

BUSINESS ASSOCIATE AGREEMENT

Keiser Corporation

This Business Associate Agreement (“Agreement”) is effective as of _____ (“Effective Date”), by and between _____, LLC (“Covered Entity”), and Keiser Corporation, a California corporation, (“Business Associate”) (individually, a “Party”, and collectively, the “Parties”).

RECITALS

WHEREAS, the Covered Entity and Business Associate have entered into or may enter into future arrangements (collectively, “Underlying Service Agreements”) in which Business Associate provides services to, sells equipment to or performs functions on behalf of, Covered Entity which involve the Use or Disclosure of, or Business Associate creating, receiving, maintaining, or transmitting, Protected Health Information (“PHI”) on behalf of Covered Entity, consistent with the definition of “business associate” at 45 C.F.R. § 160.103; and

WHEREAS, the Parties desire to comply with federal and state laws, including but not limited to California laws, regarding the collection, Use, Disclosure, and safeguarding, including ensuring the confidentiality, integrity, and availability, of individually identifiable health information and personal information, in particular with the provisions of the federal Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act, and implementing regulations.

WHEREAS, the Covered Entity is required to enter into this Agreement with Business Associate pursuant to the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (Parts 160-164, Title 45, Code of Federal Regulations) (“HIPAA”) and the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Pub. L. No. 111-5 § 13402(h) and its implementing regulations (HIPAA and HITECH and their implementing regulations, including, but not limited to, the Security Rule and the Privacy Rule, are collectively referred to herein as “HIPAA”).

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Parties, intending to be legally bound, agree as follows:

AGREEMENT

Now, therefore, in consideration of the promises set forth herein and in the Underlying Service Agreements, the delivery and sufficiency of which is acknowledged, the Parties agree as follows:

1. Definitions.

a) Definitions: 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.

b) Specific Definitions:

i) 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 Keiser Corporation, Inc., a California corporation.

ii) 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 _____(name of covered entity here)_____.

iii) Individual. "Individual" shall have the same meaning as "individual" at 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

iv) Protected Health Information. Protected Health Information shall have the same meaning as "protected health information" at 45 C.F.R. § 160.103 that is created, received, maintained, or transmitted by Business Associate, or any Subcontractor, on behalf of Covered Entity, and shall also include "medical information" as defined at Cal. Civil Code § 56.05 and "personal information" as defined at Cal. Civil Code § 1798.80, and all metadata related to protected health information, medical information, and personal information. For the avoidance of doubt, personal information includes Covered Entity employee, other workforce member, or customer personal information as well as patient and member personal information. Collectively, this information is referred to as "PHI".

2. Obligations and Activities of Business Associate.

a) In consideration of the disclosure of PHI by the Disclosing Party, the Receiving Party hereby agrees: (i) to hold the PHI in strict confidence and to take all reasonable precautions to protect such information (including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials), (ii) not to disclose any such PHI or any information derived therefrom to any third person, (iii) not to make any use whatsoever at any time of such PHI except to evaluate internally its relationship with the Disclosing Party, and (iv) not to copy or reverse engineer any such PHI. The receiving Party shall require that its employees, agents and sub-contractors to whom PHI is disclosed or who have access to PHI sign a nondisclosure or similar agreement in content substantially similar to this Agreement.

b) Business Associate agrees to not use or disclose PHI other than as permitted or required by the Agreement or as required by law.

c) Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of protected health information other than as provided for by the Agreement.

d) Business Associate agrees to report to covered entity any use or disclosure PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware; Business Associate shall report such breach within 3 days of discovery.

e) Business Associate agrees to, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors 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.

f) Covered Entity acknowledges and agrees that Business Associate, will not make PHI available (a) to the extent and in the manner required by Section 164.524 of the Privacy rule, (b) for amendment or incorporate any amendments to Protected Health Information in accordance with the requirements of Section 164.526 of the Privacy Rule, or (c) for purposes of accounting of disclosures, as required by Section 164.528 of the Privacy Rule. Rather, Covered Entity will be solely responsible for compliance with each of the foregoing.

g) Business Associate agrees to maintain and make available the PHI required to provide an accounting of disclosures to the Covered Entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528.

h) Business Associate agrees that to the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate will comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s).

i) Business Associate agrees to make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

3. Permitted Uses and Disclosures by Business Associate.

a) Business Associate may make any uses and disclosures of PHI necessary to perform its services to Covered Entity and otherwise meet its obligations under this Agreement.

b) Business Associate may use or disclose PHI as required by law.

c) Business Associate agrees to make uses and disclosures and requests for PHI consistent with Covered Entity's minimum necessary policies and procedures, as supplied by the Covered Entity.

d) Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity.

4. Availability of Internal Policies.

a) Business Associate shall make any and all internal practices, books, and records related to this Agreement available for inspection and/or audit upon request Covered Entity. In addition, Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI available to the Department of Health and Human Services for review, upon the request of the Secretary of that Department.

5. Term and Termination.

a) Term. The Term of this Agreement shall be effective as of the date of the underlying sales and/or service agreement.

b) Termination for Cause. Either party may terminate services at any time.

c) Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, Business Associate shall return to Covered Entity or, if agreed to by Covered Entity, destroy all PHI 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 PHI.

d) Survival. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

6. Miscellaneous.

a) Regulatory References. A reference in this Agreement to a section in the HIPPA Rules means the section as in effect or as amended.

b) Amendment. This Agreement may be amended or modified only writing signed by the Parties.

c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPPA Rules.

d) Waiver. The failure of either party at any time to enforce any right or remedy available hereunder with respect to any breach or failure shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other party.

e) Severability. If any provision or part of this Agreement is found to be totally or partially invalid, illegal, or unenforceable, then the provision will be deemed to be modified or restricted to the extent and in the manner necessary to make it valid, legal, or enforceable, or it will be excised without affecting any other provision of this Agreement, with the Parties agreeing that the remaining

provisions are to be deemed to be in full force and effect as if they had been executed by both Parties subsequent to expunging the invalid provision.

f) Authority. Each individual executing this Agreement on behalf of a business entity represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said party; that this Agreement is binding on said party in accordance with its terms; and that this Agreement is not in violation of or inconsistent or contrary to provisions of any other agreement to which such entity is a party.

g) Section Headings. The paragraph headings in this Agreement are for convenience only. They form no part of this Agreement and shall not affect its interpretations.

h) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one original Agreement. Facsimile or electronic signatures shall be accepted and enforceable in lieu of original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

Covered Entity:

Business Associate:

Keiser Corporation, Inc.

By: _____

By: _____

Title:

Title:

Dated:

Dated: