

HEALTH CARE PROVIDER

PLATFORM SUBSCRIPTION AGREEMENT

This Health Care Provider Platform Subscription Agreement (“Agreement”) is between Medical Hearing Consultants, LLC, a Michigan limited liability company (“MHC”) and you (“Health Care Provider”). MHC and Health Care Provider shall be referred to herein each as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, MHC is organized for the principal purpose of providing a web-based platform to connect hearing aid professionals and their patients with Health Care Providers to evaluate whether a patient is a suitable candidate for hearing aids or whether the individual requires further in-person evaluation (“Platform”).

WHEREAS, Health Care Provider desires to subscribe to the Platform so that Health Care Provider can evaluate patients seeking hearing aids (as defined in Exhibit A, the “Telemedicine Services”).

WHEREAS, MHC desires to be so engaged by Health Care Provider pursuant to the terms and conditions in this Agreement.

NOW, THEREFORE, in consideration for the foregoing and the terms and conditions contained here, the Parties, intending to be legally bound, agree as follows.

1. **Services.** During the Term, Health Care Provider may utilize the Platform pursuant to the terms and conditions set forth in this Agreement and in accordance with MHC’s policies and procedures set forth in Exhibit A. Health Care Provider shall use the Platform consistent with the applicable standard of care and in material compliance with all applicable statutes, regulations, rules, orders, and directives of any and all applicable governmental and regulatory bodies having competent jurisdiction, and Health Care Provider’s use of the Platform shall aim to serve the best interest of his or her patients. THE PLATFORM DOES NOT INCLUDE THE PROVISION OF MEDICAL CARE BY MHC, AND MHC DOES NOT AND WILL NOT EMPLOY HEALTH CARE PROVIDERS TO PROVIDE MEDICAL CARE. RATHER, THE PLATFORM ENABLES HEALTH CARE PROVIDERS WHO HAVE INDEPENDENTLY SUBSCRIBED TO THE PLATFORM TO PROVIDE PATIENT CARE TO INDIVIDUALS UTILIZING MHC’S PLATFORM. MHC PROVIDES ACCESS TO THE PLATFORM; IT DOES NOT PROVIDE MEDICAL CARE OR RETAIN MEDICAL RECORDS.
2. **Health Care Provider Responsibilities.** All decisions and judgments relating to the practice of medicine shall be Health Care Provider’s sole responsibility. Nothing in this Agreement shall be interpreted to dictate, modify, or influence Health Care Provider’s

practice of medicine or his or her applicable discipline, or his/her delivery of direct patient care or independent judgment in the practice of medicine or his or her applicable discipline. Health Care Provider shall have complete control over the diagnosis and treatment of patients and coding and billing for such services, and Health Care Provider is completely responsible for creating and retaining all patient medical records. MHC shall neither exercise nor attempt to exercise any supervision or control over the individual treatment of Health Care Provider's patients. Health Care Provider must independently decide whether to utilize the Platform or any other telemedicine technology with respect to any patient.

3. **Access.** Subject to the terms and conditions of this Agreement, MHC grants to Health Care Provider a non-transferable, non-assignable, and non-exclusive license to access and use the Platform for Health Care Provider's internal business purposes only in accordance with the terms of this Agreement. All rights not specifically granted to Health Care Provider by this Agreement shall remain with MHC. Health Care Provider's right to use the Platform is personal, and Health Care Provider may not make the Platform or its credentials available to any third party, including other providers, employees, or agents.
4. **Health Care Provider's Responsibilities.** Health Care Provider is, and will remain, solely responsible for: (a) ensuring the Platform is used in accordance with applicable instructions, training materials and other online material that may be made available by MHC from time to time; (b) obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Platform, including, without limitation, hardware, internet, and the like (collectively, "Equipment"); and (c) maintaining the security of the Equipment, Health Care Provider's account, passwords and files, and for all uses of Health Care Provider account or the Equipment with or without Health Care Provider's knowledge or consent. Health Care Provider shall be solely and fully responsible for any damage to its computer system. Health Care Provider agrees that Health Care Provider is fully responsible for all activities occurring under Health Care Provider's user ID.
5. **Restrictions on Use.** Health Care Provider must use the Platform solely for its intended purposes in accordance with the Agreement. Health Care Provider may not rent, lease, lend, sell, redistribute, reproduce or sublicense the Platform or make it available to any third party. Health Care Provider must not copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Platform, or any part thereof.
6. **Compensation.** Health Care Provider shall compensate MHC in accordance with Exhibit B ("Fees"). MHC's Fees are based upon Health Care Provider's usage of the Platform. The Basic Usage fee and limits, as well as Additional Usage fees and limits, are available and published on MHC's website. MHC may increase or decrease its Fees and applicable usage limits by publishing the changes on MHC's website or by notifying Health Care Provider by mail or e-mail.

MHC requires Health Care Provider to enroll in autopayment. Each month, Health Care Provider authorizes MHC to automatically charge the credit card, debit card or bank account on file, as applicable, for the amount due for the upcoming month. In the event Health Care Provider does not pay amounts when due or MHC is unable to collect the automatic payment, MHC shall have the right to suspend or cease the provision of any Telehealth Services under this Agreement and/or access to the Platform, until such payment has been made. At the election of MHC, exercisable by written notice to Health Care Provider, any past due amounts shall bear interest at the rate of one and one-half percent (1.5%) per month (or, if lower, the maximum rate lawfully chargeable) from the date due through the date that such past due amounts and such accrued interest are paid in full. All payments under this Agreement are exclusive of all applicable taxes, all of which shall be paid by Health Care Provider (other than taxes on MHC's income).

7. **Covenants and Warranties of Health Care Provider.**

- a. Health Care Provider is and shall remain during the Term, a Health Care Provider duly licensed without restriction in the applicable jurisdiction where he or she sees any patients on the Platform, actively engaged in the practice of his or her applicable discipline, and possessing full power and authority to conduct the business in which he/she engages.
- b. Health Care Provider is not facing any currently pending or being investigated for any professional liability or professional disciplinary actions.
- c. Health Care Provider's license to practice in his or her applicable discipline in any jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or restricted in any way. Health Care Provider has never been reprimanded, sanctioned, or disciplined by any licensing board or state or local medical society or specialty board.
- d. Health Care Provider maintains eligibility for participating provider status in the Medicare and Medicaid programs. Health Care Provider is not excluded from participating in Federally or state funded health care programs.
- e. To the best of his/her knowledge, no hospital where Health Care Provider has privileges is taking or contemplates taking any action to limit, revoke, or otherwise adversely affect his/her privileges.
- f. Health Care Provider has never been convicted of a healthcare related offense, a felony, or of any act involving dishonesty or moral turpitude. For purposes of this Agreement, "dishonesty or moral turpitude" shall mean any act or omission that implicates Health Care Provider's honesty or integrity and in particular shall include any crime involving fraud, deceit, or theft.

- g. Health Care Provider shall immediately (but no later than within 48 hours) notify MHC, in writing, if at any time during the Term of this Agreement, there is any event that could adversely affect Health Care Provider's covenants and warranties above, or if Health Care Provider is under investigation by, or subject to adverse action from, any federal, state or local agency or otherwise subject to adverse action that may affect Health Care Provider's ability to perform the Telemedicine Services pursuant to this Agreement.
8. **Changes to Platform.** MHC may, in its sole discretion, make any changes to the Platform that it deems necessary or useful to (a) maintain or enhance (i) the quality or delivery of MHC's products or services to its customers, (ii) the competitive strength of, or market for, MHC's products or services, (iii) the Platform's cost efficiency or performance; or (b) to comply with applicable law. Any change to the products or services offered by MHC's third-party providers may materially and adversely effect, or entirely disable, Health Care Provider's use of or access to the Platform.
9. **Proprietary Rights.** As between MHC and Health Care Provider, MHC is the sole and exclusive owner of the Platform, including any and all copyright, patent, trademark, trade secret and other ownership and intellectual property rights, in and to the Platform and any related materials and documentation made available to Health Care Provider. No title or ownership of the Platform or any portion thereof is transferred to Health Care Provider hereunder. MHC reserves all rights not expressly granted hereunder. Health Care Provider agrees not to change or delete any copyright or proprietary notice related to materials related to the Platform. If Health Care Provider submits comments, suggestions, or other feedback regarding the Platform ("Feedback"), Health Care Provider hereby grants MHC a perpetual license to use and otherwise exploit such Feedback for any lawful purpose. Additionally, MHC may identify Health Care Provider as a customer, and use Health Care Provider's name or practice logo and trademark, in MHC's promotional materials.
10. **HIPAA.** MHC acknowledges and agrees that it is a "Business Associate" as such term is defined under the Health Insurance Portability and Accountability Act of 1996, and associated regulations as amended from time to time ("HIPAA"). Furthermore, each Party acknowledges and understands that the Platform requires the use and disclosure of protected health information ("PHI") as defined under HIPAA. The Parties agree to the Business Associate Agreement ("BAA") attached as Exhibit C. If a conflict exists between the terms and conditions of the Agreement and those of the BAA, the terms and conditions of the BAA will control with respect to the treatment of PHI.
11. **Term.**
- a. **Term.** This Agreement shall commence on the date this Agreement is signed or acknowledged (the "Effective Date") and shall continue in effect for a period of

one year (“Initial Term”). This Agreement shall automatically renew for successive renewal terms of one (1) year each.

- b. **Termination Without Cause.** Health Care Provider may terminate this Agreement without cause after the Initial Term by serving written notice of its intention at least ninety (90) days.
 - c. **Termination With Cause.** Health Care Provider shall have the right to terminate this Agreement with cause upon thirty (30) days prior written notice to MHC, which shall contain reasonably sufficient detail regarding the alleged breach, upon any breach hereof by MHC, provided MHC shall not have cured such breach within thirty (30) days of receipt of notice.
 - d. **MHC Termination With or Without Cause.** MHC may terminate or suspend this Agreement immediately upon written notice to Health Care Provider with or without cause. Upon termination of this Agreement, all rights granted to Health Care Provider will terminate and revert to MHC.
12. **Automatic Suspension.** This Agreement shall be immediately terminated, without further action by either Party, upon the occurrence of any of the following events, and Health Care Provider shall immediately cease use of the Platform:
- a. Health Care Provider’s license to practice in his or her applicable discipline in any state is forfeited or restricted in any way;
 - b. Health Care Provider pays a judgment or settlement in a professional negligence or malpractice claim arising from the performance of the Telemedicine Services hereunder, provided, however, that the carrier’s decision to settle malpractice litigation over Health Care Provider’s objection shall not be cause for termination;
 - c. Health Care Provider becomes ineligible for continued malpractice insurance coverage through standard admitted carriers or terminates his or her malpractice insurance coverage;
 - d. Health Care Provider is convicted of or pleads guilty to any felony or misdemeanor related to the delivery of health care services;
 - e. Health Care Provider is found guilty of or pleads no contest to any crime involving moral turpitude;
 - f. Health Care Provider, in MHC’s sole judgment, engages in negligent, reckless, or willful conduct that causes, or has the potential to cause, harm to a patient or to MHC’s reputation or business.

- g. Health Care Provider's patient approval rating on the Platform falls below sixty percent (60%) or, if evaluated on a scale of one to five (1-5), is given a rating of less than a three (3); or
 - h. Health Care Provider's disability. For purposes of this Section 12(h), "Health Care Provider's disability" means the inability of Health Care Provider to provide Telemedicine Services by reason of Health Care Provider's illness or other physical or mental impairment or condition continuing for a period of sixty (60) calendar days or longer.
- 13. **Health Care Provider Obligations Upon Termination.** If this Agreement is terminated for any reason:
 - a. Health Care Provider shall promptly return to MHC all property and Confidential Information received from MHC; and
 - b. Health Care Provider shall immediately cease using any passwords or other information provided by MHC to access to the Platform.
- 14. **Representations and Warranties.** Each Party represents and warrants to the other Party that (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power and authority to enter into, and to perform its obligations and grant the rights and licenses under this Agreement; (c) the execution of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (e) the consummation of the transactions contemplated by this Agreement will not result in a breach of the terms, provisions, or conditions of or constitute a default under any agreement to which Health Care Provider is a party or by which Health Care Provider is bound, or, to the best knowledge of Health Care Provider, constitute a violation of any applicable law or regulation.
- 15. **Third Party Materials.** Provision of the Platform may involve the use of materials and information, including software, documents, data, content, specifications, products, equipment, or components that are not proprietary to MHC (collectively, "Third Party Materials"). MHC makes no representations or warranties concerning the operation or functionality of any such Third Party Materials. MHC shall not be liable for any claims or losses arising out of or related to Health Care Provider's use of Third Party Materials, and nothing in this Agreement grants any right, title, or interest in or to any intellectual property rights in or relating to any Third Party Materials.
- 16. **Disclaimer.** THE PLATFORM IS PROVIDED "AS IS." MHC, ITS SUPPLIERS AND VENDORS, AND ITS OR THEIR RESPECTIVE EMPLOYEES, OFFICERS,

DIRECTORS, AGENTS, AFFILIATES, SUPPLIERS, VENDORS, LICENSORS OR PARTNERS (COLLECTIVELY, "MHC PARTIES"), TO THE MAXIMUM EXTENT PERMITTED BY LAW, DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, EXCEPT AS EXPRESSLY PROVIDED HEREIN, NO MHC PARTY WARRANTS THAT ACCESS TO THE PLATFORM WILL BE UNINTERRUPTED OR ERROR FREE, TIMELY, 100% SECURE, OR THAT DEFECTS, IF ANY, WILL BE CORRECTED. HEALTH CARE PROVIDER ACKNOWLEDGES AND AGREES THAT TEMPORARY INTERRUPTIONS IN SERVICES MAY OCCUR, AND MHC PARTIES SHALL NOT HAVE LIABILITY FOR ANY CLAIM, COST, CHARGE, LOSS OR EXPENSE ARISING FROM OR RELATING TO SUCH TEMPORARY INTERRUPTION. HEALTH CARE PROVIDER ACKNOWLEDGES AND AGREES THAT DATA MAY BE LOST OR CORRUPTED IN CONNECTION WITH USE OF THE PLATFORM. FURTHER, NO MHC PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO SERVICES PROVIDED BY THIRD PARTY PROVIDERS RELATING TO THE PLATFORM, INCLUDING THIRD PARTY TECHNOLOGY PROVIDERS OR TELEMEDICINE PROVIDERS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HEALTH CARE PROVIDER HEREBY WAIVES ANY CLAIM AGAINST EACH MHC PARTY RELATING TO SUCH THIRD PARTY SERVICES AND AGREES ANY SUCH CLAIM WILL, AS BETWEEN THE APPLICABLE MHC PARTY AND SUCH THIRD PARTY SERVICE PROVIDER, BE SOLELY AGAINST SUCH THIRD PARTY SERVICE PROVIDER. ADDITIONALLY, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, HEALTH CARE PROVIDER ACKNOWLEDGES AND AGREES (A) NO PART OF THE PLATFORM CONSTITUTES THE PROVISION OF MEDICAL ADVICE OR SERVICES IN ANY MANNER, AND (B) THE PLATFORM DOES NOT ENSURE HEALTH CARE PROVIDER'S COMPLIANCE WITH APPLICABLE LAWS OR REGULATIONS. MHC DOES NOT ENDORSE THE TELEHEALTH PROVIDERS THAT SUBSCRIBE TO AND USE THE PLATFORM, CANNOT GUARANTEE THEIR CREDENTIALS, AND CANNOT GUARANTEE THE QUALITY OF THE TELEMEDICINE SERVICES THEY PROVIDE.

17. **Limitation of Liability.** IN NO EVENT WILL (A) A MHC PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE THE TOTAL FEES PAID OR OWED BY HEALTH CARE PROVIDER UNDER THE AGREEMENT DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO THE CLAIM (SUCH AMOUNT BEING INTENDED AS A CUMULATIVE CAP AND NOT PER INCIDENT), OR (B) MHC PARTY HAVE ANY LIABILITY TO HEALTH CARE PROVIDER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL,

EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT SUCH MHC PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

18. **Confidentiality.** Health Care Provider (“Receiving Party”) acknowledges that he or she may receive information regarding the business, technology and finances of MHC (“Disclosing Party”), all of which information, when disclosed in circumstances of confidence that the Receiving Party should reasonably understand is confidential, is deemed to be “confidential information” for purposes of the Agreement. Receiving Party acknowledges and agrees that Disclosing Party’s confidential information is proprietary and integral to Disclosing Party’s business and agrees to keep such confidential information confidential and not use or disclose such confidential information to any third person except as contemplated herein or as otherwise necessary to perform its duties hereunder. Notwithstanding the foregoing, confidential information does not include information that (a) is or became generally available to the public, (b) was in its possession or known by the Receiving Party prior to receipt from the Disclosing Party, (c) was rightfully disclosed to the Receiving Party without restriction by a third party, (d) was independently developed by the Receiving Party without use of any confidential information of the Disclosing Party, or (e) is required to be disclosed by law.

19. **Insurance.**

- a. **Professional Liability Insurance.** Health Care Provider shall maintain professional and general liability insurance, providing Health Care Provider with indemnity coverage for any claim or liability arising directly or indirectly, in whole or in part, out of any act or omission of Health Care Provider in the performance of the Telemedicine Services, regardless of whether such claims or liabilities are first asserted after termination of this Agreement. Such insurance shall have limits of liability of at least minimums required by State mandate and/or licensure regulations/laws. Health Care Provider’s insurance shall be primary, and any insurance maintained by MHC, if any, shall be excess and noncontributory. It is understood and agreed that, should a claim be brought against Health Care Provider for any act or omission arising from care Health Care Provider does not provide through MHC, including without limitation in-person care of a patient previously seen through the services of MHC, Health Care Provider’s coverage will be limited to that which he or she has purchased.
- b. **Coverage for Telemedicine.** Health Care Provider shall ensure that all policies of insurance purchased or maintained or both pursuant to this Agreement shall provide coverage for claims or liabilities arising from the practice of telemedicine in each jurisdiction where he/she offers services. If any such policies contain exclusions for telemedicine, Health Care Provider shall be responsible, at Health Care Provider’s sole cost and expense, for purchasing an endorsement or rider

removing such exclusions or otherwise procuring coverage satisfying the terms of this Agreement, including without limitation those in Section 19(a).

20. **Miscellaneous.**

- a. **Assignment.** MHC may assign or transfer this Agreement (or its rights and/or obligations thereunder) to any third party without consent. Health Care Provider may not assign or transfer this Agreement to a third party without the prior written consent of MHC. This Agreement will bind and inure to the benefit of the Parties hereto and their permitted successors and assignees.
- b. **Third Party Beneficiaries.** Health Care Provider expressly acknowledges and agrees that the MHC Parties are direct and intended third party beneficiaries hereunder, and that any such MHC Party may enforce any part of the Agreement that is applicable to it against Health Care Provider to the extent that such MHC Party's interests may be affected.
- c. **Entire Agreement.** This Agreement constitutes the full and complete agreement and understanding between the Parties with respect to the Platform and may only be modified upon the mutual written consent of the Parties. Notwithstanding the foregoing, MHC may modify this Agreement by sending written notice to Health Care Provider and Health Care Provider agrees that by continuing to use the Platform after receiving notice of the modified Agreement, Health Care Provider agrees to be bound by the changes.
- d. **Severability.** Nothing in the Agreement is intended to conflict with current law or regulation. If a term of the Agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of the Agreement shall remain in full force and effect.
- e. **Force Majeure.** MHC is not responsible nor liable for any delays or failures in performance relating to any cause beyond its control, including, but not limited to acts of God; changes to law or regulations; war; acts or omissions of third party technology providers; riots; fires; natural disasters; acts of hackers, internet service providers or any other third party; or acts or omissions of Health Care Provider. Without limiting the generality of the foregoing, MHC and the Platform rely on third party technology and services.
- f. **Relationship of the Parties.** The status of a Party under this Agreement shall be that of an independent contractor. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture or agency relationship between the Parties or, except as otherwise expressly provided in this Agreement, as granting either Party the authority to bind or contract any obligation in the name of or on the account of the other Party or to make any statements, representations,

warranties or commitments on behalf of the other Party. All persons employed by a Party shall be employees of such Party and not of the other Party and all costs and obligations incurred by reason of any such employment shall be for the account and expense of such Party.

- g. **Waiver.** No delay or failure by either Party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right.
- h. **Electronic Signature.** Health Care Provider acknowledges and agrees that by clicking the “I AGREE” button, this will act as Health Care Provider’s electronic signature to this Agreement and will constitute Health Care Provider’s acceptance of and agreement with all of the terms and conditions of this Agreement.
- i. **Notice.** Except as otherwise specified herein, all notices under this Agreement shall be in writing and shall be mailed by first-class, registered, certified mail or overnight mail, return receipt requested, or via email. If notice is sent to Health Care Provider, notice shall be sent to the address or email on file at MHC. If notice is sent to MHC, notice shall be sent to 21482 Wedgewood Drive, Grosse Pointe Woods, MI 48236, jsweing@comcast.net.

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent via email, unless the sender receives an automated message that the email has not been delivered. A Party may, for purposes of this Agreement, change its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other Party pursuant to this Section 20(i).

- j. **Governing Law.** The Agreement, and all disputes and actions arising under or related to the Agreement, shall (i) be governed by and construed in accordance with the internal laws (and not the law of conflicts) of Michigan, and (ii) any civil action or legal action arising out of or relating to this Agreement shall be brought in the applicable Federal or State court located in Wayne County, Michigan, except that, MHC may seek injunctive relief in any state or federal court of competent jurisdiction. Upon written notice to Health Care Provider, MHC may change the governing law and venue set forth in this Section 20(j). Any cause of action or claim Health Care Provider may have with respect to MHC must be commenced within one (1) year after Health Care Provider is aware of the basis of such cause or claim, except to the extent such limitation is not enforceable.

- k. **Survival.** Notwithstanding anything in this Agreement to the contrary, the following provisions of this Agreement shall survive the termination of this Agreement: Sections 6 (“Compensation”), Section 9 (“Proprietary Rights”), Section 15 (“Third Party Materials”), Section 16 (“Disclaimers”), Section 17 (“Limitation of Liability”), Section 18 (“Confidentiality”), Section 20(i) (“Notice”), Section 20(j) (“Governing Law”), Section 20(k) (“Survival”), and all other terms and provisions of this Agreement that by their nature extend beyond the termination of this Agreement.
- l. **Compliance with Laws.** Health Care Provider shall comply with all applicable laws in relation to its performance under this Agreement.
- m. **Corporate Practice of Medicine.** MHC IS THE PROVIDER OF THE PLATFORM ONLY. MHC DOES NOT AND WILL NOT EMPLOY OR CONTRACT WITH HEALTH CARE PROVIDERS TO PROVIDE MEDICAL CARE ON ITS BEHALF. RATHER, THE PLATFORM ENABLES HEALTH CARE PROVIDERS WHO HAVE INDEPENDENTLY SUBSCRIBED TO THE PLATFORM TO ACCESS PATIENTS DESIRING PATIENT CARE UTILIZING MHC’S PLATFORM. MHC PROVIDES PROVIDERS AND PATIENTS ACCESS TO THE SAME PLATFORM; IT DOES NOT PROVIDE MEDICAL CARE, MAINTAIN MEDICAL RECORDS, CREDENTIAL PROVIDERS, BILL PATIENTS OR THIRD PARTY PAYERS, OR GUARANTEE THE QUALITY OR AVAILABILITY OF SERVICES PROVIDED.
- n. **Patient Referrals.** The Parties agree that no part of this Agreement shall be construed to induce or encourage, directly or indirectly, the referral of patients or the purchase of health care services or supplies. The Parties acknowledge that there is no requirement under this Agreement or any other agreement between the Parties that either Party refer any patients to any health care provider or purchase any health care goods or services from any source. No payment made under this Agreement shall be in return for such referral or purchase. MHC does not guarantee any referrals of patients and makes no representations regarding the volume or number of interactions Health Care Provider will have with patients.
- o. **Exhibits.** The Exhibits, including without limitation, Exhibit A (“MHC Policies and Procedures”), Exhibit B (“Fee Schedule”) and Exhibit C (“Business Associate Agreement”) are attached to and incorporated into this Agreement by this reference.

EXHIBIT A

MHC POLICIES AND PROCEDURES

In order to ensure the quality and consistency of the services rendered over its Platform, and to protect the welfare and safety of patients that use its Platform, MHC has developed the following policies and procedures. In rendering the Telemedicine Services pursuant to the Agreement, Health Care Provider agrees to and shall be responsible for rendering the Telemedicine Services in accordance with the policies and procedures described below.

1. Services. Health Care Provider may use the Platform to see patients to determine if hearing aids are medically necessary for the patients and/or determine whether the patients require further in-person evaluation. Health Care Provider may also, when appropriate, use the Platform to educate the patients about hearing loss, treatment options, and hearing loss prevention (together, the “Telemedicine Services.”) At this time, Health Care Provider may not use the Platform to issue patient prescriptions.
2. Compliance with Laws. MHC is a platform provider and does not practice medicine or oversee Health Care Provider in the practice of medicine. Health Care Provider is solely responsible for complying with all applicable laws, rules, regulations and standards imposed by government health care programs and other payors, licensing agencies and applicable accreditation bodies, and acting in accordance with the standard of care.
3. Licensure. Health Care Provider shall render Telemedicine Services to only those patients residing in the jurisdictions where Health Care Provider is duly licensed to practice in his or her applicable discipline. It is the sole responsibility of Health Care Provider to maintain compliance with all licensure requirements for each applicable state where he or she provides services.
4. Response Time. When a patient initiates a telemedicine encounter, Health Care Provider will use his or her best efforts to respond within seven (7) minutes, which is the estimated response time indicated on the Platform.
5. Professional & Consistent Appearance. Health Care Provider agrees to present a “professional appearance” when performing the Telemedicine Services. A professional appearance consists of professionally appropriate attire when engaged in provider-patient videos (no “tattered clothes,” for example) and participating in the provider-patient videos in a professional setting, such as a clinical office setting or a neat and tidy home office with an uncluttered background and no background noise. Health Care Provider shall ensure Telemedicine Services are provided in a private setting consistent with HIPAA and other applicable data privacy laws.
6. Forms. The Platform includes certain standard forms that patients must sign to use the Platform, provide informed consent, and/or receive or provide certain information

required by law (“MHC’s Forms”). Health Care Provider is solely responsible for reviewing MHC’s Forms, ensuring MHC’s Forms comply with applicable law in the state where Health Care Provider practices, and maintaining copies of the executed MHC Forms as required by law. Health Care Provider may not modify, copy, or otherwise tamper with MHC’s Forms or rely on MHC’s Forms for legal advice. Health Care Provider should seek his or her own legal counsel regarding any legal or compliance issues. MHC’s Forms are confidential information for purposes of this Agreement. If Health Care Provider requires patients to sign or acknowledge different or additional forms, Health Care Provider is solely responsible for obtaining these signatures or acknowledgements outside of MHC’s platforms or verbally.

7. Informed Consent. Health Care Provider is responsible for obtaining a patient’s informed consent for the telehealth visit. Health Care Provider shall, at a minimum, explain to the patient what the patient can expect from the telehealth visit, explain the limitations of the telehealth visit, and take any other steps necessary to obtain informed consent as required by applicable law.
8. Verification. Before providing the Telemedicine Services, Health Care Provider shall take steps to identify the patient and allow the patient to verify the credentials of Health Care Provider. Health Care Provider shall, at a minimum, confirm the patient’s identity, confirm that the patient is located in a state where Health Care Provider is licensed, and disclose to the patient his or her credentials, including licensure status.
9. Patient Evaluation. Health Care Provider shall perform an appropriate history and evaluation of a patient preceding the rendering of any care, and Health Care Provider shall make the history and evaluation a part of the patient’s medical record, which Health Care Provider is responsible for maintaining in accordance with the law and standard of care in their state.
10. Reimbursement. Health Care Provider is, and will remain, solely responsible for billing and collecting for the Telemedicine Services. MHC shall not bill for or collect any fees for Telemedicine Services rendered by Health Care Provider. Prior to providing the Telemedicine Services, Health Care Provider shall explain to the patient that the cost of the Telemedicine Service may or may not be covered by insurance and that copays and deductibles may apply. If the Telemedicine Service is covered by the patient’s insurance, Health Care Provider shall bill the patient’s insurance and require the patient to pay any copays and deductibles. If the Telemedicine Service is not covered by insurance, or the patient’s copays and deductibles are in excess of \$99.00 per session, Health Care Provider agrees to charge the patient a maximum private-pay amount of \$99.00 per session. Health Care Provider shall promptly refund any patients that are charged in excess of these allowed amounts.

Health Care Provider is solely responsible for ensuring that the \$99.00 maximum out of pocket charge is consistent with its usual and customary rates, payor agreements, including “most favored nations” provisions, and applicable laws and regulations.

11. Other Healthcare Professionals. Health Care Provider may employ other licensed healthcare professionals such as nurses and/or Health Care Provider assistants (collectively, “Providers”) who may participate in the Telehealth Services. Health Care Provider is responsible for ensuring that all Providers participating in the Telehealth Services shall: (a) have the licenses, credentials, and qualifications required by law to perform any of the tasks or duties that may from time to time be assigned to them; (b) meet the applicable standard of care; (c) are allowed by law to furnish Telemedicine Services; and (d) otherwise comply with the terms and conditions of this Agreement.
12. Follow-up Care. Health Care Provider is responsible for ensuring that the patient knows how to reach Health Care Provider after the telehealth visit and knows where to go for appropriate follow-up care. During the telehealth visit, if the patient is not amenable to diagnosis or complete treatment through a telehealth encounter, Health Care Provider shall make appropriate referrals, including emergent care, if necessary. After the initial visit, Health Care Provider is permitted to telephone any patient Health Care Provider treats using the Platform for purposes of rendering appropriate medical care, writing orders, or scheduling in-person, follow-up appointments, etc. Furthermore, Health Care Provider may assume care of any patient beyond the telemedicine encounter at Health Care Provider’s sole discretion. The patient is Health Care Provider’s patient, and Health Care Provider assumes all duties and responsibilities as he or she would with any other patient seen and treated in person.
13. Medical Records. All patient medical records pertaining to the Telehealth Services are and shall remain the property of Health Care Provider, subject to all applicable rules of professional ethics. Health Care Provider is responsible for ensuring that (a) the telemedicine consultation is made part of the patient’s medical record; (b) the patient or another individual designated by the patient have timely access to their medical records and can request a summary of the telemedicine encounter promptly; and (c) the patient’s primary care provider can access the records related to the telemedicine encounter.
14. Data Privacy and Security. Health Care Provider is responsible for maintaining the privacy and security of patient’s protected health information in accordance with federal and state law. Without limiting the foregoing, Health Care Provider shall take steps to protect patient confidentiality at least equivalent to a traditional in-person interaction. For example, sessions should not be conducted from a vehicle or in a setting (whether public or private) where others are present. Health Care Provider shall likewise ensure that the patient is conducting the session in a private setting where others are not present.

EXHIBIT B

Fee Schedule

Health Care Provider shall pay MHC a basic usage fee of [\$75.00] a month, and a one-time [\$150.00] set up and initiation fee. If Health Care Provider exceeds the basic usage level, Health Care Provider shall be charged additional usage fees as published by MHC.

EXHIBIT C

Business Associate Agreement

This Business Associate Agreement (“BAA”) is entered into on the Effective Date, by and between Medical Hearing Consultants, LLC (“Business Associate”), and Health Care Provider (“Covered Entity”).

WHEREAS, Covered Entity is required to comply with the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (the “Act”) and its implementing regulations, including the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Rule”) and the Security Standards for the Protection of Electronic PHI (the “Security Rule”), amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) and its implementing regulations, and as they may be further amended from time to time (collectively, “HIPAA”);

WHEREAS, Business Associate, in the course of providing the Platform to Covered Entity, may receive or have access to certain Protected Health Information (“PHI”) and may be deemed a business associate for certain purposes under HIPAA;

WHEREAS, the Parties contemplate that Business Associate may obtain PHI, with Covered Entity’s knowledge and consent, from certain other business associates of Covered Entity that may possess such PHI; and

WHEREAS, Business Associate and Covered Entity are entering into this BAA to set forth Business Associate’s obligations with respect to its handling of the PHI, whether such PHI was obtained from another business associate of Covered Entity or directly from Covered Entity;

NOW, THEREFORE, for mutual consideration, the sufficiency and delivery of which is acknowledged by the Parties, and upon the premises and covenants set forth herein, the Parties agree as follows:

1. **Definitions**. Unless otherwise defined herein, terms used in this BAA shall have the meanings ascribed to them in HIPAA or the Agreement as applicable; provided, however, that the terms Protected Health Information or PHI shall refer to only the PHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity.
2. **Obligations and Activities of Business Associate**. To the extent that Business Associate is provided with or creates any PHI on behalf of Covered Entity and is acting as a business associate of Covered Entity, Business Associate agrees to comply with the provisions of HIPAA applicable to business associates, and in doing so, represents and warrants as follows:

(a) **Use or Disclosure.** Business Associate agrees to not use or disclose PHI other than as set forth in this BAA, the Agreement, or as required by law.

(b) **Specific Use or Disclosure.** Except as otherwise limited by this BAA, Business Associate may use or disclose PHI:

(i) to perform data aggregation and other services required under the Agreement to assist Covered Entity in its operations, as long as such use or disclosure would not violate HIPAA if done by Covered Entity, or HIPAA permits such use or disclosure by a business associate; and

(ii) for the proper management and administration of Business Associate or to carry out Business Associate's responsibilities, provided that with respect to disclosure of PHI, such disclosure is required by law, or Business Associate obtains 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 was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(c) **Minimum Necessary.** Business Associate agrees to take reasonable efforts to limit requests for, or uses and disclosures of, PHI to the extent practical, a limited data set, otherwise to the minimum necessary to accomplish the intended request, use, or disclosure.

(d) **Safeguards.** Business Associate shall establish appropriate safeguards, consistent with HIPAA, that are reasonable and necessary to prevent any use or disclosure of PHI not expressly authorized by this BAA. To the extent that Business Associate creates, receives, maintains, or transmits Electronic PHI, Business Associate agrees to establish administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Privacy Rule and Security Rule.

(e) **Agents and Subcontractors.** Business Associate agrees to obtain written assurances that any agents, including subcontractors, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including the requirement that it agree to implement reasonable and appropriate safeguards to protect Electronic PHI that is disclosed to it by Business Associate.

(f) **Reporting.** Within seven (7) business days of discovery by Business Associate, Business Associate agrees to notify Covered Entity in writing of any use or

disclosure of, or Security Incident involving, PHI, including any Breach of Unsecured PHI, not provided for by this BAA or the Agreement, of which Business Associate may become aware. Business Associate agrees to cooperate with Covered Entity upon report of any such Breach so that Covered Entity may provide the individual(s) affected by such Breach with proper notice as required by HIPAA.

(g) **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA or the Agreement.

(h) **Audits and Inspections.** Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI available to the Secretary, in a time and manner mutually agreed to by the Parties or designated by the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with HIPAA.

(i) **Accounting.** Business Associate agrees to document and report to Covered Entity, within seven (7) business days of a request by Covered Entity, Business Associate's disclosures of PHI so Covered Entity can comply with its accounting of disclosure obligations in accordance with 45 C.F.R. § 164.528.

(j) **Designated Record Set.** While the Parties do not intend for Business Associate to maintain any PHI in a designated record set, to the extent that Business Associate does maintain any PHI in a designated record set, Business Associate agrees to promptly make PHI available to Covered Entity upon Covered Entity's request for:

(i) Covered Entity to comply with its access obligations in accordance with 45 C.F.R. § 164.524; and

(ii) amendment as may be required for Covered Entity to comply with its amendment obligations in accordance with 45 C.F.R. § 164.526.

(k) **Subcontractor As Agent.** To the extent that Business Associate carries out one or more obligations of Covered Entity under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to Covered Entity in performing such obligations.

3. **Obligations of Covered Entity.**

(a) Covered Entity agrees to notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) Covered Entity agrees to notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

(c) Covered Entity agrees to notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4. **Term and Termination.**

(a) **Term.** This BAA shall become effective upon the Effective Date and, unless otherwise terminated as provided herein, shall remain in effect until the expiration or earlier termination of the Agreement.

(b) **Termination Upon Breach.** Without limiting the termination rights of the Parties pursuant to the Agreement, upon either Party's knowledge of a material breach of this BAA by the other Party, the non-breaching Party shall notify the breaching Party of such breach and the breaching Party shall have thirty (30) days from the date of notification by the non-breaching Party to cure such breach. In the event that such breach is not cured within such thirty (30) day period, or cure is infeasible, the non-breaching Party shall have the right to immediately terminate this BAA and those portions of the Agreement that involve the disclosure to Business Associate of PHI, or, if nonseverable, the Agreement.

(c) **Effect of Termination.**

(i) To the extent feasible, upon termination of this BAA or the Agreement for any reason, Business Associate agrees, and shall cause any subcontractors or agents to return or destroy and retain no copies of all PHI received from, or created or received by Business Associate on behalf of, Covered Entity. Business Associate agrees to complete such return or destruction as promptly as possible and, upon request of Covered Entity, verify to Covered Entity in writing that such return or destruction has been completed.

(ii) If Business Associate determines that it is not feasible to return or destroy PHI, Business Associate agrees to extend the protections of this BAA to such PHI for as long as Business Associate maintains such PHI.

5. **Miscellaneous.**

(a) **Regulatory References.** A reference in this BAA to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.

(b) **Amendment.** The Parties acknowledge that the provisions of this BAA are designed to comply with HIPAA and agree to take such action as is necessary to amend this BAA from time to time as is necessary for the Parties to comply with the requirements of HIPAA.

(c) **Method of Providing Notice.** Any notice required to be given pursuant to the terms and provisions of this BAA shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each Party at the addresses listed in the Agreement currently in effect between Covered Entity and Business Associate. Any such notice shall be deemed to have been given if mailed as provided herein, as of the date mailed.

(d) **Parties Bound.** This BAA shall inure to the benefit of and be binding upon the Parties hereto and their respective legal representatives, successors, and assigns. Neither Party may assign or subcontract the rights or obligations under this BAA without the express written consent of the other Party, provided that Covered Entity may assign its rights and obligations under this BAA to any successor or affiliated entity.

(e) **No Waiver.** No provision of this BAA or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

(f) **Effect on Agreement.** This BAA, together with the Agreement, constitutes the complete agreement between the Parties and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this BAA and the terms of the Agreement, the terms of this BAA shall control unless the terms of such Agreement are stricter, as determined by Covered Entity, with respect to PHI and compliance with HIPAA, or the Parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this BAA shall be binding on either Party. No obligation on either Party to enter into any transaction is to be implied from the execution or delivery of this BAA.

(g) **Interpretation.** Any ambiguity in this BAA shall be resolved to permit the Parties to comply with HIPAA and any subsequent guidance.

(h) **No Third Party Rights.** The terms of this BAA are not intended nor should they be construed to grant any rights, remedies, obligations, or liabilities whatsoever to parties other than Business Associate and Covered Entity and their respective successors or assigns.

(i) **Applicable Law.** This BAA shall be governed under the laws of Michigan.

Electronic Signature and Acknowledgement

I AGREE. By clicking here, you agree to the terms and conditions set out in this Agreement and all its exhibits.

[Electronic Signature to Follow]