

# **LIFE LINE BILLING SYSTEMS LLC.**

## **SERVICES AGREEMENT**

This Agreement made by and between City of League City (City), located in League City, Texas and Life Line Billing Systems, LLC; dba LifeQuest Services, located at N2930 State Highway 22, Wautoma, WI 54982 (Contracting Party) on the date set forth below.

City and Contracting Party agree as follows:

1. **CONTRACT TERM:** The initial term of this Agreement shall be for a period of two (2) year(s), from May 1, 2017 to April 30, 2019 with two (2) one year renewal terms available upon mutual agreement in writing by both parties. City reserves the right to terminate the Agreement at any time, with or without cause, on thirty (30) days prior written notice to Contracting Party.

2. **CONTRACT DOCUMENTS/WORK STATEMENTS:** The provisions of the attached City Request For Proposal – RFP #17-019 dated 14 February 2017 Contracting Party's response to RFP dated 7 March 2017, are hereby incorporated by reference and made a part of this Agreement. Contracting Party's representations and warranties regarding its Work are set forth in response. To the extent there are conflicts or inconsistencies between the documents, the order of priority in which documents will be interpreted is as follows:

- 1) The provisions of this document
- 2) The RFP #17-019
- 3) The Contractor Response

3. **CONTRACT FEE:** In consideration for the mutual covenants contained herein, City shall pay Contracting Party for work satisfactorily performed as follows: 26% Net of Collected Revenue. Annual compensation under the Agreement shall not exceed Twenty Five Thousand (\$25,000) and the total compensation under the two-year initial term shall not exceed **Fifty Thousand Dollars (\$50,000.00)**. Payment terms for amounts due from City under the Agreement (including due dates, late fees and interest) are governed by Chapter 2251 of the Texas Government Code.

4. **CONFLICT OF INTEREST:** Contracting Party assures that to the best of its knowledge there exists no conflict of interest or appearance of a conflict between Contracting Party's family, business or financial interest and the services provided under this Agreement. Should this situation change during the term of this Agreement, Contracting Party will advise City of such change.

5. **INDEPENDENT CONTRACTOR:** This Agreement shall not be construed to create a partnership, joint venture, nor other agency relationship between the parties, who are independent of one another. The relationship of the Contracting Party to City is and shall continue to be that of an independent contractor, and no liability or benefits such as workers' compensation, pension rights or liabilities, insurance rights or liabilities, arising out of or related to an employer/employee relationship, shall arise, or accrue to either party or either party's agent, subcontractor or employee, as a result of this Agreement or its performance. No relationship, other than that of independent contractor, shall be implied between the parties or between either party and the other party's agent, employee, or subcontractor, and the Contracting Party hereby agrees to hold City harmless from any such claims by it or its associates, and any cost or expense related thereto.

6. **DEFAULT:** In the event of a failure by Contracting Party to satisfactorily perform the services specified herein and/or a default by Contracting Party in abiding by the other terms and conditions of this Agreement, City may terminate the Agreement on written notice to Contracting Party and Contracting Party shall be liable for all damages, costs, and expenses (including attorney fees) incurred by City related to this default.

7. **ALTERNATIVE DISPUTE RESOLUTION:** The dispute resolution process provided for in Chapter 154 of the Texas Civil Practice and Remedies Code may be used, by City and Contracting Party to attempt to resolve any claim for breach of contract made by Contracting Party, to the extent it is applicable to the Agreement and not preempted by other law. Except as otherwise provided by law, nothing herein is a waiver by City or the State of Texas of the right to seek redress in a court of law.

8. **ASSIGNMENT:** The parties recognize that this contract is based upon the skill and expertise of the parties and therefore agree that the contract and the obligations thereunder may not be assigned or delegated without the written consent of the other party, except as expressly allowed by this contract.

9. **COMPLIANCE WITH LAW:** Contracting Party shall certify that he/she or it is in compliance with all applicable state and federal laws, including non-discrimination laws as it relates to the terms and conditions of the agreement.

10. **NON-APPROPRIATIONS:** Contracting Party understands that City is a governmental entity, and should the Legislature fail to provide funding for any period during the term of this contract, City shall be excused for all liability for payment. City is required to give Contracting Party written notice within thirty (30) days after learning that the funds will not be available. Upon receiving written notice from City, this contract will automatically terminate.

11. **NOTICES:** Any notice given under this contract by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.

12. **OFFICIALS NOT TO BENEFIT:** No Mayor, Council-person, officer, director, employee, administrator and representative of City shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

13. **GOVERNING LAW/VENUE/STATUTE OF LIMITATIONS:** The validity of this Agreement and the interpretation of its terms and the applicable statute of limitations for any cause of action brought by or against City pursuant to the Agreement shall be governed by the laws of the State of Texas. Jurisdiction for any legal proceedings incident to this agreement shall lie in Galveston County, Texas.

14. **FORCE MAJEURE:** In the event of Force Majeure, City may terminate this agreement by written notice following such casualty and City shall not be responsible for any damages sustained by Contracting Party. Force Majeure shall mean fire, earthquake, flood, act of God, strikes or other labor disturbances, riots or civil commotion, litigation, terrorism, war or other acts of any foreign nation, power of government or government agency or authority, or any other cause like or unlike any cause above-mentioned which is beyond the control or authority of City.



15. **SUBCONTRACTS:** Any subcontracts and outside associates or consultants required by Contracting Party in connection with the services covered by this contract will be limited to such individuals or firms as were specifically identified and agreed to during negotiations. Contracting Party shall ensure that each subcontractor complies with all provisions of the Agreement and this Addendum. Contracting Party shall remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the products and/or services set forth in the Agreement.

16. **TAX EXEMPTION:** City and Contracting Party agree that City will not be required to pay any taxes for which it can demonstrate an exemption.

17. **CONFIDENTIALITY:** Subject to the Texas Public Information Act and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval.

18. **INTELLECTUAL PROPERTY:** Contracting Party represents that it has all intellectual property rights necessary to enter into and perform its obligations under the Agreement and shall indemnify, defend and hold harmless the State of Texas and City against any action, claim, liability, loss or expense related to such intellectual property rights and representations. Contracting Party will pay any damages attributable to such claim that are awarded against the State of Texas and/or City in a judgment or settlement.

**19. INDEMNIFICATION:** Contracting Party shall indemnify and hold harmless City, and each of its regents, officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities, including without limitation attorneys' fees and reasonable litigation costs, arising out of, connected with, or resulting from any acts or omissions of Contracting Party or any agent, employee, subcontractor, or supplier of Contracting Party in the execution or performance of this contract.

20. **INSURANCE:** For the entire term of the Agreement ("Term"), Contracting Party shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence. If, during the Term, Contracting Party will enter City property, Contracting Party shall also maintain the following insurance: (i) Worker's Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name City as Additional Insured. Contracting Party shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Contracting Party shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

21. **AUDIT; INDEPENDENT AUDITS; RIGHT TO AUDIT; RETENTION; SUPPORTING DOCUMENTS:** The Contracting Party agrees and authorizes City and/or the State Auditor (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Contracting party agrees to cooperate with Auditors conducting such audits or investigations and to provide all information and documents reasonably requested. Contracting Party will include this provision in all contracts with permitted subcontractors.

22. **LIMITATIONS:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.

23. **SOVEREIGN IMMUNITY:** Except as otherwise provided by Texas law, neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement is a waiver of sovereign immunity by City.

24. **REPRESENTATIONS BY CONTRACTING PARTY:** Contracting Party represents and warrants that it will obtain and maintain in effect, and pay the cost of all licenses, permits or certifications that may be necessary for Contracting Party's performance of this Agreement. If Contracting Party is a business entity, Contracting Party warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Contracting Party.

25. **ELIGIBILITY TO RECEIVE PAYMENT:** Contracting Party certifies that, as a matter of State law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this representation is inaccurate.

26. **PAYMENT OF DEBT/DELINQUENCY TO STATE:** Contracting Party certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Contracting Party agrees that any payments owing to Contracting Party under the Agreement may be applied directly toward any debt or delinquency that Contracting Party owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.

27. **PRODUCTS AND MATERIALS PRODUCED IN TEXAS:** If Contracting Party will provide services under the Agreement, Contracting Party covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

28. **TRAVEL EXPENSES:** If the Agreement requires City to reimburse for travel expenses, the Contracting party shall invoice all requests for reimbursement in accordance with the State of Texas travel, meal and lodging reimbursement guidelines applicable to State of Texas employees.

29. **RISK OF LOSS:** All work performed by Contracting Party pursuant to the Agreement will be at Contracting Party's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work prior to City's acceptance, such loss or damage will be Contracting Party's responsibility.



30. PUBLICITY: Contracting Party shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.

31. LEGAL CONSTRUCTION/SEVERABILITY: In the event that any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this contract are declared to be severable. The Parties may mutually agree to renegotiate the contract to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.

32. NON-WAIVER: No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.

33. ENTIRE AGREEMENT: This contract constitutes the entire contract and supersedes all prior or contemporaneous agreements, whether written or oral, between the parties. Verbal representations not contained herein shall not be binding on the parties unless acknowledged by them in writing.

34. AUTHORITY: The person signing below on behalf of City and Contracting Party warrants that he/she has the authority to execute this contract according to its terms.

35. AMENDMENT: This Agreement may be changed, amended, modified, extended or assigned only by mutual consent of the parties provided that consent shall be in writing and executed by the parties hereto prior to the time such change shall take effect.

36. BINDING AGREEMENT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, City and Contracting Party, by and through their duly authorized officers and representatives, have executed this Agreement as of the date first above written.

*(signature block on next page)*

Executed this \_\_\_\_ day of \_\_\_\_\_, 2017.

**LIFE LINE BILLING SYSTEMS, LLC, DBA LIFEQUEST SERVICES  
A DELAWARE LIMITED LIABILITY COMPANY**

  
\_\_\_\_\_  
Michael J. Finn, Chief Executive Officer

**CITY OF LEAGUE CITY, TEXAS**

\_\_\_\_\_  
John Baumgartner, City Manager

ATTEST:

\_\_\_\_\_  
Diana Stapp, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Nghiem V. Doan, City Attorney

## **EXHIBIT A-1**

### **COLLECTION OF DEFAULT ACCOUNTS FEES**

#### **Collected Patient Fees**

**Trust Account.** Agency shall set up and make regular deposits of all payments received into a trust account established by the Agency for the sole purpose of depositing any Fees collected for the benefit of the Service Provider; provide regularly scheduled payments to Service Provider and fees to Agency; and manage and oversee all business activities related to the trust account, including, but not limited to, the posting of payments to proper accounts for services rendered by Service Provider. Agency shall have authority to manage the Trust Account. ("Trust Account")

## **EXHIBIT A-2**

### **VALIDATION REQUIREMENTS**

Information which may be requested to validate the debt:

All documents must be legible.

- A. A complete itemized statement of the amount owed to the Service Provider by the Customer.
- B. The property owner's or other responsible party's name, address, phone number and Social Security number need to be documented on the proper form.
- C. Record of location of response. To include address number, street or road, city/town/village, state, zip code, and jurisdiction.
- D. A complete record of all appropriate dispatch information. (Nature of Response)
- E. A complete detailed narrative of the event.
- F. A record of property owner's or other responsible party's date of birth.
- G. A record of property owner's or other responsible party's driver's license.
- H. A copy of the accident report.
- I. All available insurance information, copies of insurance documentation.
- J. A record of the responsible party.
- K. A record of response times accurately recorded.
- L. Crew names, rank and training levels, and any specialty areas of expertise which are relevant to the response being provided.
- M. A document showing all supplies and chargeable procedures.
- N. A reason why the response level is required.



**EXHIBIT B-1**  
**Healthcare Account Provisions**

These provisions provide additional terms not included in the Agreement that apply to any Healthcare Accounts placed by Service Provider.

1. **Healthcare Account Laws.** Health Insurance Portability and Accountability Act (HIPAA) and the Electronic Transaction, Security and Privacy Standards ("Standards") promulgated by the Department of Health and Human Services and set forth in 45 C.F.R. Parts 142, 160, 162 and 164; as well as HIPAA governing privacy of certain information ("HIPAA Privacy Rule") or the security of certain information ("HIPAA Security Rule") (collectively the "HIPAA Rules") (HIPAA, Standards and HIPAA Rules collectively the "Healthcare Account Laws").
2. **Healthcare assurances.** Agency, for the purpose of the Healthcare Accounts: (i) is a "Business Associate" under HIPAA and (ii) will perform the Services within the limits of the Healthcare Account Laws.
3. **"Services"** for Healthcare Accounts also specifically include: (i) the determination of eligibility or coverage, including coordination of benefits or the determination of cost sharing amounts, and subrogation of health benefit claims; (ii) obtaining payment under a contract for reinsurance and related health care data processing; and (iii) review of health care services with respect to coverage under a health plan or justification of charges.
4. **Return of accounts.** Service Provider must accept, without penalty to Agency, any Healthcare Account that Agency believes or has reason to believe is subject to restrictions on the use or disclosure of Protected Health Information (PHI), as defined in 45 C.F.R. § 160.103.
5. **Notification requirements.** Service Provider must immediately notify Agency in writing of its actual or reasonably conceived knowledge of any restrictions placed on the use of Agency, along with sufficient detail to allow Agency to honor such restrictions.
6. **Service Provider representations.** Service Provider "Representations" also include (i) Service Provider has and shall obtain all necessary consents under 45 C.F.R. § 164.506 (c) for all Healthcare Accounts, sufficient to permit the disclosure of PHI to Agency and to permit Agency to perform services incidental to this Agreement; (ii) that the uses and disclosures of the PHI of Healthcare Accounts are consistent and in accordance with the Service Provider's privacy policies and procedures adopted pursuant to the Standards, HIPAA and any other Applicable Laws and (iii) all uses and disclosures of the Healthcare Account information specified in this Agreement are made and authorized as part of treatment, payment and healthcare operations relating to Service Provider.
7. **Special confidentiality considerations for Healthcare Accounts.** The confidentiality considerations contained in this section apply to Healthcare Accounts only.
  - a. Agency is not prohibited by confidentiality from sending the individual or the responsible party a copy of the bill issued by Service Provider or using a copy of the bill issued by Service Provider as evidence in a court proceeding.
  - b. To the extent the Services provided to Service Provider by Agency may cause Agency to be defined as a "Business Associate" of Service Provider under the HIPAA Rules, and the Service Provider in its capacity as a "Covered Entity" as defined in the HIPAA Privacy Rule is required to comply with the HIPAA Privacy Rule or the HIPAA Security Rule, Agency shall:
    - i. not use or further disclose PHI, other than as permitted or required by this Agreement or as required by law, further provided that in any case, such use or disclosure would not constitute a violation of the HIPAA Privacy Rule if done by Service Provider;
    - ii. other than as provided for in this Agreement, use appropriate administrative, physical and technical safeguards to prevent use or disclosure of PHI, and to reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI that Agency creates, maintains or transmits on behalf of Agency, and provide Service Provider with any requested information regarding such safeguards;



- iii. be obligated to provide information, to make corrections or amendments to information, to respond to the written instruction or request of Service Provider; and deliver information and documentation to Service Provider as directed, in writing, by Service Provider;
  - iv. promptly report to Service Provider any use or disclosure of PHI by Agency, its officers, directors, employees, agents and subcontractors and, to the extent known by Agency, report to Service Provider any use or disclosure by such persons not authorized by this Agreement and the remedial action taken by Agency with respect to such use or disclosure and provide such information to Service Provider upon written request of Service Provider, which request shall be made only in connection with an accounting request made to Service Provider under the then applicable HIPAA Standards;
  - v. information regarding any unauthorized use or disclosure of PHI shall be maintained by Agency for a period of not less than six (6) years from the date of such unauthorized use or disclosures;
  - vi. report to Service Provider any PHI not provided to Agency by Service Provider that Agency becomes aware;
  - vii. ensure that any agents of Agency, including a subcontractor, to whom Agency provides PHI that is received from, or created or received by Agency on behalf of Service Provider, agrees to the same restrictions and conditions set forth in this section that apply to Agency with respect to such PHI;
  - viii. to the extent applicable to Agency, promptly make available PHI in the Designated Record Set (as defined in 45 C.F.R. § 164.501) in accordance with 45 C.F.R. § 164.524;
  - ix. to the extent applicable to Agency, promptly make available PHI in the Designated Record Set for amendment and incorporate any amendments to PHI as requested by Service Provider in accordance with 45 C.F.R. § 164.526;
  - x. to the extent applicable to Agency, promptly make available information required for Service Provider to provide an accounting of disclosure in accordance with 45 C.F.R. § 164.528;
  - xi. use and disclose the information for the proper management and administration of Agency and to carry out the legal responsibilities of Agency, including, but not limited to its duties under the FDCPA and as otherwise provided in this Agreement;
  - xii. mitigate, to the extent practicable, any harmful effect that is known to Agency, of a use or disclosure of PHI by the Agency in violation of this Agreement;
  - xiii. shall provide Service Provider with copies of any subcontractor or agent contracts upon written request throughout the Term;
  - xiv. make PHI available to Service Provider and to the individual who has a right of access as required under HIPAA within thirty (30) days of the request;
  - xv. make Agency's internal practices, books, and records related to the use and disclosure of PHI received from, or created or received by Agency on behalf of Service Provider available to the Secretary of Health and Human Services for purposes of determining Service Provider's compliance with the Health and Human Services Department Standards for Individually Identifiable Health Information, 45 C.F.R. Parts 142, 160, 162 and 164; and
  - xvi. within thirty (30) calendar days of termination of this Agreement, if feasible, return all PHI received from, or created or received by Agency, its agents and subcontractors on behalf of Service Provider that is maintained in any form, or, if such return is not feasible, extend the protections of this section to the PHI retained by Service Provider and limit further uses and disclosure of PHI to those purposes that make the return or destruction of the PHI infeasible.
8. **Reimbursement.** Service Provider shall reimburse Agency for reasonable costs and expenses that it incurs to search, restore, compile, photocopy or otherwise reproduce and deliver information, data or documents pertaining to Services provided under this Agreement whether requested by Service Provider, its agents and representatives, the individual for whom healthcare services were provided, the responsible party on the Healthcare Account, the Department of Health and Human Services or any other person or entity entitled to such information by operation of law or contract.



**EXHIBIT B-2****Supplemental Business Associate Provisions**

These provisions provide additional terms not included in the Agreement that apply to any Healthcare Accounts placed by Service Provider.

1. **Purpose.** The Parties hereby intend to provide additional protections for the privacy and the security of Protected Health Information (PHI) disclosed to Agency for Healthcare Accounts only, in compliance with the Healthcare Accounts Laws, specifically the Health Insurance Portability and Accountability Act (HIPAA), and to satisfy certain standards and requirements of HIPAA, including, but not limited to Title 45, Section 164-504(c) of the Code of Federal Regulations ("CFR"), as the same may be amended from time to time. If this Exhibit in any way conflicts with other provisions of the Agreement relating to Healthcare Accounts, then the stricter of the conflicting provisions shall apply.
2. **Catch-all definition.** The following terms if 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.
3. **Additional definitions.** Within this Exhibit, the following meanings have been added or added to: (i) "Business Associate" means and is interchangeable with Agency; (ii) "Covered Entity" means and is interchangeable with Service Provider and (iii) PHI includes any information, whether oral or recorded in any form or medium: (a) that relates to the past, present or future physical or mental condition of a individual, the provision of health care to a individual, or the past, present or future payment for the provision of health care to a individual; (b) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA Laws, including, but not limited to 45 CFR Section 164.501; and (c) is limited to the information provided and/or made available by Covered Entity to Business Associate (see 45 CFR § 160.103; 45 CFR § 501).
4. **Additional Business Associate obligations.**
  - a. **Permitted Uses and Disclosures.** Business Associate may use and/or disclose PHI in the performance of its obligations under the Agreement, as permitted by the Healthcare Account Laws and in compliance with the terms of this Agreement (see 45 CFR § 164.504(e)(2)(i)).
  - b. **Use and Disclosure for Management, Administration and Legal.** Business Associate is permitted to use and/or disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
  - c. **Data Aggregation Services.** Business Associate is permitted to use and disclose PHI to provide "Data Aggregation Services," as defined by 45 C.F.R. 164.501, relating to the health care operations of Covered Entity. The Parties agree that any PHI provided to Business Associate hereunder which is later de-identified and therefore no longer identifies an individual, will no longer be subject to the provisions set forth in this Agreement.
  - d. **Nondisclosure.** Business Associate will not use or further disclose Covered Entity's PHI other than as permitted or required by this Agreement or as required by law (see 45 CFR § 164.504(e)(2)(ii)(A)).
  - e. **Express allowances.** Business Associate is expressly authorized to use the PHI for: (1) the preparation of invoices to individuals, carriers, insurers and others responsible for payment or reimbursement of the services provided to the individuals; (2) the preparation of reminder notices and documents pertaining to collections of overdue Healthcare Accounts and (3) the submission



of supporting documentation to carriers, insurers and other payers to substantiate the health care services provided to the individuals or to appeal denials of payment for same.

- f. **Safeguards.** Business Associate shall use appropriate safeguards to prevent use or disclosure of Covered Entity's PHI other than as provided for by this Agreement (see 45 CFR § 164.504(e)(2)(ii)(A)).
5. **Reporting of disclosures.** Business Associate shall immediately report to Covered Entity any use or disclosure of Covered Entity's PHI not allowed by this Agreement or the Agreement that Business Associate becomes aware of (see 45 CFR § 164.504(e)(2)(ii)(C)).
6. **Business Associate's agents.** Business Associate shall ensure that any agents, including subcontractors, to whom it provides PHI received from, 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 (see 45 CFR § 164.504(e)(2)(D)).
7. **Availability of information to Covered Entity.** To the extent applicable, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill Covered Entity's obligations to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to HIPAA including, but not limited to, 45 CFR Sections 164.524 and 164.528 (see 45 CFR § 164.504(e)(2)(E) and (G)).
8. **Amendment of PHI.** To the extent Business Associate maintains PHI in a Designated Record Set, as defined by 45 C.F.R. 164-501, Business Associate shall make Covered Entity's PHI available to Covered Entity as Covered Entity may require to fulfill Covered Entity's obligations to amend PHI pursuant to HIPAA, including, but not limited to, 45 CFR Section 164.526 and Business Associate shall, as directed by Covered Entity, incorporate any amendments to Covered Entity's PHI into copies of such PHI maintained by Business Associate (see 45 CFR § 164.504(e)(2)(F)).
9. **Internal Practices.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) available to the Secretary of the U.S. Department of Health and Human Services (HHS) for purposes of determining Business Associate's compliance with HIPAA and the HIPAA Regulations (see 45 CFR § 164.504(e)(2)(H)).
10. **Notification of Breach.** Business Associate shall notify Covered Entity as soon as commercially reasonable of any unauthorized use or disclosure of PHI or Security Incident, as defined by 45 C.F.R. 164.304 of which Business Associate becomes aware, but in no event shall Business Associate delay more than forty-eight (48) hours after discovery of a breach before notifying Covered Entity. Business Associate shall take prompt corrective action to cure any such deficiencies. In the event of a disclosure of PHI that requires notification, Covered Entity shall develop and take the lead in complying with HIPAA notification provisions, and Business Associate shall cooperate as reasonably required.
11. **Termination.** If either Business Associate or Covered Entity knows of a pattern of activity or practice of the other that constitutes a material breach or violation of the party's obligations under the provisions of this Exhibit, then Business Associate or Covered Entity shall send written notice to the other describing the other Party's failure in detail and affording that Party a thirty (30) day period in which to cure such failure. If the Party's efforts to cure such breach or end such violation are unsuccessful, the other party shall either: (i) terminate the Agreement, if feasible or (ii) if termination of the Agreement is not feasible, the Party discovering the breach shall report the other's breach or violation to the Secretary of HHS (see 45 CFR § 164.504(e)(1)(ii)). Upon termination of this Agreement for any reason the Business Associate shall return or destroy all PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) that Business Associate still maintains in any form, and shall retain no copies of such PHI or, if return or destruction is not feasible, it shall continue to extend the protections of this Agreement to such

information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible (see 45 CFR § 164.504(e)(2)(I)). Business Associate (Agency) shall also insure that any Business Associate of the Business Associate herein (Agency) complies with the terms of this section of the Agreement.

12. **Amendment to Comply with Law.** The Parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The references to the specific Healthcare Account Laws referenced parenthetically at the end of certain provisions in this Agreement are used to show the legal reference upon which the provision is based upon, but shall have no legal effect that requires the referenced law to be fully incorporated herein. Upon Covered Entity's request, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of an amendment to this Agreement embodying written assurances to the extent necessary to allow Covered Entity to comply with amendments to the standards and requirements of the Healthcare Account Laws.
13. **Assistance in Litigation or Administrative Proceedings.** Each Party shall make itself and any subcontractors (to the extent possible), employees or agents assisting Business Associate in the performance of its obligations under this Agreement available to the other Party at no cost to the other Party to testify as witnesses, or as otherwise needed in the event of litigation or administrative proceedings being commenced against the other Party, its directors, officers or employees based upon claimed violation of HIPAA or other Healthcare Account Laws relating to security and privacy, except where the Party or its subcontractor, employee or agent is a named adverse to the other Party.
14. **No Third Party Beneficiaries.** Nothing expressed or implied in this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.