



Viva Dental, LLC
1025 N. Brand Blvd.
Glendale, CA 91202
(888) 340-1840

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement is entered into by and between Viva Dental, LLC ("Viva") located at 1025 N. Brand Blvd., Suite 301, Glendale, California 91202 and ("Client"), located at , , , US with an Effective Date of _____.

RECITALS

- A. Client is a Client within the meaning of the Health Insurance Portability and Accountability Act ("HIPAA").
- B. Viva provides sales and marketing services which Client desires to purchase.
- C. It is important to Client and Viva that Individual PHI is protected.

In consideration of the above recitals, the mutual promises contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Definitions:

- a. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- b. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- c. Protected Health Information. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created or received by Viva from or on behalf of Client.
- d. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR §164.103.
- e. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

2. Viva shall provide marketing services to Client whereby Viva will market a health related product, service or benefit that involves treatment of the Individual and relates to care coordination for the Individual that is provided by Client.

3. Protection of Protected Health Information

- f. Viva agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- g. Viva agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- h. Viva agrees to report to Client any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- i. Viva agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Viva on behalf of Client, agrees to the same restrictions and conditions that apply through this Agreement to Viva with respect to such information.
- j. Viva agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Viva on behalf of, Client available to the Secretary, as designated by the Secretary, for purposes of the Secretary determining Client's compliance with the Privacy Rule.

k. Viva agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Client to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

l. Viva agrees to provide to Client or an Individual information collected in accordance with Section 3(f) of this Agreement, to permit Client to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

4. Permitted Uses and Disclosures by Viva

m. Except as otherwise limited in this Agreement, Viva may use or disclose Protected Health Information on behalf of, or to provide services to, Client for the following purposes, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Client or the minimum necessary policies and procedures of the Client: **marketing of promotional offers via Viva Card and Viva Mailings on behalf of Client.**

n. Non-Disclosure. Viva will not disclose any Protected Health Information, including without limitation patient names and addresses, to any third party, for any purpose.

5. Specific Use and Disclosure Provisions

o. Except as otherwise limited in this Agreement, Viva may use Protected Health Information for the proper management and administration of the Viva or to carry out the legal responsibilities of the Viva.

p. Except as otherwise limited in this Agreement, Viva may disclose Protected Health Information for the proper management and administration of the Viva, provided that disclosures are Required By Law, or Viva obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and 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 the Viva of any instances of which it is aware in which the confidentiality of the information has been breached.

q. Except as otherwise limited in this Agreement, Viva may use Protected Health Information to provide Data Aggregation services to Client as permitted by 45 CFR §164.504(e)(2)(i)(B).

r. Viva may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

6. Obligations of Client.

s. Client shall notify Viva of any limitation(s) in its notice of privacy practices of Client in accordance with 45 CFR §164.520, to the extent that such limitation may affect Viva's use or disclosure of Protected Health Information.

t. Client shall notify Viva of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Viva's use or disclosure of Protected Health Information.

u. Client shall notify Viva of any restriction to the use or disclosure of Protected Health Information that Client has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Viva's use or disclosure of Protected Health Information.

v. Client shall not request Viva to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Client.

7. Term and Termination

w. Term. The Term of this Agreement shall be effective as of the Effective Date of this Agreement and shall terminate when all of the Protected Health Information provided by Client to Viva, or created or received by Viva on behalf of Client, is destroyed or returned to Client, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

x. Termination for Cause. Upon Client's knowledge of a material breach by Viva, Client shall either:

- i. Provide an opportunity for Viva to cure the breach or end the violation and terminate this Agreement if Viva does not cure the breach or end the violation within the time specified by Client, of not less than 15 days;
- ii. Immediately terminate this Agreement if Viva has breached a material term of this Agreement and cure is not possible; or
- y. Effect of Termination.
- iii. Except as provided in paragraph (ii) of this section, upon termination of this Agreement, for any reason, Viva shall return or destroy all Protected Health Information received from Client, or created or received by Viva on behalf of Client. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Viva. Viva shall retain no copies of the Protected Health Information.
- iv. In the event that Viva determines that returning or destroying the Protected Health Information is infeasible, Viva shall provide to Client notification of the conditions that make return or destruction infeasible. Upon return or destruction of Protected Health Information is infeasible, Viva shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Viva maintains such Protected Health Information.

8. Miscellaneous

z. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

aa. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Client to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

bb. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Client to comply with the Privacy Rule.

Agreed to by Viva and Client as of the Effective Date.

Jeff Simms

Digitally Signed

President

Viva Dental, LLC

, authorized representative