

 **Star Transcriptions**  
599 N Bridge Street  
Bridgewater, NJ 08807  
732-762-0109

**HIPAA OUTSOURCE VENDOR AGREEMENT**

This HIPAA Outsource Vendor Agreement (“Agreement”) is effective on \_\_\_\_\_, And is made part of the \_\_\_\_\_ Agreement (“Services Agreement”) entered into on \_\_\_\_\_ by and between \_\_\_\_\_ (“Outsource Vendor”) and **Star Transcriptions** (“Owner”).

**RECITALS**

**WHEREAS**, the parties have executed an agreement whereby Outsource Vendor provides services to Owner, and Outsource Vendor receives, has access to or creates Health Information in order to provide those services (“Services Agreement”);

**WHEREAS**, Owner is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated thereunder (“HIPAA Regulations”), located at including the Standards for Privacy of Individually Identifiable Health Information and Security Regulations, 45 Code of Federal Regulations Parts 160, 162 and 164 (“Regulations”);

**WHEREAS**, the Regulations require Owner to enter into a contract with Outsource Vendor in order to require certain protections for the privacy and security of Health Information, and such Regulations prohibit the disclosure to or use of Health Information by Outsource Vendor if such a contract is not in place;

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I  
DEFINITIONS**

1.1 “Disclose” and “Disclosure” mean, with respect to Health Information, the release, transfer, provision of access to, or divulging in any other manner of Health Information outside Outsource Vendor’s internal operations or to other than its employees.

1.2 “Health Information” means information that (i) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (ii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (iii) is received by Outsource Vendor from or on behalf of Owner, or is created by Outsource Vendor, or is made accessible to Outsource Vendor by Owner.

1.3 “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

1.4 “Services” has the same meaning as in the Services Agreement.

1.5 “Use” or “Uses” mean, with respect to Health Information, the sharing, employment, application, utilization, examination or analysis of such Health Information within Outsource Vendor’s internal operations.

## **ARTICLE II OBLIGATIONS OF OUTSOURCE VENDOR**

2.1 Initial Effective Date of Performance. The obligations created under this Agreement shall not become effective until April 14, 2003.

2.2 Permitted Uses and Disclosures of Health Information. Outsource Vendor shall Use and Disclose Health Information as necessary to perform the Services, provided that such Use or Disclosure would not violate the Privacy Regulations if done by Owner. Business Associate may Use and Disclose Health Information for the proper management and administration of Outsource Vendor, or to carry out the legal responsibilities of the Business Associate, provided that the disclosure is required by law, or the Outsource Vendor obtains reasonable assurances in writing from the person to whom the information is disclosed (i) that it will be held confidentially and used or further disclosed only for the purpose for which it was disclosed; and (ii) the person is obligated to notify Outsource Vendor (who will notify Covered Entity) of any instances of which it is aware in which the confidentiality of the information has been breached.

2.3 Adequate Safeguards for Health Information. Outsource Vendor warrants that it shall implement and maintain appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any Health Information that it creates, receives, maintains, or transmits on behalf of Owner and to prevent the Use or Disclosure of Health Information in any manner other than as permitted by this Agreement.

2.4 Mitigation. Outsource Vendor agrees to mitigate, to the extent practicable, any harmful effect that is known to Outsource Vendor of a Use or Disclosure of Health Information by Outsource Vendor in violation of the requirements of this Agreement.

2.5 Reporting Non-Permitted Use or Disclosure. Outsource Vendor shall report to Owner each Use or Disclosure that is made by Outsource Vendor, its employees, representatives, agents or subcontractors that is not specifically permitted by this Agreement. The initial report shall be made by telephone call to Owner’s Privacy Officer within forty-eight (48) hours from the time the Outsource Vendor becomes aware of the non-permitted Use or Disclosure, followed by a written report to the Privacy Officer no later than five (5) days from the date the Outsource Vendor becomes aware of the non-permitted Use or Disclosure. Outsource Vendor shall report to Owner any security

incident of which it becomes aware, except that *attempted* unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations need only be reported to Owner after the April 20, 2005.

2.6 Availability of Internal Practices, Books and Records to Government Agencies.

Outsource Vendor agrees to make its internal practices, books and records relating to the Use and Disclosure of Health Information available to the Owner, or at the request of Owner, to the Secretary of the U.S. Department of Health and Human Services (“Secretary”), in a time and manner designated by the Owner or the Secretary, for purposes of determining Owner’s compliance with the Privacy Regulations.

2.7 Access to and Amendment of Disclosures of Health Information. Business

Associate shall, to the extent Owner determines that any Health Information constitutes a “designated record set” under the Privacy Regulations, (a) make the Health Information specified by Owner available to the individual(s) identified by Owner as being entitled to access and copy that Health Information, and (b) make any amendments to Health Information that are requested by Owner. Outsource Vendor shall provide such access and make such amendments within the time and in the manner specified by Owner.

2.8 Accounting of Disclosures. Upon Owner’s request, Outsource Vendor shall provide to Owner an accounting of each Disclosure of Health Information made by Outsource Vendor or its employees, agents, representatives or subcontractors as required by the Privacy Regulations. Any accounting provided by Outsource Vendor under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Health Information; (c) a brief description of the Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that requires an accounting under this Section 2.8, Outsource Vendor shall track the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure.

2.9 Restrictions: Requests for Confidential Communications. Outsource Vendor will comply with any agreements for confidential communications of which it is aware and to which Owner agrees pursuant to 45 C.F.R. §164.522 (b) by communicating with individuals using agreed upon alternative means or alternative locations.

2.10 Disposition of Health Information Upon Termination or Expiration. Upon termination or expiration of this Agreement and the Services Agreement, Outsource Vendor shall either return or destroy, in Owner’s sole discretion and in accordance with any instructions by Owner, all Health Information in the possession or control of Business Associate and its agents and subcontractors. However, if Owner determines that neither return nor destruction of Health Information is feasible, Outsource Vendor may retain Health Information provided that Outsource Vendor (a) continues to comply with the provisions of this Agreement for as long as it retains Health Information, and (b) further limits Uses and Disclosures of Health Information to those purposes that make the return or destruction of Health Information infeasible.

2.11 Term and Termination. The term of this Agreement shall be the same as the term of the Services Agreement. A material breach by Outsource Vendor of any provision of this Agreement, as determined by Owner, shall constitute a material breach of the Agreement providing grounds for immediate termination of this Agreement and the Services Agreement. Upon Owner's knowledge of a material breach by Outsource Vendor, Owner may provide an opportunity for Outsource Vendor to cure the breach or end the violation and may terminate this Agreement if Outsource Vendor does not cure the breach or end the violation within the time specified by Owner, or immediately terminate this Agreement if Outsource Vendor has breached a material term of this Agreement and cure is not possible. Notwithstanding the above, any breach related to the sale, transfer, or use or disclosure of PHI for commercial advantage, personal gain, or malicious harm shall be considered noncurable. Outsource Vendor's obligations under Article II shall survive the termination or expiration of this Agreement.

2.12 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

2.13 Use of Subcontractors and Agents. Outsource Vendor shall require each of its agents and subcontractors that receive Health Information from Outsource Vendor to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.

2.14 Indemnification. Each party agrees to indemnify, defend and hold harmless each other and each other's respective employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "indemnified party," against all actual and direct losses suffered by the indemnified party and all liability to third parties arising from or in connection with any breach of this Agreement or of any warranty hereunder or from any negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulations, by the indemnifying party or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, the indemnifying party shall reimburse any indemnified party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any indemnified party by reason of any suit, claim, action, proceeding or demand by any third party which results from the indemnifying party's breach hereunder. The parties' obligation to indemnify any indemnified party shall survive the expiration or termination of this Agreement for any reason.

2.15 Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Regulations and other applicable laws relating to the security or confidentiality of Health Information. The parties understand and agree that Owner must receive satisfactory written assurance from Outsource Vendor that Outsource Vendor will adequately safeguard all Health Information that it receives or creates pursuant to this Agreement.

Upon Owner's request, Outsource Vendor agrees to promptly to enter into negotiations with Owner concerning the terms of any amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Regulations or other applicable laws. Owner may terminate this Agreement and Services Agreement upon thirty (30) days written notice in the event (i) Outsource Vendor does not promptly enter into negotiations to amend this Agreement when requested by Owner pursuant to this Section or (ii) Outsource Vendor does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of Health Information that Owner, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and HIPAA Regulations.

2.16 Relationship to Services Agreement Provisions. In the event that a provision of this Agreement is contrary to a provision of the Services Agreement, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of the Services Agreement.

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

**OWNER:**

**OUTSOURCE VENDOR:**

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

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

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

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

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

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

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

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