

Business Associate Terms

In order to perform the Services, Supplier may receive, transmit, maintain or create protected health information as that term is defined under the HIPAA Regulations, such that Supplier is acting as a Business Associate of Quest Diagnostics. Accordingly, Supplier agrees to the following Business Associate Terms (the “Agreement”).

1. DEFINITIONS. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, and any amendments thereto as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”). The term “HIPAA Regulations” refers to all of the regulations in effect from time to time issued pursuant to HIPAA and applicable to the privacy or the security of Individually Identifiable Health Information found at Title 45, Code of Federal Regulations (CFR) Parts 160, 162, and 164. “PHI” means protected health information received, transmitted, maintained or created by Supplier for or on behalf of Quest Diagnostics. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103. All other capitalized terms used but not otherwise defined in this Agreement shall have the same meaning as those terms defined in the HIPAA Regulations or any successor law.

2. HIPAA COMPLIANCE. To the extent Supplier is acting as a Business Associate of Quest Diagnostics in performing the Services, the provisions of this Agreement shall apply, and Supplier shall be subject to the penalty provisions of HIPAA as specified in 45 CFR Part 160. To the extent Supplier is to carry out an obligation of Quest Diagnostics under the HIPAA Regulations, Supplier shall comply with the requirements of the HIPAA Regulations that apply to a Covered Entity in the performance of such obligation.

3. DUTIES RELATED TO PHI

- a. Use and Disclosure. Supplier agrees not to use or disclose any PHI, other than as permitted or required by this Agreement or as Required By Law. Supplier may use and disclose PHI as necessary to perform the Services, provided that such uses and disclosures would not violate the HIPAA Regulations if done by Quest Diagnostics. Unless Quest Diagnostics gives its prior, express written consent, Supplier shall not de-identify any PHI except as necessary to perform its obligations under the underlying service agreement between the parties.
- b. Minimum Necessary. Supplier shall limit its uses, disclosures and requests for PHI, when practical, to the information making up a Limited Data Set (as set forth at 45 CFR § 164.514), and in all other cases to the minimum necessary PHI to accomplish the intended purpose of the use, disclosure or request.
- c. Patient Rights. Supplier shall:
 - i.) to the extent Supplier maintains PHI in a Designated Record Set, provide access by an Individual to the Individual’s PHI upon the request of Quest Diagnostics. If the requested PHI is maintained electronically, Supplier shall provide a copy of the PHI in the electronic

form or format requested by the Individual, if it is readily producible, and if not, in a readable electronic form or format agreed to by Quest Diagnostics and the Individual;

ii.) to the extent Supplier maintains PHI in a Designated Record Set, make any amendments to an Individual's PHI as directed by Quest Diagnostics;

iii.) maintain a record of accountable disclosures of PHI by Supplier as required for Quest Diagnostics to make an accounting to the Individual as required by the HIPAA Regulations; and

iv.) to the extent Quest Diagnostics notifies Supplier of a restriction request granted by Quest Diagnostics that would limit Supplier's use or disclosure of PHI, comply with the restriction.

d. Access to Books and Records. Supplier shall make its internal practices, books, and records relating to the receipt, transmission, creation, maintenance, use and disclosure of PHI available to the Secretary and to Quest Diagnostics to determine compliance with this Agreement and the HIPAA Regulations. To the extent permitted by law, Supplier shall notify Quest Diagnostics immediately upon receipt of a request from the Secretary or other regulatory agency to access Supplier's internal practices, books or records relating to PHI. Supplier shall permit Quest Diagnostics to audit Supplier's business processes and practices involving or related to the privacy and/or security of PHI upon request.

e. Reporting. Supplier shall report to Quest Diagnostics any use or disclosure of PHI not provided for by this Agreement, any Breach of unsecured PHI as required by 45 CFR § 164.410 and any Security Incident of which Supplier discovers or becomes aware. Such reports shall be made without unreasonable delay not to exceed seventy-two (72) hours of Supplier discovering or becoming aware the use, disclosure, Breach or Security Incident.

Such notifications shall be sent via e-mail to Privacy@QuestDiagnostics.com and in writing to Quest Diagnostics, 500 Plaza Drive, Secaucus, NJ 07094, Attn: Privacy Officer. The notification shall include information regarding the nature of the use, disclosure, Breach, or Security Incident, including a description of what happened, the date of the Breach or other reportable item and the date it was discovered; specific elements of PHI that were subject to the Breach or other reportable item; and identification of each Individual who has been, or is reasonably believed by Supplier to have been, affected by the Breach or other reportable item.

Supplier shall work with Quest Diagnostics, promptly and as reasonably required by Quest Diagnostics, to evaluate whether the incident constitutes a Breach, identify all Individuals whose PHI has been affected, to gather any other information required to be reported under 45 CFR 164.404 or otherwise requested by Quest Diagnostics and to ensure that the cause giving rise to the reported item has been remediated.

f. Subcontractors. In accordance with 45 CFR §§ 164.308(b)(2) and 164.502(e)(1)(i), in the event Supplier contracts with any Subcontractor or agent that creates, receives, maintains or transmits PHI on behalf of Supplier, Supplier shall ensure that such Subcontractor or agent

agrees in writing to be bound by the same restrictions and conditions that apply to Supplier with respect to PHI.

g. Security. Supplier shall use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement (“Supplier Safeguards”). In addition, Supplier agrees to comply with the applicable requirements of 45 CFR Part 164, Subpart C of the HIPAA Regulations with respect to electronic PHI and any guidance issued by the Secretary. Quest Diagnostics is relying on the adequacy of the Supplier Safeguards, and the failure of such Supplier Safeguards will constitute a material breach of this Agreement. Without limiting the foregoing, Supplier 1) shall ensure that all electronic PHI in transit and at rest is rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of encryption technology or methodology specified in guidance issued by the Secretary; 2) unless Quest Diagnostics gives its prior, express written consent, not disclose any PHI to any agent, Subcontractor or other person or entity that is located or organized outside of the United States of America and not allow any PHI to be transmitted to, received by, or stored at any location outside of the United States of America or permit any person outside of the United States of America to access or view PHI; 3) will only store electronic PHI on secure devices that fully satisfy prevailing security industry standards.

h. Mitigation. Supplier shall mitigate, to the extent practicable, any harm caused a use or disclosure of PHI not permitted by this Agreement (including any Security Incident) and/or reimburse Quest Diagnostics for the cost of mitigation based upon, arising out of, or attributable to, the acts or omissions of Supplier for uses or disclosures in violation of the Agreement.

i. Rights. Supplier acknowledges and agrees that no ownership rights in PHI received, transmitted, maintained or created by Supplier for or on behalf of Quest Diagnostics are conferred to Supplier.

j. Policies and Training. Supplier shall adopt and maintain policies and procedures to ensure compliance by Supplier with the HIPAA Regulations and its obligations under this Agreement. Supplier will ensure that its employees, agents and Subcontractors are trained on such policies and are aware of all applicable requirements of this Agreement and shall provide evidence of such training to Quest Diagnostics upon request.

k. Part 2 Information. To the extent that Supplier receives PHI under this BAA that is protected under the federal confidentiality rules codified at 42 CFR part 2 (“Substance Use Disorder PHI”), Supplier agrees with respect to Substance Use Disorder PHI (i) that Supplier is fully bound by the provisions of 42 CFR part 2; (ii) to refrain from redisclosing Substance Use Disorder PHI to any person or entity unless such redisclosure is expressly permitted by this Agreement and an applicable provision in 42 CFR part 2; (iii)) if necessary, resist in judicial proceedings any efforts to obtain access to PHI except as permitted by 42 CFR part 2; and (iv) report to Quest any unauthorized use or disclosure and must ensure that subcontractors agree in writing to the same restrictions and compliance obligations with respect to such records.

4. INDEMNIFICATION. Supplier and Quest Diagnostics shall indemnify, defend, and hold each other harmless, including their respective subsidiaries and affiliates, and their respective

officers, directors, agents and employees from and against any and all losses, costs, claims, suits, fines, penalties, damages, liabilities and expenses (including reasonable attorneys' fees and costs) based upon, arising out of or attributable to any violation of any provision of HIPAA or the HIPAA Regulations caused by the other's acts or omissions, including without limitation, any unauthorized acquisition, access, use or disclosure of any individual's PHI. Without limiting the foregoing, Supplier shall promptly reimburse Quest Diagnostics and its customers all reasonable costs incurred by Quest Diagnostics and such customers, respectively, with respect to providing notification of a Breach caused by or involving PHI held by Supplier, including but not limited to printing, postage costs and toll-free hotline costs, whether such costs are incurred directly by Quest Diagnostics or its customers or as a result of Quest Diagnostics reimbursing the affected customers for their costs.

5. TERM AND TERMINATION.

a. This Agreement shall become effective upon signature by the Supplier.

b. This Agreement shall terminate when the arrangement for Supplier to provide the Services terminates or if Quest Diagnostics determines that Supplier has violated a material term of this Agreement, or applicable law, that is not cured within thirty (30) calendar days after delivery of notice of the specific violation(s) to Supplier. In the event of such a violation, Quest Diagnostics, in its sole discretion, may report the breach to the Secretary.

c. Upon termination of this Agreement for any reason, Supplier agrees to return or if agreed to by Quest Diagnostics, destroy all PHI and retain no copies (and to certify to such actions) unless otherwise agreed to by Quest Diagnostics due to the infeasibility of returning or destroying such PHI. Supplier shall require its Subcontractors and agents to do the same. If Supplier retains PHI due to infeasibility, for as long as Supplier retains any PHI, Supplier shall extend the protections of this Agreement to the PHI that Supplier maintains at no additional cost to Quest Diagnostics and shall limit its further use or disclosure of such PHI to those purposes that make return or destruction of the PHI infeasible. If such reasons of infeasibility are removed, Supplier agrees to promptly comply with the first part of this paragraph.

6. AMENDMENT. This Agreement may only be amended in a writing signed by Quest Diagnostics and Supplier; however, this Agreement shall be automatically amended to conform to any applicable regulatory changes or amendments to HIPAA or the HIPAA Regulations. Supplier and Quest Diagnostics agree to amend this Agreement in such manner as Quest Diagnostics deems necessary to comply with any amendment of 1) HIPAA or other applicable law, 2) the HIPAA Regulations, or other applicable regulations, 3) any applicable court decision, or binding governmental policy or opinion, or 4) any agreement between Quest Diagnostics and its customer(s). If the parties are unable to agree on an amendment within 30 days of notice from Quest Diagnostics to Supplier of the requirement to amend the Agreement, Quest Diagnostics may, at its option, terminate this Agreement.

7. NO WAIVER. No waiver of any term of this Agreement shall be construed as a waiver of any other term. In addition, no failure to exercise any right or demand performance of any obligation under this Agreement shall be deemed a waiver of such right or obligation.

8. SURVIVAL. Those sections, which by the nature of their terms are intended to survive termination, or that contemplate performance or observance after termination of this Agreement, shall survive the termination or expiration of this Agreement, including without limitation, this Section and Sections 2, 3, 4, 5(c), 7, and 9.

9. INTEGRATION AND INTERPRETATION. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Regulations.