

ASSOCIATE PRIVACY AGREEMENT

This Associate Privacy Agreement ("this Agreement") is effective as of the date of the applicable Purchase Order between 46 Labs, LLC or its Affiliates (each a "46 Labs Associate") and the Vendor receiving the Purchase Order ("Subcontractor"). This Agreement is an exhibit to, supplements and is made a part of any underlying agreement(s) between 46 Labs Associate and Subcontractor (the "Underlying Agreement(s)") pursuant to which Subcontractor will perform specified services for and on behalf of 46 Labs Associate, its Affiliates and customers.

46 Labs Associate acts in the provision of services to certain of its clients or other entities that are Covered Entities for purposes of HIPAA (each such 46 Labs Associate client or other entity is referred to in this Agreement as a "Covered Entity"). 46 Labs Associate must ensure that any subcontractor it retains to provide services to or on behalf of a 46 Labs Associate in connection with protected health information ("**PHI**") of a Covered Entity agrees to protect the privacy and provide for the security of the PHI in compliance with HIPAA and the HIPAA Regulations.

1. Definitions

(a) "Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement. For purposes of this definition, "*control*" means the direct or indirect ownership or control of more than 50% of the voting interests of such entity, or the ability to otherwise direct or cause the direction of the management and policies of such entity, whether through ownership, voting securities, contract, or otherwise. This includes all parent companies, subsidiaries, joint ventures, and other corporate entities globally affiliated with the party. Affiliates may access or process personally identifiable information ("**PII**") only as necessary to fulfill the purposes outlined in this Privacy Agreement and subject to equivalent data protection obligations. or the purposes of this Agreement, an entity shall be considered an Affiliate only during the period in which such control exists.

(b) "HIPAA" is defined as the Health Insurance Portability and Accountability act of 1996, as amended by the Health Information Technology Economic and Clinical Health Act, and the regulations promulgated thereunder, including, but not limited to the Privacy Rule 45 C.F.R. Parts 160 and 164 (Subparts A and E)), the Security Rule (45 C.F.R. Parts 160 and 164 (Subparts A and C)), and the Breach Notification Rule (45 C.F.R. Parts 160 and 164 (subparts A and D)), all as may be amended from time to time. Any capitalized terms used but not otherwise defined in this Agreement shall have the same meaning as those terms have under HIPAA and the HIPAA Regulations.

(c) "PHI" is defined as described in the Health Insurance Portability and Accountability act of 1996, as amended by the Health Information Technology Economic and Clinical Health Act, and the regulations promulgated thereunder, including, but not limited to the Privacy Rule 45 C.F.R. Parts 160 and 164 (Subparts A and E)), the Security Rule (45 C.F.R. Parts 160 and 164 (Subparts A and C)), and the Breach Notification Rule (45 C.F.R. Parts 160 and 164 (subparts A and D)), all as may be amended from time to time.

(d) "PII" shall mean personal data and information about a Subcontractor visitor to a 46 Labs Associate website, vendor portal or support portal ("**46 Labs Portal**") and includes: email address; Technical information including IP address, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform, and other technology on the devices used to access the 46 Labs Portal; Information about how you use our Website.

2. Obligations and Activities of Subcontractor

(a) Use or Disclosure of Information. Subcontractor will not use or further disclose PHI other than as expressly permitted or required by this Agreement, the Underlying Agreement(s), or as required by law. 46 Labs Associate will not use or further disclose PII other than as expressly permitted or required by this Agreement, the

Underlying Agreement(s), or as required by law.

(b) Administrative Safeguards and Data Security. The parties will implement and maintain appropriate safeguards and comply, where applicable, with Subpart C of Part 164 of the HIPAA Regulations with respect to electronic protected health information, to prevent any use or disclosure of PHI or PII other than uses and disclosures expressly provided for by this Agreement.

(c) Reporting.

(i) Subcontractor will promptly report to 46 Labs Associate (i) any use or disclosure of PHI not provided by this Agreement of which Subcontractor becomes aware (including, without limitation, any "Security Incident" within the meaning of 45 C.F.R. § 164.304, and any "Breach" of unsecured protected health information, as required by 45 C.F.R. § 164.410), and (ii) any failure of the administrative, physical or technical safeguards adopted under Section 2(b) of this Agreement. 46 Labs Associate will promptly report to Subcontractor any use or disclosure of PII of which 46 Labs Associate becomes aware due to any failure of the administrative, physical or technical safeguards adopted under Section 2(b) of this Agreement.

(ii) Notwithstanding the foregoing, if Subcontractor accesses, creates, receives, maintains, transmits, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses any "unsecured protected health information" (within the meaning of 45 C.F.R. § 164.402), Subcontractor will notify 46 Labs Associate of a Breach involving such information without unreasonable delay, but no later than five (5) days following discovery of the Breach.

(iii) In the event of any such impermissible or improper use, disclosure, Security Incident, Breach, or action as described above, Subcontractor will provide a written report to 46 Labs Associate describing the surrounding circumstances and, in the case of any Breach, such report shall include the names of each individual whose unsecured PHI has been, or is reasonably believed by Subcontractor to have been, accessed, acquired, or disclosed as a result of such breach and any other available information needed by 46 Labs Associate or Covered Entity to enable it to comply with its notification obligations under the HIPAA Regulations.

(d) Subcontractors and Agents. Subcontractor will ensure that any agent or subcontractor to whom it provides PHI agrees in writing to substantially the same restrictions and conditions that apply to the Subcontractor under this Agreement with respect to such information in its possession. Additionally, Subcontractor will require such agents and subcontractors to notify Subcontractor promptly of any instances of which they are aware in which the accessibility, confidentiality, or integrity of the Covered Entity's PHI has been compromised.

(e) Access. If Subcontractor maintains PHI in a Designated Record Set, Subcontractor agrees to provide access to 46 Labs Associate or Covered Entity to PHI in such Designated Record Set when requested by 46 Labs Associate or Covered Entity in order for 46 Labs Associate or Covered Entity to comply with the requirements under 45 C.F.R. § 164.524 and all other applicable laws and regulations. Such access shall be provided by Subcontractor in the time and manner reasonably designated by 46 Labs Associate or Covered Entity. Subcontractor may comply with the foregoing provisions by providing electronic access to its data, so long as such access permits 46 Labs Associate and Covered Entity, as determined in their sole and absolute discretion, to comply with such requirements.

(f) Amendment. If Subcontractor maintains PHI in a Designated Record Set, when requested by 46 Labs Associate or Covered Entity, Subcontractor agrees to make any amendment(s) to PHI in such Designated Record Set that 46 Labs Associate or Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 and all other laws and regulations applicable to 46 Labs Associate or Covered Entity. Such amendments shall be made by Subcontractor in the time and manner reasonably designated by 46 Labs Associate or Covered Entity. Subcontractor may comply with the foregoing provisions by providing 46 Labs Associate or Covered Entity electronic access to its data, so long as such access permits 46 Labs Associate or Covered Entity, as determined in their sole and absolute discretion, to comply with such requirements. In the event Subcontractor receives an amendment request directly from an Individual, Subcontractor will forward the request to 46 Labs Associate within five (5) days of receipt. Subcontractor will, as

directed by 46 Labs Associate or Covered Entity, incorporate any amendments or corrections or deletions to PHI into copies of such PHI maintained by Subcontractor within fifteen (15) days of receipt of such request from 46 Labs Associate or Covered Entity.

(g) Accounting of Disclosures. Subcontractor will document disclosures of PHI and any 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 PHI in accordance with 45 C.F.R. § 164.528 and all other laws and regulations, applicable to the Covered Entity. The accounting shall include, at a minimum: (i) the date of the disclosure, (ii) the name and address of the entity or person who received the PHI, (iii) a brief description of PHI disclosed, and (iv) a brief statement of the basis for the disclosure or, in lieu of such a statement, a copy of a written request for the disclosure from the Secretary pursuant to 45 C.F.R. § 164.502(a)(2)(ii) or from an authorized official for public policy disclosures pursuant to 45 C.F.R. § 164.512. Such information shall be provided in the time and manner reasonably designated by 46 Labs Associate or Covered Entity, but in no event shall such submission occur later than at a time and date which shall reasonably allow 46 Labs Associate and Covered Entity to respond within the time limit set forth in the applicable regulations; provided that 46 Labs Associate or Covered Entity shall promptly notify Subcontractor upon receipt of any such request.

(h) Privacy of Individually Identifiable Health Information. To the extent Subcontractor is to carry out 46 Labs Associates or Covered Entity's obligation under Subpart E of Part 164 of the HIPAA Regulations, Subcontractor will comply with the requirements of Subpart E that apply to 46 Labs Associate or Covered Entity in the performance of such obligations.

(i) Audit and Inspection. Subcontractor will make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, available to 46 Labs Associate, Covered Entity and/or the Secretary or his or her designee for the purposes of the Secretary determining 46 Labs Associate or Covered Entity's compliance with HIPAA and HIPAA Regulations. In an instance of such a request by the Secretary, such information shall be made available in a time and manner reasonably designated by 46 Labs Associate or Covered Entity which shall comply with the request by the Secretary.

(j) Obligations Upon Termination.

(i) Upon termination of this Agreement or the Underlying Agreement(s) for any reason, Subcontractor will return or destroy all PHI received from 46 Labs Associate or Covered Entity. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Subcontractor. Subcontractor will retain no copies of the PHI in any form. Subcontractor will promptly provide written confirmation of such destruction to 46 Labs Associate upon its request.

(ii) Notwithstanding the foregoing, in the event that Subcontractor determines that returning or destroying the PHI is infeasible, Subcontractor will provide to 46 Labs Associate notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Subcontractor will 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 Subcontractor maintains such PHI.

(k) Compliance with Transaction Standards. In performing services for 46 Labs Associate pursuant to the Underlying Agreement(s) and this Agreement, Subcontractor will comply, and will cause its subcontractors and agents to comply, with each applicable requirement of the HIPAA Transaction Rule and any similar or related regulations promulgated under HIPAA (including, without limitation, security standards), as such may be amended, extended or replaced from time to time. For avoidance of doubt, the foregoing obligation requires Subcontractors and its agents and subcontractors to refrain from all actions and omissions that may result (due to Subcontractor's relationship with 46 Labs Associate and Covered Entity) in a violation of the HIPAA Transaction Rule by Covered Entity.

3. Permitted Uses and Disclosures by Subcontractor

(a) Services. Subcontractor will use or disclose PHI only as permitted or required by this Agreement or the Underlying Agreement(s) or as required by law. Subcontractor will not use or disclose PHI in a manner that would violate the requirements of Subpart E of Part 164 of the HIPAA Regulations, if done by 46 Labs Associate or the Covered Entity.

(i) Subcontractor will limit the use, disclosure, or request of PHI, to the extent practicable, to a "limited data set" (within the meaning of 45 C.F.R. § 164.514(e)(2)) or, if more PHI is needed by Subcontractor, to the minimum necessary (as reasonably determined by Subcontractor) to accomplish the intended purpose of such use, disclosure, or request, except to the extent a broader use, disclosure, or request of PHI is allowed by the HIPAA Regulations.

(ii) Except as otherwise authorized by the HIPAA Regulations, Subcontractor will not directly or indirectly receive remuneration in exchange for any PHI of an Individual unless 46 Labs Associate has received a valid authorization from such Individual that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual.

(b) Business Activities. Except as otherwise limited in this Agreement, Subcontractor may use PHI for the proper management and administration of the Subcontractor or to meet its legal responsibilities.

4. **Obligations of 46 Labs Associate**

Restrictions. To the extent that such limitations may affect Subcontractor's use or disclosure of PHI, 46 Labs Associate or Covered Entity shall notify Subcontractor of (i) any limitations in Covered Entity's notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. 164.520, as well as any changes to that notice, (ii) any changes in, or revocation of, permission by an Individual to use or disclose PHI, and (iii) any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522.

5. **Term and Termination**

(a) Term. This Agreement shall be effective as of the first Effective Date of any Underlying Agreement(s) or related agreements and shall continue unless or until the Agreement is terminated in accordance with the provisions of Section 5(b), or the Underlying Agreement(s) between the parties terminates.

(b) Termination for Cause. Upon one party's knowledge of a material breach by the other party, the non-breaching party shall either (i) provide an opportunity for the breaching party to cure the breach or end the violation and, if the breaching party does not cure the breach or end the violation within the cure period specified in the Underlying Agreement(s) or if none is specified, then within ten (10) days, terminate this Agreement and the Underlying Agreement(s); (ii) immediately terminate this Agreement (and the Underlying Agreement(s)) if cure is not possible; or (iii) if neither termination nor cure are feasible, the non-breaching party shall report the violation to the Secretary.

6. **Miscellaneous**

(a) Governing Law; Compliance with Laws. This Agreement will be governed by and construed in accordance with the laws of the jurisdiction designated in the Underlying Agreement(s). Subcontractor will comply with any and all applicable federal, state and local privacy and data security laws, any federal, state or local data breach notification requirements and any other requirements to reasonably safeguard personal information, in effect now or at any time in the future. **This Service Provider and any subcontractor(s) shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

(b) Mitigation. Subcontractor will mitigate, to the extent reasonably practicable, any harmful effect that is known to Subcontractor of a use or disclosure of PHI by Subcontractor or its agents or subcontractor in violation of this Agreement or the HIPAA Regulations. Subcontractor will (i) take prompt corrective action to cure any deficiencies; (ii) assist 46 Labs Associate and Covered Entity in mitigating any harm caused by such unauthorized use, disclosure, or access; and (iii) take any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

(c) Indemnification by Subcontractor. At 46 Labs Associate's election, Subcontractor shall defend, indemnify, and hold harmless each of 46 Labs Associate and Covered Entity, their respective officers, agents and employees from and against any and all claims, liabilities, demands, damages, losses, costs and expenses, (including, without limitation, costs and reasonable attorneys' fees) or claims for injury or damages that are caused by or result from the acts or omissions of Subcontractor, its officers, agents or employees with respect to the use and disclosure of PHI. 46 Labs Associate and Covered Entity may participate in the defense and/or settlement of any claim arising under this Section 6(c) with counsel of their own choice at their own expense. Subcontractor shall not have any right, without 46 Labs Associate and Covered Entity's prior written consent, to settle any such claim if such settlement arises from or is part of any criminal action, suit or proceeding or contains a stipulation to or admission or acknowledgement of, any liability or wrongdoing (whether in contract, tort or otherwise) on the part of 46 Labs Associate or Covered Entity.

(d) Audit Rights. Subcontractor shall provide 46 Labs Associate with information concerning such safeguards as 46 Labs Associate may from time to time reasonably request, and shall, upon reasonable written request and execution of a confidentiality agreement reasonably acceptable to Subcontractor, permit 46 Labs Associate to have access for inspection to Subcontractor's facilities used for the maintenance or processing of PHI, and to its practices, policies and procedures concerning the use and disclosure of PHI, to determine Subcontractor's compliance with this Agreement.

(e) Survival. The respective rights and obligations of Subcontractor under Sections 2(j) and 6(c) of this Agreement shall survive the termination of this Agreement.

(f) Amendments. Unless a change to HIPPA or Privacy regulations require an amendment to this Agreement wherein 46 Labs Associate may unilaterally amend this Agreement which amendment shall be effective on posting to the 46 Labs website, no amendment to this Agreement shall be effective unless in writing and signed and dated by the parties hereto.

(g) Interpretation. Construction of this Agreement shall be resolved in favor of a meaning that permits 46 Labs Associate and Covered Entity to comply with applicable law protecting the privacy, security and confidentiality of PHI and PII, including but not limited to HIPAA and the HIPAA Regulations. To the extent that any provisions of this Agreement conflict with the provisions of any other agreement or understanding between the parties, this Agreement shall control.

(h) Waiver. No failure to exercise and no delay in exercising any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy or power hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy or power provided herein or by law or in equity.

(i) Injunctions. 46 Labs Associate and Subcontractor agree that any violation of the provisions of this Agreement may cause irreparable harm to the Parties. Accordingly, in addition to any other remedies available to the Parties at law or in equity, and the enjoining party shall be entitled to an injunction or other decree of specific performance with respect to any violation of this Agreement or explicit threat thereof, without the necessity of demonstrating actual damages.

(j) No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended or shall be

deemed to confer upon any person other than 46 Labs Associate, Subcontractor, Covered Entity and their respective successors and assigns, as permitted pursuant to the Underlying Agreement(s), any rights, obligations, remedies or liabilities.