

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this "Agreement") is entered into effective as of _____, 2013, by and among RIVERSIDE HEARING AID SERVICE (herein "Covered Entity") and _____ (herein "Business Associate") in order to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing protected health information ("PHI") and business associates under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), 42 U.S.C. §1320d, et. seq., and regulations promulgated thereunder, as amended from time to time (statute and regulations hereafter collectively referred to as "HIPAA") [Covered Entity and Business Associate may be referred to herein individually as a "Party" or collectively as the "Parties"].

STATEMENT OF AGREEMENT

1. HIPAA Compliance and Agents. Business Associate hereby agrees to fully comply with the "Business Associate" requirements under HIPAA, throughout the term of this Agreement. Further, Business Associate agrees that to the extent it has access to PHI, Business Associate will fully comply with the requirements of HIPAA and this Agreement with respect to such PHI; and, further, that every agent, employee, subsidiary and affiliate of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will be required to fully comply with HIPAA, and will be

bound by written agreement to the same restrictions and terms and conditions as set forth in this Agreement.

If Covered Entity is required by HIPAA to maintain a Notice of Privacy Policies, Business Associate acknowledges that it has received a copy of such Notice, read and understands its terms, conditions and hereby agrees, to the extent applicable, to comply and act in accordance with such Notice as it may be amended from time to time by Covered Entity.

2. Use and Disclosure; Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Agreement or as required by law. Business Associate will use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement. Business Associate acknowledges that this Agreement does not in any manner grant Business Associate any greater rights than Covered Entity enjoys, nor shall it be deemed to permit or authorize Business Associate to use or further disclose PHI in a manner that would otherwise violate the requirements of HIPAA if done by Covered Entity.

3. Required or Permitted Uses. Business Associate agrees that it is permitted to use or disclose PHI only:

(a) upon obtaining the authorization of the patient to whom such information pertains in accordance with 45 C.F.R. §164.502(a)(1)(iv) and §164.508;

(b) upon obtaining the consent of a patient to whom such information pertains, if the use or disclosure is for purposes of treatment, payment or health care operations, in accordance with 45 C.F.R. §164.502(a)(1)(ii) and §164.506; or

(i) except as otherwise limited in this Agreement, to perform Services for or on behalf of Covered Entity, provided that such use or disclosure would not violate the Privacy Standards if done by Covered Entity;

(ii) to perform its obligations under this Agreement in order to properly manage and administer its business;

(iii) to carry out its legal responsibilities if the disclosure is required by law; or

(iv) for data aggregation functions, as defined by HIPAA. If pursuant to subsections (a), (b) or (c) above, Business Associate discloses PHI to others, the Business Associate must obtain reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

4. Safeguards; Location. Business Associate agrees to

develop, document, use and keep current appropriate procedural, physical and electronic safeguards sufficient to comply with the requirements of HIPAA, to prevent any use or disclosure of PHI other than as permitted or required by this Agreement. Business Associate agrees to notify Covered Entity of the location of any PHI disclosed by Covered Entity or created by Business Associate on behalf of Covered Entity and held by or under the control of Business Associate or those to whom Business Associate has disclosed such PHI.

5. Security Standards. As of the Effective Date of this Agreement, Business Associate will:

(a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of the Covered Entity;

(b) Ensure that any agent, including a subcontractor, to whom it provides such information agrees in writing to implement reasonable and appropriate safeguards to protect that information; and

(c) Report to Covered Entity within fifteen (15) business days any Security Incident of which it becomes aware. The term "Security Incident" as used in this Agreement and as construed with respect to the term as defined in the Security

Standards is subject to guidance or clarification from the Centers for Medicare and Medicaid Services.

6. Minimum Necessary. Business Associate must limit any use, disclosure or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure or request in accordance with the requirements of HIPAA. Business Associate represents that all uses, disclosures and requests it will make shall be the minimum necessary amount of PHI to accomplish the permitted or required use or disclosure as set forth by the Agreement and in accordance with the requirements of HIPAA. Covered Entity may pursuant to HIPAA, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate. Business Associate acknowledges that if Business Associate is also a covered entity, as defined by HIPAA, Business Associate is required, independent of Business Associate's obligations under this Agreement, to comply with the HIPAA minimum necessary requirements when making any request for PHI from Covered Entity.

7. Records; Covered Entity Access. Business Associate shall maintain such records of PHI received from, or created or received on behalf of, Covered Entity and shall document subsequent uses and disclosures of such information, other than as for treatment, payment or healthcare operations pursuant to a

valid authorization, or otherwise excepted from the accounting requirement under HIPAA, made by business Associate as may be deemed necessary and appropriate in the sole discretion of Covered Entity. Business Associate shall provide the Covered Entity with reasonable access to examine and copy such records and documents of Business Associate during normal business hours.

8. DHHS Access to Books, Records and Other Information.

Business Associate shall make available to DHHS its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's or Business Associates's compliance with HIPAA. Business associate agrees to fully cooperate in good faith with and to assist Covered Entity in complying with the requirements of HIPAA and any investigation of Covered Entity regarding compliance with HIPAA conducted by the U.S. Department of Health and Human Services ("DHHS"), Office of Civil Rights, or any other administrative or judicial body with jurisdiction.

9. Designated Record Set; Individual Access. Business Associate shall maintain a designated record set, as defined by HIPAA, for each individual patient for which it has PHI. In accordance with an individual's right to access to their own PHI under HIPAA, and the individual's right to copy or append such

records, Business Associate shall make available all PHI in that designated record set to Covered Entity, the individual to whom that information pertains, or such individual's representative, all PHI in that designated record set, upon a request by Covered Entity, such individual or such individual's representative.

10. Accounting. Business Associate shall promptly make available to Covered Entity any PHI or any other information required to prepare, or assist in preparing, an accounting of disclosures in accordance with HIPAA. Business Associate agrees to document disclosures of PHI related to disclosures as would be required for Covered Entity to respond to a request for an accounting of disclosures. Business Associate must have this information and documentation available for the six (6) years preceding any request by such Covered Entity.

11. Report of Improper Use or Disclosure. Business Associate shall immediately report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Agreement. This report shall identify the nature of the violating use or disclosure, the PHI used or disclosed, who made the violating use or received the disclosure, what corrective action Business Associate has or will take to prevent further violations, including any mitigation, and provide any other information Covered Entity requests. Business Associate will also

immediately report to Covered Entity any breaches of unsecured Protected Health Information identified by Business Associate, including the names of the individuals whose Protected Health Information has been breached, as well as any other information about the nature and date of the breach, the types of information involved, what individuals may do to protect themselves, and the steps the Business Associate is taking to mitigate the harm and protect against future breaches, as provided by 42 U.S.C. 17932(b) and 45 C.F.R. 164.410.

Business Associate will mitigate, to the extent practicable, any harmful effect that is known to Business Associate of use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

12. Amendment of and Access to PHI; Notification. Business Associate shall make available PHI for amendment and shall incorporate any amendments to PHI in accordance with HIPAA. Business Associate shall make reasonable efforts to notify persons, organizations or other entities, including, but not limited to, other business associates, known by Business Associate to have received the erroneous or incomplete PHI and who may have relied, or could foreseeably rely, on such PHI to the detriment of the individual patient. Business Associate must update this information as requested by Covered Entity.

13. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual or of any changes in or revocation of an authorization or other permission by an individual, to the extent that such restriction, change or revocation may affect Business Associate's use or disclosure of PHI.

14. Termination Rights. This Agreement will terminate when all of the Protected Health Information provided by Covered Entity, is destroyed or returned to Covered Entity. Business Associate acknowledges and agrees that Covered Entity shall have the right to immediately terminate this Agreement in the event Business Associate breaches or fails to comply with HIPAA requirements concerning PHI and the requirements set forth in this Agreement. In addition, Covered Entity may immediately terminate this Agreement, if Covered Entity determines, in its reasonable discretion, that Business Associate has failed to comply with a material term of the Agreement required by HIPAA or is substantially not in compliance with the requirements of HIPAA. In addition to its obligations under Sections 11 and 12 of this Agreement, Business Associate shall take any other reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

15. Breach of Violation; Knowledge. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a breach or violation of Business Associate's obligations under this Agreement, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach or end such violation, and, make Business Associate comply and if such steps are unsuccessful, shall either:

(a) terminate this Agreement, if feasible; or

(b) if cure and termination are not feasible, report the breach or violation to DHHS. If Business Associate as a covered entity, defined by HIPAA, violates the terms and conditions of this Agreement, or any other Agreement, in its capacity as a business associate of another covered entity, Business Associate will be in non-compliance with the standards, implementation specifications and requirements of HIPAA.

16. Electronic Standards and Code Sets Regulations. If Business Associate or any of its subcontractors or agents conducts in whole, or in part, electronic transactions on behalf of Covered Entity of the type covered by HIPAA, any regulations promulgated thereto, including Standards for Electronic Transactions and Electronic Code Sets, Standards for Security, or others, Business Associate will, and will require any of its subcontractors or agents to comply with each applicable requirement of such regulation.

17. Return of PHI. Business Associate agrees that upon termination of this Agreement, and if feasible, Business Associate shall, at its expense:

(a) return or destroy all PHI received from, or created or received by Business Associate or any of Business Associate's subcontractors or agents on behalf of, Covered Entity that Business Associate or its subcontractors or agents maintains in any form, or manner and retain no copies of such information; or

(b) if such return or destruction is not feasible, immediately notify Covered Entity of the reason return or destruction are not feasible, and extend the protection of this Agreement to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not infeasible.

18. Indemnification. Business Associate will indemnify and hold harmless Covered Entity and any Covered Entity affiliate, officer, director, employee or agent in accordance with and to the fullest extent permitted by applicable law, including from and against any claim, cause of action, liability, damage, cost or expense, including attorney's fees and court or proceedings costs, arising out of or in connection with any violation of this Agreement or the requirements of HIPAA by Business Associate or any of its subcontractors or agents or persons under Business

Associate's control.

19. Notices. All notices and other communications under this Agreement to any Party shall be in writing and shall be deemed given when delivered personally, telecopied (which is confirmed) to that Party at the telecopy number for that Party set forth at the end of this Agreement, mailed by certified mail (return receipt requested) to that Party at the address for that Party set forth at the end of this Agreement (or at such other address for such Party as such Party shall have specified in a notice to the other Parties), or delivered to Federal Express, UPS or any similar express delivery service for delivery to that Party at that address.

20. Non-Waiver. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right or seek that remedy with respect to that default or any prior, contemporaneous or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect or constitute a waiver of any Party's right to demand strict compliance with all provisions of this Agreement.

21. Gender and Numbers; Headings. Where permitted by the context, each pronoun used in this Agreement includes the same pronoun in other genders and numbers, and each noun used in this Agreement includes the same noun in other numbers. The headings of the various sections of this Agreement are not part of the context of this Agreement, are merely labels to assist in locating such sections, and shall be ignored in construing this Agreement.

22. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

23. Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter of this Agreement.

24. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the Parties and their respective heirs, personal representatives, successors and assigns. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be transferred or assigned by Business Associate without the prior written consent of Covered Entity.

25. Severability; Governing Law. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

26. Survival. All representations, covenants and agreements in or under this Agreement or any other documents executed in connection with the transactions contemplated by this Agreement, shall survive the execution, delivery and performance of this Agreement and such other document. The respective rights and obligations of Business Associate under Section 17 of this Agreement shall also survive termination or expiration of this Agreement.

27. Further Assurances. Each Party shall execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other Party to carry out the purpose and intent of this Agreement.

Acknowledged and agreed to by:

Business Associate:

Name: _____

Address: _____

Signature: _____

Date: _____

Covered Entity:

Name: Riverside Hearing Aid Service

Address: 1 Albany Avenue, Kingston, New York 12401

Signature: _____

Date: _____

JOHN J. GRECO, ESQ.
Attorney for Covered Entity,
Riverside Hearing Aid Service
Governor Clinton Building
1 Albany Avenue
Kingston, New York 12401
Tel. No.: (845) 331-6073