

BUSINESS ASSOCIATE AGREEMENT

Standard HIPAA Business Associate Agreement | TierFive Inc.

Effective Date	
Organization	
Provider	TierFive Inc.
Contract / Project No.	

This Business Associate Agreement ("BAA") is entered into by and between Organization and TierFive Inc. ("TierFive") and supplements any services agreement, statement of work, quote, order, or other written agreement between the parties (collectively, the "Services Agreement"). Organization may be acting as a HIPAA Covered Entity or as a Business Associate. TierFive acts as a Business Associate or downstream Business Associate only to the extent it creates, receives, maintains, or transmits Protected Health Information ("PHI") for Organization in performing the Services Agreement.

1. Definitions.

- (a) Capitalized terms not defined in this BAA have the meanings given to them in the HIPAA Rules.
- (b) "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and 164, as amended.
- (c) "PHI" includes electronic PHI ("ePHI") and means Protected Health Information that TierFive creates, receives, maintains, or transmits for Organization. "Breach," "Security Incident," "Unsecured PHI," "Subcontractor," and "Secretary" have the meanings given to those terms in the HIPAA Rules.

2. Permitted Uses and Disclosures.

- (a) TierFive may use or disclose PHI only as permitted by this BAA, the Services Agreement, Organization's written instructions, or as Required by Law.
- (b) TierFive may use or disclose PHI to perform the services for Organization, including receiving, preparing, scanning, imaging, indexing, quality control, hosting, storage, retrieval, delivery, support, and secure disposition services described in the Services Agreement.
- (c) TierFive may use PHI for its proper management and administration and to carry out its legal responsibilities. TierFive may disclose PHI for those purposes only if the disclosure is Required by Law or TierFive obtains reasonable assurances that the recipient will keep the PHI confidential, use or disclose it only as Required by Law or for the purpose for which it was disclosed, and notify TierFive of any known breach of confidentiality.
- (d) TierFive will not use or disclose PHI in a manner that would violate the HIPAA Rules if done by Organization, except for TierFive's own management, administration, and legal responsibilities as permitted by the HIPAA Rules.
- (e) TierFive will make reasonable efforts to limit uses, disclosures, and requests for PHI to the minimum necessary to accomplish the intended purpose, unless the HIPAA Rules do not require a minimum-necessary limitation.
- (f) TierFive will not sell PHI, use PHI for marketing, or use PHI for fundraising unless expressly authorized in writing by Organization and permitted by the HIPAA Rules.
- (g) TierFive may de-identify PHI only if authorized by the Services Agreement or by Organization in writing and only in accordance with 45 C.F.R. § 164.514. De-identified information is not PHI.
- (h) This BAA does not authorize data aggregation, research, or uses of PHI outside the Services Agreement unless Organization expressly authorizes the activity in writing and the activity is permitted by the HIPAA Rules.

3. Safeguards and Subcontractors.

- (a) TierFive will use appropriate administrative, physical, and technical safeguards to protect PHI and will comply with the Security Rule provisions applicable to Business Associates for ePHI.
- (b) TierFive will take reasonable steps to prevent uses or disclosures of PHI not permitted by this BAA and will mitigate, to the extent practicable, any harmful effect known to TierFive from a use or disclosure of PHI in violation of this BAA.
- (c) TierFive will require any Subcontractor that creates, receives, maintains, or transmits PHI for TierFive to agree in writing to substantially the same restrictions, conditions, and safeguards that apply to TierFive with respect to such PHI.
- (d) TierFive will make PHI available to its workforce only as reasonably necessary to perform the Services Agreement or comply with law, and will maintain appropriate workforce confidentiality and access controls.

4. Reporting Security Incidents, Impermissible Uses, and Breaches.

- (a) TierFive will report to Organization any use or disclosure of PHI not permitted by this BAA of which TierFive becomes aware.
- (b) TierFive will report any Security Incident required to be reported under the HIPAA Rules. Organization acknowledges that routine, unsuccessful security events, such as pings, port scans, blocked firewall attempts, unsuccessful login attempts, malware blocked by security tools, spam, and similar events, are deemed reported by this paragraph unless they result in unauthorized access, acquisition, use, disclosure, modification, or destruction of PHI or material interference with systems containing ePHI.
- (c) TierFive will notify Organization of a Breach of Unsecured PHI without unreasonable delay and in no event later than thirty (30) calendar days after TierFive discovers the Breach.
- (d) TierFive's Breach notice will include, to the extent available: the identity of affected individuals; a brief description of what happened; the date of the Breach and discovery, if known; the types of PHI involved; steps TierFive has taken or will take to investigate, mitigate harm, and protect against further Breaches; and any other information required by 45 C.F.R. § 164.410(c). TierFive may supplement the notice as additional information becomes available.
- (e) Unless Required by Law or separately agreed in writing, Organization controls notices to affected individuals, the media, regulators, and other third parties. TierFive will provide reasonable cooperation and supporting information for such notices.

5. Individual Rights, Accounting, and Government Access.

- (a) To the extent PHI held by TierFive is part of a Designated Record Set, TierFive will make such PHI available to Organization, or to an individual if Organization directs, so Organization can meet its access obligations under 45 C.F.R. § 164.524.
- (b) TierFive will make PHI available for amendment and will incorporate amendments as directed by Organization if required under 45 C.F.R. § 164.526.
- (c) TierFive will provide information reasonably necessary for Organization to provide an accounting of disclosures under 45 C.F.R. § 164.528.
- (d) TierFive will make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- (e) Requests under this Section must be reasonable, limited to PHI or compliance materials relevant to Organization, and handled in a manner that does not compromise the confidentiality of TierFive's other customers, systems, or privileged information. Assistance outside the scope of the Services Agreement may be subject to reasonable fees unless the request arises from TierFive's breach of this BAA.

6. Organization Responsibilities.

- (a) Organization will notify TierFive of any limitation in Organization's notice of privacy practices, restriction, revocation, individual authorization, legal requirement, data handling instruction, or other condition that may affect TierFive's use or disclosure of PHI.
- (b) Organization will not request or require TierFive to use or disclose PHI in any manner that would violate the HIPAA Rules if done by Organization.
- (c) Organization is responsible for determining that PHI provided to TierFive is lawfully obtained, properly disclosed to TierFive, and limited to the minimum necessary for the services requested.
- (d) Organization will identify in writing any special PHI categories or restrictions that require handling beyond this BAA or the Services Agreement, including substance use disorder records, state-law restrictions, court orders, litigation holds, reproductive health care privacy restrictions, or payer-specific requirements.
- (e) Organization will designate a privacy/security contact for notices under this BAA. TierFive may rely on the contact information provided by Organization unless Organization gives updated written notice.

7. Term, Termination, and Return or Destruction of PHI.

- (a) This BAA begins on the effective date below and continues for as long as TierFive creates, receives, maintains, or transmits PHI for Organization. The obligations protecting PHI survive termination for as long as TierFive retains PHI.
- (b) If either party knows of a material breach of this BAA by the other party, the non-breaching party may give written notice and a reasonable opportunity to cure if cure is feasible. If cure is not feasible or is not completed within a reasonable time, the non-breaching party may terminate the Services Agreement to the extent feasible and may take any action required by the HIPAA Rules.
- (c) Upon termination of the Services Agreement, TierFive will return or destroy PHI in its possession, if feasible, as directed by Organization and subject to the Services Agreement, applicable law, payment status, retention requirements, backup processes, and reasonable technical limitations.
- (d) If return or destruction is not feasible, or if TierFive is required or permitted to retain PHI for legal, archival, dispute-resolution, backup, or compliance purposes, TierFive will continue to protect the PHI under this BAA and limit further uses and disclosures to the purposes that make return or destruction infeasible or legally required.

8. Miscellaneous.

- (a) Amendment. The parties will amend this BAA as necessary to comply with changes to the HIPAA Rules. Any amendment must be in writing unless the HIPAA Rules require otherwise.
- (b) Order of Precedence. If this BAA conflicts with the Services Agreement, this BAA controls only as to the use, disclosure, and protection of PHI. The Services Agreement controls all business, pricing, ownership, intellectual property, insurance, limitation of liability, indemnity, venue, payment, and service terms unless this BAA expressly states otherwise or the HIPAA Rules require otherwise.
- (c) No Third-Party Beneficiaries. Nothing in this BAA creates rights in any person other than the parties.
- (d) Assignment. This BAA is binding on each party and its permitted successors and assigns. Assignment of the Services Agreement carries this BAA with it unless prohibited by the Services Agreement.
- (e) Counterparts and Electronic Signatures. This BAA may be signed in counterparts and by electronic signature, each of which is deemed an original.
- (f) Interpretation. This BAA will be interpreted to permit both parties to comply with the HIPAA Rules. References to laws include those laws as amended.
- (g) Entire HIPAA Agreement. This BAA supersedes prior business associate agreements between the parties for the services covered by the Services Agreement, unless the parties expressly agree otherwise in writing.

BUSINESS ASSOCIATE AGREEMENT SIGNATURES

Effective Date: _____

Organization	TierFive Inc.
Authorized Signature: _____	Authorized Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Notice Email: _____	Notice Email: contact@tierfive.com
Address: _____	Address: 7582 Las Vegas Blvd Suite 399 Las Vegas, NV 89123
Phone: _____	Phone: 800-215-1743

Electronic signatures and counterparts are permitted under Section 8(e).