

## **Business Associate Agreement**

**THIS AGREEMENT** is made by and between YOUR COMPANY and existing under the laws of the State and having its principal offices located at YOUR ADDRESS (“Covered Entity”) and ORACLE HEARING GROUP (“Business Associate”) with its principal offices at Our Address. Covered Entity and Business Associate, collectively, may hereinafter be referred to as the “Parties,” as in the parties to this Agreement.

**WHEREAS**, This Agreement governs the terms and conditions under which Business Associate will access protected health information belonging to patients of Covered Entity that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 as amended by the Health Information Technology for Economic and Clinical Health Act Title XIII of the American Recovery and Reinvestment Act, 2009 (HITECH Act) and regulations promulgated there under, as such law and regulations may be amended from time to time (collectively, “HIPAA”) in performing services for, or on behalf of, Covered Entity.

**WHEREAS**, Covered Entity and Business Associate wish to comply in all respects with the requirements of HIPAA, including requirements applicable to the relationship between a Covered Entity and its Business Associates;

**NOW, THEREFORE**, the Parties agree:

### **1. Definitions.**

#### Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

#### Specific definitions:

- (a) Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean <Name of Business Associate>.
- (b) Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Ken Martin Audiology.
- (c) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

**2. Obligations and Activities of Business Associate.**

- (a) Business Associate may not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement or any Security incident resulting in an unauthorized access or acquisition of e-PHI, of which it becomes aware, involving Protected Health Information of the Covered Entity.
- (e) Business Associate must in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors, agents or affiliates of the Business Associate, that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information. Business Associate must obtain satisfactory assurances in the form of a written agreement or memorandum of understanding directly from subcontractors stipulating that the subcontractor agrees to comply with the terms and conditions of the Business Associate Agreement. Business Associate must ensure that any agent or subcontractor to whom the Business Associate provides PHI, not export PHI beyond the borders of the United States of America without express written agreement of the Covered Entity.

- (f) Business Associate agrees to provide access, at the written request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity in order to meet the requirements under 45 CFR 164.524.
- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the written request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.
- (h) Business Associate agrees to make available internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (k) Business Associate shall comply with the Federal Trade Commission's "Red Flag" Rules, if applicable, or develop and implement a written identity theft prevention program designed to identify, detect, mitigate and respond to suspicious activities that could indicate that identity theft has occurred in the Business Associate practice or business.
- (l) Business Associate understands and agrees that it will not access or use any Protected Health Information of any Individual except for those Individuals whose PHI has been disclosed to Business Associate, and it will further limit access to that Protected Health Information that is necessary to the activities undertaken by Business Associate on behalf of Covered Entity.
- (m) Business Associate will, pursuant to the HITECH Act and its implementing regulations, comply with all additional applicable requirements of the Privacy Rule, including those contained in 45 CFR 164.502(e) and 164.504(e)(1)(ii), at such time as the requirements are applicable to Business Associate. Business Associate will not directly or indirectly receive remuneration in exchange for any Protected Health Information, subject to the exceptions contained in the HITECH Act, without a valid authorization from the applicable Individual. Business Associate will not engage in any communication which might be deemed to be "Marketing" under the HITECH Act. In addition, Business Associate will, pursuant to the HITECH Act

and its implementing regulations, comply with all applicable requirements of the Security Rule, contained in 45 CFR 164.308, 164.310, 164.312 and 164.316, at such time as the requirements are applicable to Business Associate.

**3. Permitted Uses and Disclosures by Business Associate.**

- (a) Business Associate may use or disclose Protected Health Information if such use or disclosure is in compliance HIPAA and would not violate the Privacy Rule.
- (b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (c) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person/organization 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/organization, and the person/organization notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

**4. Information Breach Notification Requirements.**

- (a) Business Associate expressly recognizes that Covered Entity has certain reporting and disclosure obligations to the Secretary of the Department of Health and Human Services and the Individual in case of a Security Breach of unsecured Protected Health Information (as defined in 45 CFR 164.402).
- (b) Where Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured Protected Health Information, Business Associate without unreasonable delay and in no case later than thirty (30) days following the discovery of a Breach of such information, shall notify Covered Entity of such Breach. Such notice shall include the identification of each Individual whose unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the Breach.

**5. Terms and Termination.**

- (a) The Term of this Agreement shall be effective as of <Insert effective date>, and shall terminate on <Insert termination date or event> or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

- (b) Business associate authorizes termination of this Agreement by covered entity, if covered entity determines business associate has violated a material term of the Agreement.
- (c) Upon termination of this Agreement for any reason, business associate shall return to covered entity [or, if agreed to by covered entity, destroy] all protected health information received from covered entity, or created, maintained, or received by business associate on behalf of covered entity, that the business associate still maintains in any form. Business associate shall retain no copies of the protected health information.

**6. Miscellaneous.**

- (a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- (c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

**7. Governing Law; Conflict.**

- (a) This Agreement shall be enforced and construed in accordance with the laws of the State of Texas. Jurisdiction of any litigation with respect to this Agreement shall be in Texas, with venue in a court of competent jurisdiction located in Gregg County.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year submitted.

COVERED ENTITY

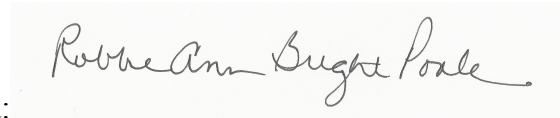
By: \_\_\_\_\_

Title: \_\_\_\_\_

BUSINESS ASSOCIATE

ORACLE HEARING GROUP  
BUSINESS ASSOCIATE NAME

Signed:

A handwritten signature in black ink, reading "Robbie Ann Bright-Poole", is written over a light gray rectangular background.

Print Name: ROBBIE BRIGHT-POOLE

Title: President