



AIR INTEL CUSTOMER BUSINESS ASSOCIATE AGREEMENT

WHEREAS, Customer, either as a Covered Entity or a Business Associate, may provide Protected Health Information (PHI) to AIR INTEL, to act as a Business Associate in the course of AIR INTEL providing the Services to Customer. Customer is required under the HIPAA Rules to ensure that AIR INTEL will protect, use, and disclose PHI only as necessary to provide the Services, consistent with applicable law. The Parties therefore agree to this BAA as follows:

1. DEFINITIONS

For the purposes of this BAA, capitalized terms shall have the meaning as defined below and in the HIPAA Rules.

- "Agreement" means the AIR INTEL Customer Agreement between AIR INTEL and Customer under which AIR INTEL provides the applicable Services.
- "Business Associate" shall have the same meaning as the term at 45 C.F.R. § 160.103.
- "Covered Entity" means either Customer, or Customer's customer for whom Customer is a Business Associate.
- "PHI" (Protected Health Information) means information (including EPHI) as defined under the Privacy Rule (45 CFR § 160.103), limited to the information created, received, maintained, or transmitted to AIR INTEL for or on behalf of Customer.
- "Breach" shall have the meaning given at 45 CFR § 164.402, including any unauthorized acquisition, access, use, or disclosure of PHI (including Unsecured PHI).
- "Services" means, pursuant to an Agreement, (i) AIR INTEL Cloud and/or (ii) Support Services and/or Consulting Services requiring AIR INTEL personnel to access or otherwise use PHI.
- "AIR INTEL Cloud" means a subscription-based, hosted solution provided and managed by AIR INTEL or an AIR INTEL Affiliate under the Agreement.

2. USE AND DISCLOSURE OBLIGATIONS OF AIR INTEL

2.1 Permitted Uses and Disclosures. AIR INTEL shall comply with the Privacy Rule and shall not use or disclose PHI other than as permitted or required under this BAA or as Required by Law. AIR INTEL may:

- Use PHI for the proper management and administration of AIR INTEL or to carry out its legal responsibilities.
- Disclose PHI for the proper management and administration of AIR INTEL, provided disclosures are Required By Law or AIR INTEL obtains reasonable assurances that the information will remain confidential.
- Use PHI to provide Data Aggregation services.
- Use PHI to report violations of law to appropriate Federal and State authorities.

2.2 Safeguards and Security. AIR INTEL shall implement and maintain administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of EPHI and to prevent use or disclosure of PHI other than as provided by this BAA. This includes:

- Complying with the Security Rule in performing its obligations.
- Mitigating, to the extent practicable, any known harmful effect of a use or disclosure of PHI by AIR INTEL in violation of this BAA.
- Using best efforts to secure PHI to make it unusable or indecipherable to unauthorized individuals through a technology or methodology specified by the Secretary.

2.3 Breach Notification. AIR INTEL shall, as soon as reasonably practicable and in no event later than ten (10) business days after discovery, report to Customer any use or disclosure of PHI not provided for by this BAA of which it becomes aware, including any Breach. The initial notice shall include, to the extent possible, the identification of each Individual whose PHI is reasonably believed to have been affected.

2.4 Subcontractors. AIR INTEL shall enter into legally binding agreements (flow-down BAAs) with each relevant Subcontractor who receives PHI, containing fundamentally the same restrictions and conditions as those contained in this BAA.

3. OBLIGATIONS OF CUSTOMER (Covered Entity)

3.1 Disclosures and Requests. Customer agrees that it will not disclose PHI to AIR INTEL if such disclosure would violate the HIPAA Rules. Customer shall provide AIR INTEL with any relevant limitation(s) in its notice of privacy practices and any relevant restriction to the use or disclosure of PHI to which Customer has agreed.

3.2 PHI Security and Controls (Critical Obligation for Cloud Service):

- **BYOK Requirement:** Customer is only authorized by AIR INTEL to input PHI into AIR INTEL Cloud if Customer activates Bring-Your-Own-Key ("BYOK") functionality and continues to utilize BYOK while its PHI is within AIR INTEL Cloud. AIR INTEL's

obligations under this BAA shall not apply in relation to AIR INTEL Cloud if Customer fails to utilize BYOK.

- **Customer Responsibility:** Customer is responsible for executing any requests to access, retrieve, correct, and delete PHI in AIR INTEL Cloud. Customer remains solely responsible for the deletion, correction, and accuracy of its PHI and will be solely responsible for retrieving such PHI to respond to any HIPAA-related request (e.g., from an Individual).

3.3 Termination of Content. By the Termination Date, the Customer shall delete all AIR INTEL Cloud Customer Content PHI, unless prohibited by law. To the extent that any portion of PHI remains in the possession of AIR INTEL following the Termination Date, AIR INTEL's obligations under this BAA shall survive termination until that portion of the PHI is eventually deleted.

4. MISCELLANEOUS

4.1 Liability. Subject to Section 4.2.2, the total combined liability of either Party towards the other Party shall be limited to that set forth in the Agreement.

4.2 Scope of this BAA. This BAA shall only apply if, for so long as, and to the extent that, AIR INTEL holds PHI on Customer's behalf.

4.3 Governing Law. This BAA shall be construed and enforced pursuant to the laws of the jurisdiction set out in the Agreement.

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AIR INTEL CUSTOMER BUSINESS ASSOCIATE AGREEMENT (Cont.)

4.4 Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for the parties to comply with HIPAA, HITECH, the HIPAA Rules, and any amendments thereto.

4.5 Termination for Cause. Customer may terminate this BAA if there has been a material breach by AIR INTEL of its obligations hereunder. Upon a material breach by AIR INTEL, Customer may:

- Provide a fifteen (15) day opportunity for AIR INTEL to cure the material breach. If the breach is not cured, Customer may terminate the Agreement and/or this BAA.
- If cure is not possible (in Customer's reasonable determination), Customer may immediately terminate the Agreement and this BAA.

The Parties hereby agree from the Effective Date to be bound by the terms and conditions of this BAA.

Accepted and agreed to by
AIR INTEL

Accepted and
agreed to by
Customer

By the AIR INTEL Affiliate
which is party to the
Agreement

Customer legal name that is the party to
the Agreement (include entity type, e.g.,
Inc., LLC)

AIR INTEL entity

Name of signatory

Name of signatory

Position

Position

Signature

Signature

Date

Date