

# MOODPRINTS LLC BUSINESS ASSOCIATE AGREEMENT

*Version 1.0*

**Last Updated:** July 22, 2025

This Business Associate Agreement (“**BAA**”) is entered into by and between MoodPrints LLC, an Oregon benefit company (“**Business Associate**”), and the party whose electronic signature is recorded on the MoodPrints Signature Page (the “**Covered Entity**”), each a “**Party**” and, together, the “**Parties**”, in accordance with the meaning of “Covered Entity” set forth in 45 C.F.R. § 164.501.

## BACKGROUND

### WHEREAS,

- I. Covered Entity is a “covered entity” or a “business associate” of a covered entity, as those terms are defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended by the HITECH Act and its implementing regulations (collectively, “**HIPAA**”), and, as such, is required to comply with HIPAA’s provisions regarding the confidentiality and privacy of **Protected Health Information** (“**PHI**”).
- II. The Parties have entered, or will enter, into one or more agreements – most recently the **Platform Services Agreement** (the “**Agreement**”) – under which Business Associate provides the MoodPrints mobile/web platform for mood tracking, secure messaging, and analytics (collectively, the “**Services**”) to Covered Entity.
- III. In providing the Services, Business Associate will have access to PHI created by clients or uploaded by Covered Entity.
- IV. By providing the Services, Business Associate will become a “business associate” of Covered Entity as that term is defined under HIPAA.
- V. Both Parties are committed to complying with all federal and state laws governing the confidentiality and privacy of health information, including, but not limited to, the HIPAA Privacy, Security, and Breach Notification Rules.
- VI. Both Parties intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to this BAA, HIPAA, and other applicable laws.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, and the continued provision of PHI by Covered Entity to Business Associate under the Agreement in reliance on this BAA, the Parties agree as follows:

## **1. DEFINITIONS**

**1.1 Primary Terms.** For purposes of this BAA, the Parties give the following meaning to each capitalized term below. Any capitalized term not otherwise defined herein has the meaning given to that term in the HIPAA Privacy Rule or other pertinent law.

1. **“Breach”** – The acquisition, access, use, or disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the security or privacy of the PHI, as defined in 45 C.F.R. § 164.402.
2. **“Breach Notification Rule”** – 45 C.F.R. Part 164, Subpart D.
3. **“Data Aggregation”** – Combining PHI received by Business Associate with PHI received in its capacity as a business associate of other covered entities to permit data analyses related to their Health Care Operations.
4. **“Designated Record Set”** – As defined in 45 C.F.R. § 164.501.
5. **“De-Identify”** – To alter PHI such that it meets the de-identification requirements of 45 C.F.R. § 164.514(a)–(b).
6. **“Electronic PHI”** – PHI maintained in or transmitted by electronic media, per 45 C.F.R. § 160.103.
7. **“Health Care Operations”** – As defined in 45 C.F.R. § 164.501.
8. **“HHS”** – The U.S. Department of Health and Human Services.
9. **“HITECH Act”** – The Health Information Technology for Economic and Clinical Health Act, Pub. L. 111-005.
10. **“Individual”** – As defined in 45 C.F.R. §§ 164.501 & 160.103, including personal representatives under 45 C.F.R. § 164.502(g).
11. **“Privacy Rule”** – 45 C.F.R. Part 160 & Part 164, Subparts A & E.
12. **“Protected Health Information” (“PHI”)** – As defined in 45 C.F.R. §§ 164.501 & 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
13. **“Security Incident”** – The successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
14. **“Security Rule”** – 45 C.F.R. Part 160 & Part 164, Subparts A & C.
15. **“Unsecured PHI”** – PHI not rendered unusable, unreadable, or indecipherable to unauthorized individuals via a technology or methodology approved by the HHS Secretary pursuant to the HITECH Act.
16. **“Effective Date”** – The date on which the last Party electronically executes the Signature Page of the MoodPrints Unified Agreement.

## **1.2 Supplemental Terms.**

1. **“Psychotherapy Notes”** – Notes as defined in 45 C.F.R. § 164.501; the MoodPrints platform is not intended to store such notes.
2. **“Emergency Indicator”** – Client-generated data suggesting imminent self-harm or harm to others; Business Associate does not monitor such indicators in real time.
3. **“Business Subcontractor”** – Any third-party service provider, listed in Exhibit A, engaged by Business Associate to create, receive, maintain, or transmit PHI.

## 2. PERMITTED USES AND DISCLOSURES OF PHI

**A. Provision of Services.** Business Associate may use and disclose PHI as reasonably necessary to perform the Services, including operating, maintaining, supporting, backing up, and improving the MoodPrints platform, and to create de-identified data or Data Aggregations for analytics or product improvement.

**B. Management and Administration; Legal Duties.** Business Associate may use PHI for its proper management, administration, or to carry out its legal responsibilities, provided that any disclosure: (i) is required by law, or (ii) is made to a third party that gives written assurances of confidentiality and promptly reports any breach.

**C. Minimum Necessary.** Business Associate will limit all uses, disclosures, and requests for PHI to the minimum necessary to accomplish the intended purpose, or will use a limited data set, consistent with 42 U.S.C. § 17935(b).

**D. Access by Covered Entity.** Upon Covered Entity’s request, Business Associate will make available any PHI in its possession, including PHI held by Business Subcontractors.

**E. Reporting Violations of Law.** Business Associate may use PHI to report violations of law to appropriate authorities, consistent with 45 C.F.R. § 164.502(j)(1).

**F. Prohibitions.** Business Associate shall not: (1) use PHI for marketing or sale without a HIPAA-compliant authorization; (2) request or store Psychotherapy Notes; or (3) represent the platform as a real-time crisis-monitoring service.

## 3. SAFEGUARDS AGAINST MISUSE OF PHI

**A. HIPAA Security Standard.** Business Associate will implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI, as required by 45 C.F.R. § 164.306 and as detailed in PSA § 4.2 (including NIST 800-53 moderate controls, TLS 1.3 encryption in transit, and AES-256 encryption at rest).

**B. Workforce Controls.** Business Associate will: (i) train its workforce on HIPAA and this BAA; (ii) enforce a three-tier, minimum-necessary access model with audit logging; and (iii) apply sanctions against personnel who violate these safeguards.

**C. Sanction Policy.** Sanctions will be imposed in proportion to the violation's severity, up to and including termination, and will be documented for six (6) years.

**D. Business Subcontractors.** Business Associate will require each Business Subcontractor that handles PHI to implement safeguards no less protective than those set forth in this § 3.

#### **4. REPORTING OF NON-PERMITTED USES, DISCLOSURES, AND SECURITY INCIDENTS**

**A. Five-Business-Day Deadline.** Business Associate shall notify Covered Entity in writing and no later than five (5) business days after discovering (i) any use or disclosure of PHI not permitted by this BAA, or (ii) any Security Incident involving Covered Entity's Electronic PHI.

**B. Courtesy Early Alert.** Business Associate will ordinarily deliver an encrypted, preliminary-notice email within twenty-four (24) hours of discovery. This voluntary practice does not shorten the formal five-day obligation in § 4 A.

**C. Notice Contents.** Each notice under § 4 A shall include, to the extent known at the time:

1. A concise description of what happened, including relevant dates;
2. The categories and (if reasonably ascertainable) the approximate volume of PHI involved;
3. Actions Individuals should take to protect themselves, if any; and
4. Measures Business Associate has taken or will take to mitigate harm and prevent recurrence.

#### **5. REPORTING BREACHES OF UNSECURED PHI**

**A. Thirty-Day Breach Notice.** If Business Associate determines that an event constitutes a Breach of Unsecured PHI (as defined in § 1), it shall notify Covered Entity without unreasonable delay and in no event later than thirty (30) calendar days after the Breach is discovered, consistent with 45 C.F.R. § 164.410 and PSA § 4.3.

**B. Written Breach Report.** The written report shall, to the extent known or reasonably discoverable, contain:

1. A brief description of the Breach, including the date of the Breach and the date of discovery;
2. The types of Unsecured PHI involved;
3. Any steps Individuals should take to protect themselves;
4. A description of the investigation, mitigation, and corrective actions Business Associate has undertaken or will undertake; and
5. Contact information (toll-free phone, e-mail, or postal address) where affected Individuals may obtain additional details.

**C. Cost Reimbursement.** Business Associate shall reimburse Covered Entity for reasonable, documented costs Covered Entity actually incurs to meet its obligations under the HIPAA Breach-Notification Rule to the extent those costs result directly from Business Associate's Breach.

## **6. MITIGATION OF HARMFUL EFFECTS**

Business Associate shall take reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or any Business Subcontractor in violation of this BAA. Mitigation measures may include, where appropriate, prompt retrieval or destruction of mis-sent data, credential resets, user re-training, or technical-control changes (e.g., key rotation, access-policy updates).

## **7. AGREEMENTS WITH AGENTS AND BUSINESS SUBCONTRACTORS**

**A. Written Flow-Down.** Before permitting any **Business Subcontractor** to create, receive, maintain, or transmit PHI on its behalf, Business Associate shall execute a written agreement that:

1. Imposes restrictions and conditions no less protective than those that apply to Business Associate under this BAA; and
2. Requires the Business Subcontractor to implement reasonable and appropriate safeguards to protect Electronic PHI consistent with 45 C.F.R. § 164.314(a)(2)(i).

**B. Current Subcontractors.** As of the Effective Date, Business Associate uses the "Approved Business Subcontractors" list provided in **Exhibit A**.

**C. Advance Notice of Additions.** Business Associate will give Covered Entity at least thirty (30) days' prior written notice before any new Business Subcontractor begins handling PHI, except where an emergency subcontract is required for continuity of critical Services (in which case notice will be given as soon as practicable).

**D. Public Posting.** Within thirty (30) calendar days after executing a new subcontract that involves PHI, Business Associate will post the Business Subcontractor's name on its primary compliance web-page.

**E. Liability for Sub-BAs.** Business Associate remains responsible for acts, errors, and omissions of its Business Subcontractors that would breach this BAA if committed by Business Associate itself.

## **8. PHI Return and Destruction**

**A. Termination Obligations.** Within thirty (30) days after (a) termination or expiration of this BAA, or (b) Covered Entity's written request, Business Associate shall, at Covered Entity's written election:

1. Return to Covered Entity all PHI still maintained in any form; or

2. Securely destroy such PHI (including copies) and certify destruction in writing.

**B. Infeasibility.** If Business Associate determines that return or destruction of specific PHI is infeasible, it shall: (i) notify Covered Entity in writing, (ii) continue to protect that PHI in accordance with this BAA, and (iii) limit further uses or disclosures to those purposes that make return or destruction infeasible.

**C. De-identified Data.** Nothing in this § 8 precludes Business Associate from retaining data de-identified in compliance with 45 C.F.R. § 164.514(b).

## 9. AUDIT REPORT

**A. Audit Rights and Independent Assessment Option.** Upon Covered Entity's written request – no more than once every twelve (12) months – Business Associate shall provide one of the following current, independent attestations, provided it does not unreasonably interfere with BA's operations:

1. A SOC 2 Type II report; or
2. Another mutually agreed, standards-based third-party HIPAA security audit report

**B. Confidentiality of Report.** Covered Entity shall treat any report furnished under § 9 A as Business Associate's Confidential Information and shall not re-disclose it except to the extent required by law or regulation.

**C. Regulatory Access Unaffected.** Nothing in this section limits the right of the Secretary of HHS to examine Business Associate's books and records under 45 C.F.R. § 160.310.

## 10. ACCESS TO PHI BY INDIVIDUALS

**A. Support for Designated Record Set Access.** Within thirty (30) days after Covered Entity's request, Business Associate shall provide Covered Entity with copies of PHI that Business Associate maintains in a Designated Record Set, in the time and manner reasonably requested by Covered Entity, so that Covered Entity may respond to an Individual's right of access under 45 C.F.R. § 164.524.

**B. Forwarding Direct Requests.** If an Individual (or personal representative) makes a request for access directly to Business Associate, Business Associate shall, within ten (10) business days, forward the request to Covered Entity. Covered Entity is solely responsible for evaluating and responding to the request.

**C. Format.** Unless otherwise agreed, PHI will be provided electronically in a machine-readable format (PDF, CSV, or JSON) through an encrypted medium.

## 11. AMENDMENT OF PHI

**A. Amendment at Covered Entity's Direction.** Within fifteen (15) business days after receiving Covered Entity's written instructions, Business Associate shall amend PHI (or a record about an Individual) contained in any Designated Record Set that Business Associate maintains, in accordance with 45 C.F.R. § 164.526 and the procedures specified by Covered Entity.

**B. Forwarding Direct Requests.** If an Individual (or personal representative) requests an amendment directly from Business Associate, Business Associate shall, within ten (10) business days, forward the request to Covered Entity. Covered Entity is solely responsible for deciding whether to grant or deny the amendment and for communicating that decision to the Individual.

**C. Format and Confirmation.** Amendments will be made electronically where feasible, and Business Associate will confirm completion in writing once the amendment is executed.

## **12. ACCOUNTING OF DISCLOSURES**

**A. Documentation Obligation.** Business Associate shall document each disclosure of PHI it makes on behalf of Covered Entity in order to provide an accounting under 45 C.F.R. § 164.528. At a minimum the record shall include:

1. The date of the disclosure;
2. The name (and, if known, address) of the recipient;
3. A brief description of the PHI disclosed; and
4. A brief statement of the purpose of the disclosure (or a copy of the recipient's request).

**B. Furnishing the Accounting.** Within ten (10) business days after Covered Entity's written request, Business Associate shall provide Covered Entity with the information collected under § 12 A for the period specified by Covered Entity (up to the six-year HIPAA maximum).

**C. Direct Requests from Individuals.** If an Individual submits an accounting request directly to Business Associate, Business Associate shall forward the request to Covered Entity within ten (10) business days; Covered Entity will handle the response unless it elects in writing for Business Associate to do so.

## **13. AVAILABILITY OF BOOKS AND RECORDS**

**A. Regulatory Inspection.** Business Associate shall make its internal practices, books, agreements, records, policies, and procedures relating to the use and disclosure of PHI available to the Secretary of HHS (or the Secretary's designee) for purposes of determining Covered Entity's – or Business Associate's – compliance with HIPAA and this BAA, as required by 45 C.F.R. § 160.310.

**B. Notification to Covered Entity.** Unless prohibited by law or law-enforcement directive, Business Associate will promptly notify Covered Entity upon receipt of a request from HHS under § 13 A and will provide Covered Entity with copies of any materials furnished.

## 14. RESPONSIBILITIES OF COVERED ENTITY

**A. Notice of Privacy Practices Limitations.** Covered Entity shall inform Business Associate of any limitation(s) in its Notice of Privacy Practices, issued in accordance with 45 C.F.R. § 164.520, to the extent such limitation(s) may affect Business Associate's permitted or required use or disclosure of PHI.

**B. Changes in or Revocation of Authorization.** Covered Entity shall promptly notify Business Associate of any change in, or revocation of, permission by an Individual to use or disclose PHI, to the extent such change or revocation may affect Business Associate's use or disclosure of PHI.

**C. Restrictions on Use or Disclosure.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent the restriction may affect Business Associate's activities.

**D. No Impermissible Requests.** Except for Data Aggregation or Business-Associate-management activities expressly permitted in § 2, Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would be impermissible under HIPAA if done by Covered Entity.

## 15. DATA OWNERSHIP

**A. No Ownership Rights Conveyed.** Business Associate acknowledges that its stewardship of PHI does not confer any ownership interest in the PHI. All legal rights and title to PHI remain with Covered Entity (or, as applicable, with Individuals).

**B. MoodPrints Data.** Nothing in this § 15 restricts Business Associate's rights in de-identified information or Data Aggregations created in compliance with § 2 A and 45 C.F.R. § 164.514; such de-identified data are not PHI and may be retained and used by Business Associate.

## 16. TERM AND TERMINATION

**A. Term.** This BAA becomes effective on the Effective Date and continues until all PHI is returned or destroyed in accordance with § 8 (PHI Return and Destruction).

### **B. Termination for Cause.**

1. **By Covered Entity.** Covered Entity may terminate this BAA and the Agreement immediately if it determines Business Associate has materially breached this BAA and failed to cure the breach within thirty (30) days after written notice.
2. **By Business Associate.** Business Associate may terminate under the same 30-day cure standard if Covered Entity materially breaches this BAA.



3. **Regulatory Referral.** If a breach is not cured and termination is infeasible, the non-breaching Party may report the violation to the Secretary of HHS.

#### **C. Effect of Termination.**

1. **Return or Destruction.** Upon termination, Business Associate shall comply with § 8 A (PHI Return and Destruction).
2. **Infeasibility.** If return or destruction is infeasible, Business Associate shall extend all protections of this BAA to the retained PHI and limit further uses and disclosures to those purposes that make return or destruction infeasible (§ 8 B/C).
3. **Survival.** The obligations in § 3 – 13 and § 15 survive termination as to any PHI that is not returned or destroyed.

### **17. EFFECT OF BAA**

**A.** This BAA is a part of and subject to the terms of the Agreement, except that to the extent any terms of this BAA conflict with any term of the Agreement, the terms of this BAA will govern.

**B.** Except as expressly stated in this BAA or as provided by law, this BAA will not create any rights in favor of any third party.

### **18. REGULATORY REFERENCES**

A reference in this BAA to a section of HIPAA – including the Privacy, Security, and Breach-Notification Rules – or to the HITECH Act means the section as in effect or as amended at the time the reference is operative, and includes any successor statutory or regulatory text.

### **19. NOTICES**

All notices, requests and demands or other communications to be given under this BAA to a Party will be made via either first class mail, registered or certified or express courier, or encrypted electronic mail to the Party's address given below:

- If to Covered Entity, to:

Attn: [PUT HERE]

T: [PUT HERE]

E: [PUT HERE]

- If to Business Associate, to:

Attn: [PUT HERE]

T: [PUT HERE]

E: [PUT HERE]

## 20. AMENDMENT AND WAIVER

This BAA may not be modified, nor will any provision be waived or amended, except in writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

## 21. HITECH ACT COMPLIANCE

The Parties acknowledge that the HITECH Act includes significant changes to the Privacy Rule and the Security Rule. The privacy subtitle of the HITECH Act sets forth provisions that significantly change the requirements for business associates and the agreements between business associates and covered entities under HIPAA and these changes may be further clarified in forthcoming regulations and guidance. Each Party agrees to comply with the applicable provisions of the HITECH Act and any HHS regulations issued with respect to the HITECH Act, and the Parties will deem this BAA automatically amended to the minimum extent necessary to comply with any mandatory change in the law. The Parties also agree to negotiate in good faith to modify this BAA as reasonably necessary to comply with the HITECH Act and its regulations as they become effective but, in the event that the Parties are unable to reach agreement on such a modification, either Party will have the right to terminate this BAA upon thirty (30) days' prior written notice to the other Party.

## 21. EXECUTION BY REFERENCE

This BAA is incorporated into, and deemed executed concurrently with, the MoodPrints Unified Agreement. The electronic mark affixed on the “**Signature Page**” – the in-app page on which a signatory applies a single electronic signature to all listed documents and which the Platform records with secure hash, timestamp, user ID and IP address – constitutes each Party's signature to this BAA for all purposes under the federal E-SIGN Act and applicable state e-signature laws. Electronic copies and counterparts are deemed originals.

## 22. EXHIBITS (Incorporated By Reference)

- [Exhibit A. Approved Business Subcontractors](#)
- **Exhibit B. Platform Services Agreement**