

Data Access Permission

Said parties give permission to MOGO, Inc. as an entity, including all employees to test, recreate, resolve or evaluate their MOGO database. MOGO promises to keep all information safe and according to HIPAA standards, the State of Illinois regulations along with any local laws pertaining in the county of DuPage. All information is kept confidential and according to the Business Associate Agreement.

In most cases, no additional charges will occur but if any charges are additional this will be noted to the client ahead of time before occurrence. This agreement shall be in effective date of signature for a period of one year. Automatic continual renewal will occur for a period of one year, unless in writing if received from client with a 30-day notice.

In all cases and at all times, you agree to be bound by MOGO End-User license agreement, below are excerpts taken from the MOGO End-User license agreement.

GENERAL

- (a) If any provision of this agreement is found to be invalid by any court of competent jurisdiction, the balance of this agreement shall remain in full force and effect. A facsimile of the original document shall have the same force and effect as the original document.
- (b) This agreement shall be governed by the laws of the State of Illinois. Both the LICENSEE and MOGO consent to jurisdiction of the state and federal courts sitting in DuPage County, Illinois, in connection with any suit or action brought regarding the SOFTWARE or LICENSE.
- (c) The LICENSE shall not create any agency, partnership, or any other form of legal association.
- (d) The LICENSE is the complete and exclusive statement of agreement between the LICENSEE and MOGO. It supersedes all prior communications between the parties relating to the subject matter of this agreement, whether written or oral. This agreement also supersedes the terms and conditions of any purchase order submitted by the LICENSEE regarding the SOFTWARE. No terms or conditions, other than those contained in this Agreement, and no other understanding or agreement which in any way modifies these terms and conditions, shall be binding upon MOGO unless made by a written agreement, executed by the president of MOGO, Inc. and the LICENSEE.

NO LIABILITY FOR CONSEQUENTIAL DAMAGES

To the maximum extent permitted by applicable law, in no event shall MOGO or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use this MOGO product, even if MOGO has been advised of the possibility of such damages. In no case shall MOGO's liability exceed the fees paid by the LICENSEE for the SOFTWARE. Because some states/jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages the above exclusion or limitation may not apply to you. THE FOREGOING LIMITATION OF LIABILITY REPRESENTS THE ALLOCATION OF RISK OF FAILURE BETWEEN THE PARTIES AS REFLECTED IN THE PRICING HEREUNDER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN PARTIES.

LIMITED WARRENTY

USER ACKNOWLEDGES THAT THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS AND WITHOUT WARRANTY. THIS DISCLAIMER IS IN LIEU OF ALL WARRANTIES WHETHER EXPRESS OR IMPLIED, ARISING BY STATUE, OPERATION OF LAW OR OTHERWISE, INCLUDING IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.

CUSTOMER REMEDIES

MOGO and its suppliers' entire liability and your exclusive remedy shall be, at MOGO's option, either repair or replacement of the SOFTWARE. Any repair or replacement of SOFTWARE is provided on an "as is" basis and without warranty. SOFTWARE purchased other than directly from MOGO shall be directed through the Reseller or Independent Representative from which it was purchased. Outside the United States, neither these remedies nor any product support services offered by MOGO are available without proof of purchase from an authorized non-U.S. source. If for any reason Licensee's rights hereunder terminate, Licensee shall have the right to recover its database if Licensee is MOGO Cloud user license. After written request to MOGO by MOGO Cloud User Licensee to recover its database, MOGO shall, within a commercially reasonable period of time, return (delivered to requested email or postal address on file) to MOGO Cloud User Licensee its data in a format chosen by MOGO. Provide, however, that such period shall not include any period during which the delay is attributable to Microsoft downtime. MOGO may charge a fee for its service. In addition, any fees acquired as a result of any dispute between parties in which MOGO is requested assistance for evidence, subpoena, or any other legal matters resulting from litigation of disputing between parties, MOGO may be entitled to reasonable attorney fees.

I hereby release and agree to indemnify MOGO, Inc. from all liability and damages in relation to the data, storage and transmittal of the client data files that I submit.

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (this “Agreement”) made as of the undersigned date (the “Effective Date”) between the undersigned party (“Covered Entity”) and **MOGO, Inc.** (“Business Associate”).

Recitals

- A. Covered entity is a health care provider engaged in a dental practice.
- B. Business Associate is a Software Vendor, and Covered Entity wishes to engage and retain Business Associate to perform services for Covered Entity under an engagement agreement.
- C. The nature of the prospective relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”), both including all pertinent regulations issued by the Department of Health and Human Services (“HHS”).

Now, therefore, for good and valuable consideration the parties agree as follows:

Agreement

1. **Definitions.** Terms used but not otherwise defined in the Agreement shall have the meanings given in HIPAA, the HITECH Act, and the accompanying regulation
 - 1.1. “Breach” has the meaning given in 45 CFR § 164.402.
 - 1.2. “Designated Record Set” has the meaning given in 45 CFR § 164.501.
 - 1.3. “HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - 1.4. “Individual” means the person who is the subject of the PHI.
 - 1.5. “PHI” means individually identifiable health information that is transmitted or maintained in any form or medium. PHI includes “Electronic Protected Health Information” as defined in 45 CFR § 164.103, which shall be limited to the information created or received by Business Associate for or on behalf of Covered Entity.
 - 1.6. “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E, as they may be amended from time to time.
 - 1.7. “Required by Law” has the same meaning given in 45 CFR § 164.103.
 - 1.8. “Secretary” means the Secretary of the Department of Health and Human Services or his or her designee.
 - 1.9. “Security Standards” means the Standards for the Security of Electronic Protected Health Information at 45 CFR Parts 160, 162, and 164, subparts A and C, as they may be amended from time to time.
 - 1.10. “Unsecured PHI” means PHI that is not secured through the use of a technology or methodology specified by the Secretary in regulations or official guidance, as otherwise defined in 45 CFR § 164.402.
 - 1.11. Any prospective amendments to the laws and regulations referenced in this Section prospectively amend this Agreement to incorporate such amendments.
2. **Obligations and Activities of Business Associate.** Business Associate agrees to comply with applicable federal and state confidentiality and data security laws, including the provisions of HIPAA, the Privacy Rule, the HITECH Act, and the accompanying regulations applicable to business associates, including:

- 2.1. Business Associate agrees not to use or disclose PHI other than as permitted or required by the Agreement or as Required by Law.
- 2.2. Business Associate agrees to employ reasonable and appropriate administrative, physical, and technical safeguards meeting the required Security Standards for business associates as Required by Law, and to comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent disclosure or use of PHI other than as allowed by this Agreement.
- 2.3. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI that was held by Business Associate when such use or disclosure is in violation of this Agreement.
- 2.4. Business Associate agrees to report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR § 164.410, and any security incident of which it becomes aware.
- 2.5. Business Associate shall written notice to Covered Entity of (1) any use or disclosure of PHI that is in violation of this Agreement or law, (2) any security incident affecting Covered Entity's PHI of which it becomes aware, or (3) any breach of Unsecured PHI, within 15 business days of becoming aware of such use, disclosure, or security incident or discovery of a breach in accordance with 45 CFR § 164.404(a)(2). In the event of a breach of Unsecured PHI, Business Associate shall provide Covered Entity a written report, without unreasonable delay, regarding the breach, which shall include, to the extent available (a) the identification of each Individual whose Unsecured PHI has been or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the breach, if known; (b) a brief description of what happened, including the date of the breach and date of discovery, if known; (c) a description of the types of Unsecured PHI involved in the breach; and (d) a brief description of what Business Associate is doing to investigate the breach, mitigate harm from the breach, and protect against future breaches.
- 2.6. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI of Covered Entity or that creates, receives, maintains, or transmits PHI, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate.
- 2.7. Business Associate agrees, at the request of Covered Entity, to provide Covered Entity (or a designate of Covered Entity) access to PHI in a Designated Record Set promptly and in a commercially reasonable manner in order to meet the requirements under 45 CFR § 164.524.
- 2.8. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual promptly and in a commercially reasonable manner.
- 2.9. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or to the Secretary (including official representatives of the Secretary), promptly and in a commercially reasonable manner for the purposes of determining Covered Entity's compliance with the HIPAA Rules.
- 2.10. Business Associate shall, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.
- 2.11. Business Associate agrees to document such disclosures of PHI and 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 CFR § 164.528.
- 2.12. Business Associate agrees to provide Covered Entity, promptly and in a commercially reasonable manner, information collected in accordance with this Agreement, to permit Covered Entity to

- respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.582.
- 2.13. If Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 CFR Part 164, Business Associate will comply with the requirements of Subpart E that apply to a Covered Entity in the performance of such obligations.
- 2.14. Notwithstanding any other provision of this Agreement, Business Associate shall comply with HIPAA, the HIPAA Rules, the HITECH Act, and the Privacy Rule, their requirements, and the regulations thereunder, when and as each requirement and regulation become effective.
3. **Permitted Uses and Disclosures by Business Associate.** Except as otherwise limited or authorized in this Agreement, Business Associate may use or disclose PHI only as follows:
- 3.1. To perform functions, activities, or services for, or on behalf of Covered Entity as specified in an engagement agreement between Business Associate and Covered Entity, but only if such use or disclosure would not violate the Privacy Rule by Covered Entity; and
- 3.2. For the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurance from the person to whom the PHI is disclosed that the PHI will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.
4. **Obligations of Covered Entity.** If deemed applicable by Covered Entity, Covered Entity shall:
- 4.1. Provide Business Associate a copy of its notice of privacy practices produced by Covered Entity in accordance with 45 CFR § 164.520 as well as any changes to such notice;
- 4.2. Provide Business Associate with any changes in, or revocation of, authorizations by Individuals relating to the use or disclosure of PHI, if such changes affect Business Associate's permitted or required uses or disclosures; and
- 4.3. Notify Business Associate of any restriction to the use and/or disclosure of PHI to which Covered Entity has agreed pursuant to an Individual's request in accordance with 45 CFR § 164.522.
- 4.4. Covered Entity will not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.
5. **Remedies for Breach.** Business Associate recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of this Agreement. As such, in the event of breach by Business Associate of any of its covenants or assurances under this Agreement, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of such covenant or assurance. Furthermore, in the event of a breach of any covenant or assurance under this Agreement, Covered Entity shall be entitled to reimbursement and indemnification from Business Associate for the Covered Entity's damages, reasonable attorney fees and expenses, and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section shall be in addition to (and not supersede) any action for damages or any other remedy Covered Entity may have for breach of any part of this Agreement.
6. **Term and Termination.**
- 6.1. **Term.** The term of this Agreement shall begin on the Effective Date and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy such PHI, protections are extended to such PHI, in accordance with the termination provisions in this section.
- 6.2. **Termination for Cause.** Upon either party's knowledge of a breach by the other party, the non-breaching party may either:

- 6.2.1. Provide written notice specifying the alleged breach and an opportunity for the breaching party to cure the breach or end the violation within 30 days of breaching party's receipt of written notice of the breach and may terminate this Agreement and any engagement agreement between Business Associate and Covered Entity if such breach is not timely cured; or
 - 6.2.2. Immediately terminate this Agreement and any engagement agreement between Business Associate and Covered Entity if breaching party has breached a material term of this Agreement and cure is not possible; but
 - 6.2.3. If neither termination nor cure is feasible as reasonably determined by the parties, report the violation to the Secretary, with such report being limited to specific information giving rise to the breach.
- 6.3. **Effect of Termination.** Upon termination of this Agreement for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, maintained by Business Associate in any form. Business Associate will not retain any PHI or copies of PHI.
7. **Miscellaneous**
 - 7.1. **Indemnification of Covered Entity.** To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments, or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions of business associate in connection with the performance of Business Associate's duties under this Agreement.
 - 7.2. **Indemnification of Business Associate.** Covered Entity agrees to indemnify and hold harmless Business Associate from and against all claims, demands, liabilities, judgments, or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief), for any damage or loss incurred by Business Associate arising out of, resulting from, or attributable to any action or inaction of Business Associate taken or not taken by Business Associate in reliance on or compliance with any written instructions, authorizations, approvals, or other information provided to Business Associate by the Covered Entity. Business Associate is solely responsible for its compliance with HIPAA, the HIPAA Rules, the HITECH Act, and the Privacy Rule, and this Agreement is not a written instruction, authorization, or approval of conduct by Business Associate.
 - 7.3. **Survival.** The obligations of Business Associate under this Agreement survive the termination of this Agreement and any engagement agreement between Business Associate and Covered Entity.
 - 7.4. **Notices.** Any notices required under this Agreement may be hand-delivered or shall be deemed received three (3) business days after mailing by certified mail, return receipt requested, to the following addresses:

If to Business Associate:

414 Plaza Dr., Suite 200

Westmont, IL 60559
 - 7.5. **Amendments.** This Agreement may not be changed or modified in any manner except by a written agreement referring to this Agreement signed by both parties. The parties agree to take

such action as is necessary to amend this Agreement from time to time to comply with the requirements of HIPAA, the HIPAA Rules, the HITECH Act, and the Privacy Rule.

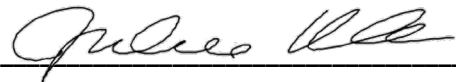
- 7.6. **Applicable Law.** This Agreement and the rights and the obligations of the parties hereunder shall be governed by and construed under the laws of the State of Illinois, without regard to applicable conflict of laws principles.
- 7.7. **Successors and Assigns.** This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns. However, neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary, however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any of its wholly owned subsidiaries, affiliates under common ownership, or successor companies without requirement of notice or consent. Assignments made in violation of this provision are null and void.
- 7.8. **No Third-Party Beneficiaries.** Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this Agreement nor imposing any obligations on either party hereto to persons not a party to this Agreement.
- 7.9. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all previous or contemporaneous written or oral understandings, agreements, negotiations, commitments, and any other writing and communication by or between the parties with respect to the subject matter hereof. In the event of a conflict between the parties, the terms of this Agreement control and both agreements should be interpreted in a way that permits Covered Entity to comply with HIPAA, the HIPAA Rules, the HITECH Act, and the Privacy Rule.
- 7.10. **Regulatory References.** A citation in this Agreement to HIPAA, the HIPAA Rules, the HITECH Act, the Code of Federal Regulations or the HITECH Act means the cited section may be amended from time to time.
- 7.11. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with HIPAA, the HIPAA Rules, the HITECH Act, and the Privacy Rule. The provisions of this Agreement shall prevail over the provisions of any other agreement that exists between the parties that may conflict with, or appear inconsistent with, any provision of this agreement, HIPAA, the HIPAA Rules, the HITECH Act, or the Privacy Rule.

IN WITNESS WHEREOF, the parties have signed this Agreement to be effective as of the Effective Date.

Covered Entity:

Business Associate:

Digitally Signed



Julie Wannemuehler, Director of Operations