains or creates in the course of providing services to Customer.

(n) Sale of PHI: Business Associate shall not directly or indirectly receive remuneration in exchange for PHI except where permitted by the Service Agreement and consistent with applicable law.

### **3. Miscellaneous Provisions.**

(a) Customer Obligations. Customer shall be solely responsible for deciding to render any PHI on its systems unusable, unreadable, or indecipherable to unauthorized individuals in accordance with the U.S. Department of Health & Human Services guidance.

(b) Term and Termination. The term of this Agreement shall be the same as the term of the Service Agreement. Upon Customer's knowledge of a material breach of this Agreement by Business Associate, Customer shall notify Business Associate of the breach in writing, and shall provide an opportunity for Business Associate to cure the breach or end the violation within thirty (30) business days of such notification; provided that if Business Associate fails to cure the breach or end the violation within such time period to the satisfaction of Customer, Customer shall have the right to immediately terminate this Agreement and the Service Agreement upon written notice to Business Associate. In the event that termination of this Agreement is not feasible as mutually agreed to by Business Associate and Customer, Business Associate hereby acknowledges that Customer shall have the right to report the breach to the Secretary.

(c) No Third Party Beneficiaries. No provision of this Agreement is intended to benefit any person or entity, nor shall any person or entity not a party to this Agreement have any right to seek to enforce or recover any right or remedy with respect hereto.

(d) Modification of Agreement. No alteration, amendment, or modification of the terms of this Agreement shall be valid or effective unless in writing and signed by Business Associate and Customer.



**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the date stated above.

**CUSTOMER:**

**Business Associate:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_