



# DAW SYSTEMS TRADING PARTNER AGREEMENT (TPA)

This Trading Partner Agreement (TPA) is required to be completed by any provider transmitting or receiving HIPAA-compliant X12 Electronic Transactions via the ScriptSure software. This TPA may be signed and faxed or emailed; either delivery method shall have the full and same effect as the signed original. After this TPA has been executed or a corresponding sign section on the ScriptSure Monthly Agreement, you will then be able to submit electronic prescriptions and perform other Electronic Transactions via the ScriptSure software and SureScripts.

## SUMMARY OF DOCUMENT REVIEW AND/OR CHANGE

Date	Created/Modified By	Activity Performed
12/14/2011	Adam Forman	Created Policy
1/28/2012	Adam Forman	Included Service Outage policy
2/15/2012	Adam Forman	Final Review
1/20/2014	Adam Forman	Bi-Annual Review
7/2/2014	Adam Forman	Review

### ***EDI Partner Information: (customer to complete the information below):***

Business Name:	
Address:	
City, State, ZIP:	
Phone / Fax:	
E-Mail:	

Software Name: **ScriptSure** Vendor Contact Person: **Adam Forman**  
 Vendor Name: **D.A.W. Systems, Inc.** Vendor Contact Phone No.: **1-866-755-1500**

1. General. This TPA effective on \_\_\_\_\_, (“Effective Date”) supplements and is made a part of the Services Agreement (as defined below) by and between D.A.W. Systems, Inc. (“DAW”), located at 585 Troy-Schenectady Road, Latham, NY 12110 and the DAW Customer / Electronic Data Interchange (EDI) Partner (“EDI Partner”) identified above.
2. Definitions:
  - a. Business Associate. “Business Associate” shall mean DAW
  - b. Covered Entity. “Covered Entity” shall mean EDI Partner.
  - c. 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.
  - d. Protected Information. “Protected Information” shall have the same meaning as the term “protected health information” in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
  - e. Required to be disclosed. Required to be disclosed shall have the same meaning as the term “required by law” in 45 CFR 164.501.
  - f. Services Agreement. “Services Agreement” shall mean any present End User License Agreement (EULA) or other future agreements, either written or oral, between EDI Partner and DAW.
3. Purpose.

- a. This Agreement outlines the requirements for the transfer of electronic health care information between the EDI Partner named above and DAW.
  - b. The EDI Partner is in the business of submitting electronic transactions on behalf of itself / provider(s).
  - c. The exchange of information is for the purpose of allowing providers to conduct electronic transactions through the EDI Partner for health care services to patients. This Agreement provides for the exchange of information between these parties necessary for the processing of such transactions. These transactions must be in accordance with the American National Standards Institute (ANSI) accredited standards and in compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, CFR 45 Parts 160 and 162, Standards for Electronic Transactions, published in the Federal Register August 17, 2000.
  - d. The EDI Partner is prohibited from transferring electronic health care information received from DAW for any purpose not expressly permitted by related to paragraphs 3.a., 3.b. and 3.c.
4. System Availability.
- a. Service Uptime - DAW does not promise that the Services or the Servers that EDI Partner may communicate through at DAW will be uninterrupted or error-free, however, we strive for 99% uptime. This means that for up to 87 hours and 36 minutes per year, there may be service interruption for updates and upgrades. DAW Service Availability will be provided at 99% uptime measured on a monthly basis, excluding planned outages. Planned outages will not exceed 20 hours per month. Planned weekly outages will generally be during the hours of 9:00 p.m. Wednesday through 1:00 a.m. Thursday, EST. DAW may announce up to three weekend outages per year to install new software releases or for other operational purposes. Weekend outages will be during the hours of 9:00 a.m. Saturday through 12:00 a.m. Monday, EST. EDI Partner will be notified of changes to the schedule of planned outages or of weekend outages at least fourteen (14) days in advance of the change, by email, fax, on-screen notification or DAW website. DAW has no responsibility for the availability of EDI Partner's, EDI Partner's Customers or any Participants system and those systems may not have the same availability as the DAW Services. DAW will measure and report on this Service Level on a regular basis.
    - i. *Planned outages:* From time to time, DAW may need to perform updates and upgrades to existing systems and software. Any planned outages will take place during off-peak hours, unless not feasible.
    - ii. *Emergency outages:* If at any time there is a critical failure of service critical service outside the standard maintenance schedule prior to a planned outage. The EDI Partner will be notified immediately after DAW has become aware of such an occurrence.
  - b. Transaction Performance - 99% of transaction requests received by DAW from EDI Partner or EDI Partner's Customers will be delivered immediately or within 2-5 seconds as measured between the last byte of request received by DAW from EDI partner or EDI Partner's Customers and the first byte of response sent. DAW will measure and report on this Service Level on a regular basis. DAW is not responsible for slowness due to EDI Partner's internet provider service level.
  - c. Technical Support. Technical support will be available seven days a week by phone or email. An initial response to a problem report will be provided within 30 minutes or less. A help desk will be staffed with qualified personnel during the hours of 9:00 a.m. through 5:00 p.m. EST, Monday through Friday, excluding holidays. DAW has no responsibility to assist in resolving EDI Partner's Customer problems related to EDI Partner's System or EDI Partner's products and services provided to EDI Partner Customers. DAW will log and track all problem calls and will respond according to the severity levels as set forth below:

<b>Severity Level</b>	<b>Response</b>	<b>Description</b>	<b>Example</b>
Severity 1 (Critical)	Immediate and on-going commitment of resources with hourly updates.	Loss of service or serious impairment to service that cannot be circumvented. Business operations cannot reasonably continue.	Server not responding.
Severity 2 (High Priority)	Focused resolution of the issue with updates every 4 hours, or by mutual agreement.	An impairment that is circumventable. Impact on production is measurable; work-around exists but not viable for long-term.	Partial system functionality.
Severity 3 (Standard)	Reasonable focus with weekly updates, or by request from the Customer.	A non-service affecting issue.	An informational ticket or new service request.

5. Provisions of the Agreement.

- a. The EDI Partner agrees to follow the DAW guidelines as provided to providers for the submission of electronic transactions. These transactions guidelines are built into vendor software.
- b. All transactions must be formatted in accordance with the HIPAA Implementation Guidelines available on the HHS website or other appropriate sites. DAW will provide companion guides for the transactions, which specify certain situational data elements required. The specific data sets exchanged are available from DAW and include, but are not limited to Health Care eligibility, medication history and sending and receiving prescription transactions.
- c. The vendor software has been successfully tested for each of the transactions it will implement. Successful testing means the ability to successfully pass HIPAA compliance checking and to process electronic healthcare information transmitted by EDI Partner to DAW.
- d. The EDI Partner warrants and represents that it has a legally binding contract between DAW and itself and all providers for whom it is submitting data or that the EDI Partner is itself a provider authorized to submit electronic transactions and receive health care information for patients. The EDI Partner shall indemnify and hold DAW harmless from any claim, actions, or costs that result from a breach or threatened breach of this warranty and representation.
- e. DAW and the EDI Partner will protect the health care information contained in the exchange of information by means of both physical and electronic security measures.
  - i. Each entity will control access to its physical locations so that only authorized personnel have access to the information.
  - ii. Each entity will utilize passwords in accordance with established procedures so that only authorized personnel have knowledge of those passwords. Upon departure of personnel from employment, the EDI Partner will promptly or immediately notify DAW so that a new password can be established, if needed. DAW will establish a similar system for departure of its own employees Trading Partner Agreement Electronic Transactions
  - iii. Each party to this agreement will report to the other any violation of security and/or the release of protected information that is not in accordance with this Agreement.
- f. The following technical rules will be used for the transfer of electronic health information:
  - i. Recommended delimiters for inbound X12 transaction and delimiters set for the outbound X12 transaction sets will be set by DAW and provided upon request by EDI Partner
- g. The transfer of electronic health information between the Parties shall occur as follows.
  - i. The EDI Partner will connect to the DAW system and electronic transactions will flow through the DAW servers.
  - ii. DAW will, on a recurring, daily, periodic basis, process the transactions as appropriate.
  - iii. In response to EDI Partner delivered message, DAW may deliver responses to the EDI Partner.

iv. The EDI Partner is responsible to check its vendor software mailbox for files.

6. Modification and Termination.

- a. Except as otherwise provided herein, this Agreement may be modified or amended only by agreement of the parties, in writing, and executed with the same formality as this Agreement. The failure of either party to insist upon strict performance of any provision of this Agreement shall not constitute a waiver of any subsequent default of the same or similar nature.
- b. The Parties agree to modify this Agreement to comply with changes to federal/state regulations.
- c. Modifications to transaction set formats used to exchange Electronic Health Information between the EDI Partner and DAW will only necessitate an update to Appendix A, and not the entire Agreement.
- d. Either party may terminate this Agreement without cause by providing the other party with 30 days written notice. The Agreement may be terminated immediately upon written notice if:
  - i. A party fails to adhere to the proscribed and agreed upon formats
  - ii. If it is determined that either Party is not using the exchanged information for the purposes provided for under this Agreement
  - iii. Upon termination of ScriptSure Monthly Agreement in whole or part.
- e. Binding Effect and Entire Agreement
  - i. This agreement contains the entire understanding of the parties, and there are no representations, warranties, covenants, or undertakings other than those expressed and set forth herein. This agreement may be executed by signing a signature, date, name and title line on the ScriptSure Monthly Agreement. Except as otherwise stated herein, all the provisions of this Agreement shall be binding upon the respective successors of the parties.
  - ii. Termination or expiration of this Agreement for any reason shall not release either Party from any liabilities or obligations set forth in this Agreement.
- f. Governing Law - this agreement shall be construed in accordance with and governed by the laws of the state of New York regardless of the forum where it may come up for construction.

7. Confidentiality

- a. Each party agrees that during the term of this agreement and for a period of 3 years thereafter, such party shall use the same means it uses to protect its own confidential proprietary information, but in any event not less than reasonable means, to prevent the disclosure and to protect the confidentiality of both when:
    - i. Written information received from the other party marked or identified as confidential
    - ii. Oral or visual information identified as confidential at the time of disclosure, which is summarized in writing and provided to the other party in such written form promptly after such oral or visual disclosure (“Confidential Information”).
  - b. The foregoing shall not prevent either Party from disclosing Confidential Information that belongs to such party or is:
    - i. Already known by the recipient Party without an obligation of confidentiality other than under this Letter Agreement
    - ii. Publicly known or becomes publicly known through no unauthorized act of the recipient Party
    - iii. Rightfully received from a third Party
    - iv. Independently developed by the recipient party
    - v. Disclosed without restrictions to a third party by the Party owning Confidential Information
    - vi. Approved by the other Party for disclosure
    - vii. Required to be disclosed pursuant to a requirement of a governmental agency or law so long as the disclosing Party provides the other Party with notice of such requirement prior to any such disclosure. Each Party represents that it has the right to disclose information that it has made and will make available to the other hereunder.
8. Liability. DAW liability to the EDI Partner for any damages arising out of or related to this Agreement, regardless of the form of action that imposes liability, whether in contract, equity, negligence, intended conduct, tort or otherwise, will be limited to and will not exceed, in the aggregate for all claims, actions, and



causes of action of every kind and nature, the sum of one thousand dollars (\$1,000). In no event will the measure of damages payable by DAW include, nor will DAW be liable for any amounts for loss of income, profit, or savings or indirect, incidental, consequential, exemplary, punitive or special damages of any party, including third parties, even if such party has been advised of the possibility of such damages in advance, and all such damages are expressly disclaimed. No claim, demand, or cause of action that arose out of an event or events that occurred more than 2 years prior to the filing suit alleging a claim or cause of action may be asserted by either party against the other. The provisions of this paragraph 6 will survive the expiration or termination of this Agreement for any reason.

- 9. Term. The term of this Agreement shall commence on the Effective Date and continue in effect until terminated by either party upon 30 days prior written notice to the other party.

**IN WITNESS WHEREOF**, the parties have executed this TPA as of the date above.

COVERED ENTITY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

**BUSINESS ASSOCIATE:** **D.A.W. SYSTEMS, INC.**

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

CUSTOMER ACCOUNT #: \_\_\_\_\_ *Internal Use Only*

**THIS COMPLETED SIGNED TPA CAN BE EMAILED TO [SALES@DAWSYSTEMS.COM](mailto:SALES@DAWSYSTEMS.COM)  
OR FAXED TO 518-533-3793**