

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (“Agreement”) is made and entered into effective as of the day of _____, 20____ by and between Medical Transportation Management, Inc. (“Covered Entity” or “MTM”) and _____ (“Business Associate”, “you”, “your”). In order to comply with the Health Insurance Portability and Accountability Act and the standards set forth at 45 CFR Parts 142, 160, 162 and 164 (collectively “HIPAA”) and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) to safeguard Protected Health Information (“PHI”), Business Associate agrees:

Pursuant to the terms of that certain “Underlying Agreement”, MTM contracts with you to provide “Services”. In connection with your provision of such Services, you create, receive, maintain or transmit PHI from MTM, the person who is the subject of PHI (“Individual”) or applicable Governmental entity or Health Plan. As a result, Business Associate must: (i) maintain the privacy/ confidentiality of all PHI; and (ii) comply with the requirements of HIPAA and HITECH applicable to Business Associates.

1. **Your Obligations.** You agree that you will maintain the privacy/confidentiality of all PHI including electronic PHI as required by all applicable laws and regulations, including, without limitation, the requirements of HIPAA and HITECH, including the following obligations:

(A) **Use and Disclosure of PHI.** You agree that you will not use or disclose PHI, other than to perform the Services, as otherwise expressly permitted by the terms of this Agreement or as required by law; provided, however, you may use and disclose PHI to manage and administer your business, including the transaction of business on behalf of MTM to another vendor. You agree to ensure that all Subcontractors, agents, representatives or parties with whom you conduct MTM business agree in writing to the same restrictions, conditions and security measures that apply through this Agreement to you.

(B) **Safeguards.** You represent and warrant that you will develop and implement appropriate Administrative, Physical and Technical safeguards and security measures set forth in 45 CFR 164.308, 164.310, 164.312, and 164.316 to prevent the use or disclosure of electronic PHI for purposes other than as set forth in this Agreement. You will provide MTM with such information concerning such safeguards as MTM may from time to time request.

(C) **Accounting of Disclosures.** In fulfillment of your obligations under 45 CFR 164.410, you agree to maintain a record of all disclosures of PHI made for reasons other than the provision of the Services and will provide the following information regarding any such disclosure to MTM, or to the Individual whose PHI was disclosed, upon our request as necessary to satisfy MTM’s obligations under 45 CFR 164.528.:

- i. The date of such disclosure;
- ii. The name and, if known, the address of the recipient of such PHI;
- iii. A copy of the request for disclosure, if any, accompanied by any necessary consents or authorizations;
- iv. A brief description of the PHI disclosed; and
- v. A statement that would reasonably inform the Individual of the purpose of the disclosure.

(D) You agree to notify MTM immediately upon your discovery of any unauthorized use or disclosure of PHI by you that is in violation of the requirements of this Agreement (a “Breach”) including any breach of unsecured PHI as required at 45 CFR 164.410, and any security incident of which you become aware. Business Associate will make a written report to MTM within 24 hours after Business Associate knows or should have reasonably known of such Breach. Business Associate will cooperate promptly with MTM as is reasonably required in order for MTM to comply with applicable breach reporting and notification laws, including but not limited to, Section 13402 of the HITECH Act (collectively, “Breach Notification Laws”).

- i. “Unsecured PHI” means PHI that is not secured through the use of technology or methodology that renders the PHI unusable, unreadable or indecipherable to unauthorized individuals. If electronic PHI is encrypted, it is considered to be secured under the Breach Notification Laws. No Breach notification is required if the electronic PHI was secure.
- ii. “Incident” means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with information system operations.

(E) Mitigation. You agree to establish and implement procedures for mitigating any deleterious effects of any improper use and/or disclosure of PHI.

(F) Disclosures to Workforce and/or Third Parties. You agree to require your employees, agents and independent contractors (“Workforce”) to adhere to the restrictions and conditions regarding PHI contained in this Section, including, without limitation, the following:

- i. You agree not to disclose PHI to any member of your Workforce, unless you have advised such person of your obligations under this Section and the consequences of a violation of these obligations. You agree to take disciplinary action against any member of your Workforce that uses or discloses PHI in violation of this Section.
- ii. Except as otherwise authorized under this Agreement, you agree not to disclose PHI to any third party without first obtaining our written approval. In addition, except as otherwise authorized under this Agreement, you agree not to disclose PHI to any third party without first obtaining the written agreement of such third party to be bound by the requirements of this Section for the express benefit of you and MTM.
- iii. Any use of PHI by your Workforce or disclosure of PHI to your Workforce or to third parties must be limited to the minimum amount of PHI necessary to achieve the purpose for such use or disclosure.

(G) Access to Records by Subject of Records. You agree to notify MTM immediately in the event you receive a request from an Individual or the Individual’s legal representative to review any of the Individual’s PHI in your possession or control. In fulfillment of your obligations under 45 CFR 164.524, you agree to make available to MTM, and, to an Individual or the Individual’s Legal Representative for their review, any of the Individual’s PHI in your possession or control, in the form or format (including electronic) as agreed to by MTM and the Individual or the Individual’s Legal Representative.

(H) Amendment to PHI. You agree to notify MTM immediately in the event you receive a request from an Individual to amend or otherwise modify any PHI in your possession or control. In fulfillment of your obligations under 45 CFR 164.526, you agree that, at our request, you will make any amendments to PHI that MTM has directed or authorized pursuant to 45 CFR 164.526.

(I) Covered Entity’s Obligations. You agree that to the extent you carry out any of MTM’s obligations as the Covered Entity under HIPAA that you will comply with the requirements of HIPAA that apply to the Covered Entity in the performance of any such obligations.

(J) Government and MTM Access to Records. You agree to make your policies, books and records relating to the use and disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services and/or MTM for the purpose of determining compliance with HIPAA and HITECH requirements.

(K) MTM's Right to Audit. Business Associate shall provide MTM with access to all records and security controls relating to the Business Associate's use, maintenance, and disclosure of PHI. Upon reasonable notice, Business Associate shall permit employees, representatives, or other designees of MTM (including outside auditors and/or regulators) to enter Business Associate's premises or any agreed upon backup facilities in order to inspect such records and security controls to ensure Business Associate's compliance/continuing compliance with the terms of this Agreement and applicable law. Business Associate agrees to assist MTM in all reasonable respects during any such audit and agrees to grant MTM access to its facilities for purposes of an audit upon prior written notice, during normal business hours, unless otherwise permitted by applicable laws, rules, or regulations.

(L) Disposition of Records upon Termination. You agree to return to MTM or otherwise destroy all PHI in your possession or control upon termination of this Agreement. If such return or destruction of records is not feasible, you agree to continue to extend the protections of this Section to such PHI and limit any further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

(M) Indemnification. You agree to indemnify, defend, and hold harmless MTM and the applicable MTM Client, and their respective parents, subsidiaries and affiliates, and their respective shareholders, directors, officers, employees, agents, legal representatives, heirs, successors and assigns, from and against any and all claims, causes of action, losses, liabilities, damages, costs and expenses, including, without limitation, court costs and attorneys' fees, arising out of, resulting from or caused by a violation by you, or any of your Workforce, agents or subcontractors, of any HIPAA or HITECH requirements or of the terms or conditions of this Agreement.

2. **Our Obligations.** In connection with your performance of the Services:

(A) Notification of Restrictions on Use of PHI. MTM agrees to notify you immediately of any restrictions on the use of or disclosure of PHI that MTM has agreed to or is required to abide by under 45 CFR §164.522, to the extent that such restriction may affect your use or disclosure of PHI.

(B) Notification of Disclosure of PHI to an Individual. MTM agrees to notify you immediately in the event an Individual desires you to disclose their PHI in your possession or control to the Individual or the Individual's Legal Representative.

(C) Notification of Amendment to Subject PHI. MTM agrees to notify you immediately in the event that MTM or an Individual desires you to amend or otherwise modify any of their PHI in your possession or control.

3. **Term and Termination.** This Agreement will commence on the Effective Date of this Agreement and will continue until such time as the Underlying Agreement expires or is terminated and all PHI provided by MTM or created or received by you for MTM is destroyed or returned to MTM or, if it is infeasible to return or destroy PHI, continue to use appropriate safeguards and comply with subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of PHI, other than as provided for in this Section, for as long as you retain the PHI. Notwithstanding the foregoing, in the event of a material violation by Business Associate, MTM shall have the right to terminate this Agreement and the Underlying Agreement immediately upon notice to Business Associate.

4. **Third Party Beneficiaries.** There are no intended third party beneficiaries of the obligations under this Agreement. Without in any way limiting the foregoing, it is the intent that nothing contained in this Agreement give rise to any right or cause of action, contractual or otherwise, in or on behalf of any person whose PHI is used or disclosed pursuant to this Agreement or any person who qualifies as a personal representative of such person.

5. **Amendment of Underlying Agreement.** It is the intention that this Agreement serves as amendment and supplement to the Underlying Agreement.

6. **Interpretation.** In the event of a conflict between the terms of this Agreement and the terms of the Underlying Agreement, the terms of this Agreement will control. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA and HITECH.
7. **Compliance with Security Requirements.** Business Associate shall comply, and shall ensure agents and subcontractors comply with the Security Requirements of 45 CFR Part 142 with respect to electronic transmission of PHI.

Medical Transportation Management, Inc.	
By:	By:
Print:	Print:
Title:	Title: