

**AGREEMENT FOR COLLECTION AND BILLING SERVICES**

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, (hereinafter referred to as “Creditor”), and Debt Collection Partners LLC, (hereinafter referred to as “Collector”).

**WITNESSETH:**

**Whereas**, Creditor operates certain health care related facilities through which it provides or causes to be provided certain health care related services and other services (collectively, the “Services”) to and for the benefit of patients and other persons or entities (collectively, the “Responsible Party” or “Parties”) for a fee; and

**Whereas**, Collector has expertise in the collection of Delinquent Accounts and Creditor desires to retain Collector for the purpose of collecting the Delinquent Accounts, including any necessary billing/rebilling of the fee to any Responsible Parties;

**Now, therefore**, for and in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1. GENERAL RECITALS**

1.1 **Contractor Relationship:** Creditor hereby retains Collector as an independent contractor to collect its Delinquent Accounts as set forth herein. The relationship between Collector and Creditor shall be solely as set forth herein. Neither party shall be deemed the employee, agent, partner or joint venture of the other, nor have, or represent to have any authority or capacity to make or alter any Agreement on behalf of the other, to legally bind the other, or to do any other thing on behalf of the other except as specifically set forth herein. Neither Collector nor Creditor will have or attempt to exercise any control or direction over the methods used by the other to perform its work, duties and obligations under this Agreement except as set forth herein. The respective employees, agents and representatives of Collector and Creditor shall remain their own employees, agents or representatives, and shall not be entitled to

benefits of any kind from the other. Collector and Creditor each assume full responsibility for their own compliance with any and all applicable laws, ordinances, rules and regulations, including, without limitations Collector's obligation to comply with the Fair Debt Collection Practices Act.

1.2 **Term:** The term of this Agreement shall be from the date of execution of this Agreement until it is terminated in accordance herewith.

1.3 **Proprietary Information:** In recognition of the proprietary interests of Creditor and Collector in their respective business operations, Creditor and Collector each acknowledge the confidential nature of their relationship, and any information or data relating to the business operations, systems, components, customers, prices, methods, plans, programs, results or other knowledge of the other (collectively, "Trade Secrets") and each agrees to preserve the confidential nature of these relationships by (a) using and retaining the Trade Secrets of the other in trust and confidence, only for their own internal use and not in any way in competition with the other, (b) by not copying, altering, disassembling, or otherwise changing the Trade Secrets of the other, and (c) by not disclosing any Trade Secrets of the other to any unauthorized persons.

1.4 **Representations of the Parties:** Each party hereto represents, warrants and covenants as of the date hereof and throughout the term of this Agreement that each will remain duly organized, validly existing, properly licensed and bonded as required, and in good standing under the laws of the State or States where required by law, and will retain the requisite power and authority to conduct its business, to enter into this Agreement on behalf of itself, and to perform the terms hereof and by proper action has duly authorized, executed and delivered this Agreement and any and all instruments in connection herewith on behalf of itself.

## **ARTICLE 2. COLLECTIONS**

2.1 **Delivery of Delinquent Accounts:** Creditor shall provide to Collector access to its proprietary database ("Collection Information") to assist and facilitate the collection of Delinquent Accounts referred to Collector, or, alternatively, will provide to Collector all pertinent Collection Information regarding Responsible Parties from its proprietary database.

Creditor shall refer such Delinquent Accounts as it deems appropriate for collection services, in its sole discretion, in a format to be agreed by the parties.

2.2 **Collection Duties:** Upon receipt of the Collection Information, Collector shall use its best efforts to secure recovery on such Delinquent Accounts in a timely manner, including, but not limited to the following: (a) contacting Responsible Parties via phone or written communication; (b) locating and identifying the Responsible Parties; (c) billing and re-billing any Responsible Parties or third party payers; (d) reporting the Delinquent Accounts to a credit reporting agency in compliance with the Fair Credit Reporting Act; (e) acting as forwarding agent to forward any appropriate Delinquent Account to an attorney for collection through the legal system; and (f) anything reasonably necessary or desirable to secure recoveries on the Delinquent Accounts.

2.3 **Creditor Duties:** Creditor shall: (a) assure that Collector receives all Collection Information on the Delinquent Accounts referred to Collector in a timely manner, (b) fully cooperate with Collector in its efforts to collect the Delinquent Accounts; (c) sign all liens, releases, satisfactions, and all other documents reasonably requested by Collector promptly after Collector's request; (d) immediately refer to Collector all inquiries and settlement offers with respect to the Delinquent Accounts; (e) comply with Collector's requests for documentation, itemized bills, and requests for Creditor to re-bill Delinquent Accounts to the Responsible Party or third parties as reasonably necessary to collect the Delinquent Accounts; and (f) do anything reasonably requested by Collector to collect the Delinquent Accounts.

2.4 **Funds Received:** Collector shall endorse any checks or drafts for the Creditor and deposit same into an account in the name of Collector and maintained by the Collector for the benefit of the Creditor for subsequent disbursement to the Creditor in accordance with the terms of this Agreement. Creditor shall promptly send any payments on the Delinquent Accounts to Collector for crediting and deposit.

2.5 **Return of Delinquent Accounts:** Upon Creditor's request, Collector shall return to Creditor, and shall discontinue performing any further collection services on any Delinquent Account after a period of 9 months unless there has been a payment on the Delinquent Account

in the previous ninety (90) days, or the customer has made arrangements for payment on the Delinquent Account or multiple Delinquent Accounts and payments on such payment plan are current within ninety (90) days of the scheduled payment date, or there is other substantive collection activity on-going on said Delinquent Account, or said account has been referred to an attorney for legal services, in which case an account will only be returned when the right to collect same has expired under law.

### **ARTICLE 3. COLLECTION FEE**

3.1 **Collection Fee:** In consideration of Collector's services hereunder, Collector shall be paid \_\_\_\_\_% of the gross amount collected. The gross amount collected shall mean, for any time period, the total amount collected by Collector on any Delinquent Accounts, whether through payments from the Responsible Parties or other third parties, credits to the account of Creditor, or by any other means.

3.2 **Remittance Statements:** Within ten (10) days of the end of any given month, Collector shall remit to Creditor a statement showing the total collections for the past month, itemized by patient account, and Collector's fee for its services with respect thereto. The Collector shall withhold any amounts then due or past due for fees, and shall remit to Creditor the balance.

### **ARTICLE 4. HIPAA AND HITECH BUSINESS ASSOCIATE AGREEMENT**

4.1 **HIPAA and HITECH Requirements:** Collector and Creditor are required to provide for the privacy and security of Protected Health Information ("PHI") disclosed pursuant to this Agreement and to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-91, as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Public Law 111-5, and the regulations promulgated thereunder by the U.S. Department of Health & Human Services, and other applicable federal and state laws.

4.2 **Purpose of Business Associate Agreement:** This Agreement is intended to govern the terms and conditions under which the parties will access PHI and utilize and disclose

same in performing services for, or on behalf of, Creditor. Collector is hereby further authorized to enter into and execute Business Associate Agreements with any Vendors which it may utilize which would have access to PHI.

4.3 **Recitals:** (a) The Creditor (referred to as “Covered Entity” in this Article) and Collector (referred to as “Associate” or “Business Associate” in this Article) intend to protect the privacy and provide for the security of PHI disclosed to Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act that was enacted as part of the Federal American Recovery and Reinvestment Act of 2009 (“HITECH”) and the regulations promulgated under HIPAA (collectively, the HIPAA Regulations), to the extent that same are applicable hereunder. These various privacy considerations and statutes are hereinafter collectively referred to as “HIPAA”.

(b) As part of the HIPAA Regulations, the Privacy Rule, the Security Rule and the Breach Notification Rule (all as defined below) require the Covered Entity to enter into a contract with Associate containing specific requirements prior to the creation, receipt, maintenance or transmission of PHI, including, without limitation, Electronic Protected Health Information (also defined below), by Associate on the Covered Entity’s behalf, and/or Associate to take certain actions in connection with breaches of unsecured PHI.

4.4 **Definitions:**

1. **Breach** means the acquisition, access, use, or disclosure of PHI in a manner not permitted under Subpart E of 45 C.F.R. Part 164 that compromises the security or privacy of the PHI within the meaning of 45 C.F.R. 164.402, and which is not otherwise permitted or authorized by any statute, common law, or court order.
2. **Breach Notification Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Part 160, Subpart D of Part 164, and other applicable sections, and shall further include, as and where applicable, guidance issued from time-to-time in accordance with Section 13402(h)(2) in the HITECH Act.

3. **Business Associate** shall have the meaning given to such term under the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103, and in reference to this Article, shall mean Associate.
4. **Covered Entity** shall, when generally used in this Article, have the meaning given to such term under the HIPAA Regulations, including but not limited to, 45 CFR Section 160.103.
5. **Data Aggregation** sometimes commonly referred to as “Designated Record Set”, shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.
6. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.
7. **Electronic Protected Health Information** shall mean Protected Health Information that is transmitted by or maintained in electronic media and as more particularly defined in the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103.
8. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act that was enacted as part of the Federal American Recovery and Reinvestment Act of 2009.
9. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Part 160, Subpart E of Part 164, and other applicable sections.
10. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) 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 the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103.
11. **Protected Information** shall mean PHI provided by the Covered Entity to Associate or created, maintained or received by Associate on the Covered Entity’s behalf.

12. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Part 160, Subpart C of Part 164, and other applicable sections.

4.5 **Obligations of Associate:** (a) **Permitted Uses.** Associate shall not use Protected Information except as necessary to perform Associates obligations under the Agreement and as permitted under the Article, or as required by law. Further, Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by the Covered Entity, except that Associate may also use Protected Information (i) for the proper management and administration of Associate, or (ii) to carry out the legal responsibilities of Associate.

(b) **Permitted Disclosures.** Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by the Covered Entity, except that Associate may disclose Protected Information (i) as necessary to perform Associates obligations under the Agreement and as permitted pursuant to this Article, (ii) for the proper management and administration of Associate or to carry out legal responsibilities of Associate, provided 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 and the person notifies Associate of any instances of which it is aware in which the confidentiality of the information has been breached, or (iii) as required by law.

(c) **Appropriate Safeguards, etc.** Associate shall implement and use appropriate safeguards, and comply with Subpart C of Part 164 of the Security Rule, as necessary to prevent the use or disclosure of Protected Information, or as required or otherwise permitted by law, this Article..

(d) **Reporting of Improper Use or Disclosure and Security Incidents.** Associate shall report to the Covered Entity in writing of any use or disclosure of Protected Information otherwise than as provided for by this Article within five (5) business days of becoming aware of such use or disclosure, including, without limitation, breaches of unsecured Protected Information as required at 45 CFR 164.410, and any security incident as defined in the Security Rule, of which

it becomes aware. Associate shall, further, cooperate with the Covered Entity in the conduct of any breach assessment. It is acknowledged and agreed that only the Covered Entity shall give any breach notification to the individuals affected by a breach, the U.S. Department of Health and Human Resources Office of Civil Rights and, when required, the media under HIPAA and the Breach Notification Rule and Associate will not give any such breach notice.

(e) **Associates Agents and Subcontractors.** Associate shall ensure that any Agents and Subcontractors, as defined in 45 CFR Section 160.103, which create, receive, maintain, or transmit Protected Information on behalf of Associate, agree in writing to the same restrictions, conditions and requirements that apply to Associate with respect to such Protected Information.

(f) **Access to Protected Information.** Associate shall make Protected Information maintained by Associate in Designated Record Sets available to the Covered Entity within ten (10) business days of a written request by the Covered Entity or a written request directly from the applicable individual, to enable the Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.524.

(g) **Amendment of PHI.** Within fifteen (15) business days of receipt of a written request from the Covered Entity for an amendment of Protected Information or a record about an individual contained in a Designated Record Set maintained by Associate, Associate shall make such Protected Information available to the Covered Entity for amendment to enable the Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.526. If any individual requests an amendment of Protected Information directly from associate or its Subcontractors, Associate must notify the Covered Entity in writing within fifteen (15) days of the request. Any denial of amendment of Protected Information maintained by Associate shall be the responsibility of the Covered Entity.

(h) **Accounting Rights.** Within fifteen (15) business days of notice by the Covered Entity of a request for an accounting of disclosures of Protected Information, Associate shall make available to the Covered Entity information required to provide an accounting of disclosures to enable the Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.528. As set forth in, and as limited by, 45 CFR Section 164.528, Associate



shall not provide an accounting to the Covered Entity of disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 CFR Section 164.506 and except as otherwise required under Section 13405(c) in the HITECH Act; (ii) to individuals of Protected Information about them, as set forth in 45 CFR Section 164.502; (iii) incident to a use or disclosure otherwise permitted or required by Subpart E of Part 164 of the Privacy Rule, as set forth in 45 CFR Section 164.502; (iv) to persons involved in the individuals care or other notification purposes, as set forth in 45 CFR Section 164.510; (v) for national security or intelligence purposes, as set forth in 45 CFR Section 164.512(k)(2); (vi) to correctional institutions or law enforcement officials, as set forth in 45 CFR Section 164.512(k)(5); or (vi) pursuant to an authorization as provided in 45 CFR Section 164.508. Associate agrees to implement a process that allows for an accounting to be collected and maintained by Associate for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule. Such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the written request for the disclosure. In the event that the request for an accounting is delivered directly from an individual, Associate shall within fifteen (15) days of a request forward it to the Covered Entity in writing. It shall be the Covered Entity's responsibility to prepare and deliver any such accounting requested and Associate shall make no such accounting directly to the individual.

(i) **Governmental Access to Records; No Waiver of Privilege.** Associate shall make its internal practices, books, and records relating to the use, disclosure, and, if required, security of Protected Information available, and, when required, disclose Protected Information, to the Secretary of the U.S. Department of Health and Human Services (the Secretary) for purposes of determining Associates compliance with the Privacy Rule, the Security Rule and other applicable and required rules. The parties agree that any documents or information privileged under the applicable attorney-client, accountant-client, work product, or other legal privilege shall not be waived by virtue of any provisions of this Article.

(j) **Minimum Necessary.** Associate shall only request, use and disclose the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure and consistent with the Covered Entity's minimum necessary policies and procedures.

(k) **Data Ownership.** Associate acknowledges that Associate has no ownership rights with respect to Protected Information.

(l) **Retention of Protected Information.** Notwithstanding Section 6b of this Article, Associate shall continue to maintain the information required under section 2h of this Article for a period of six (6) years after termination of the Agreement.

(m) **Additional Action in Event of Breach.** In the event of any actual breach of security, intrusion or unauthorized use or disclosure of PHI, Associate shall take (i) prompt corrective action to attempt to cure any such deficiencies and (ii) any further action pertaining to such unauthorized use or disclosure required of Associate by applicable federal and state laws and regulation.

(n) **Audits, Inspection and Enforcement.** Within ten (10) business days of a written request by the Covered Entity, Associate shall allow the Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use, disclosure or security of Protected Information pursuant to this Article for the purpose of determining whether Associate has complied with this Article; provided, however, that the Covered Entity shall protect the confidentiality of all confidential and proprietary information of Associate to which the Covered Entity has access during the course of such inspection, which obligation shall survive the termination of this Article, including, without limitation, by expiration. The fact that the Covered Entity inspects, or fails to inspect, or has the right to inspect, Associates facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Article, nor does the Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associates remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of the Covered Entity's enforcement rights under this Article.

(o) **Further Obligations of Associate Under the HITECH Act.** Section 164.504(e)(1)(ii) of the Privacy Rule shall and does apply to Associate with respect to compliance with subsection 13404(a) in the HITECH Act in the same manner as such section applies to the Covered Entity, with respect to compliance with the standards in Sections 164.502(e) and 164.504(e) of the Privacy Rule, except in applying such Section 164.504(e)(1)(ii), each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

4.6 **Obligations of Covered Entity:** (a) **Disclosure of Information.** The Covered Entity agrees to disclose information to Associate upon its own volition, upon Associates request, or upon the request of a third party if such disclosure is permissible by law and regulation, including, without limitation, the minimum necessary standard of the Privacy Rule and Section 13405(b) of the HITECH Act, so that Associate may provide the agreed to services to or on behalf of the Covered Entity under the Agreement, unless the Covered Entity otherwise objects to the disclosure or Associate is no longer providing the services to the Covered Entity under the Agreement.

(b) **Notice of Privacy Practices.** The Covered Entity shall notify Associate of limitations in the Notice of Privacy Practices of the Covered Entity under 45 CFR 164.520, as it may be amended, to the extent necessary to inform Associate of any limitations on the use or disclosure of Protected Health Information that may affect Associates use or disclosure of Protected Information.

(c) **Changes in Use or Disclosure of Protected Health Information.** The Covered Entity shall notify Associate of any changes in, or revocation of, permission by any individual to use or disclose Protected Health Information, to the extent that such changes may affect Associates use or disclosure of Protected Information.

(d) **Restrictions on Use or Disclosure of Protected Health Information.** The Covered Entity shall notify Associate of any restriction on the use or disclosure of Protected Health Information that the Covered Entity has agreed to or is required to abide by in accordance with

45 CFR Section 164.522, to the extent that such restriction may affect Associates use or disclosure of Protected Information.

4.7 **Indemnity and Insurance: Indemnification.** Associate shall indemnify and hold the Covered Entity harmless, and if requested by the Covered Entity, defend the Covered Entity, from and against any and all liabilities, costs, claims, actions, losses, expenses, damages, fines and penalties, including, but not limited to, attorney's fees, court costs, and fees, expenses and cost for any breach assessment and breach notification, of any kind or nature, directly or indirectly created by, arising from, relating to or resulting from a breach of this Article by Associate, or a breach by any Agent or Subcontractor of its agreement with Associate, or the violation of any state or federal law or regulation relating to the privacy and security of health information or breaches of health information, including, without limitation, HIPAA and the HIPAA Regulations, by Associate or any of its Subcontractors, without regard to any limitation or exclusion of damage provision otherwise set forth in the Agreement. Likewise, the Covered Entity shall indemnify and hold harmless the Associate, in like manner as the foregoing, for breach assessment and breach notification, of any kind or nature, directly or indirectly created by, arising from, relating to or resulting from a breach of this Article by Covered Entity, to the extent that same in any manner affects the Associate.

**Insurance.** Associate shall obtain and maintain, or cause to be obtained and maintained, liability insurance covering claims based on a violation of the Privacy Rule, the Security Rule, the Breach Notification Rule, or any applicable federal or West Virginia law or regulation concerning the privacy or security of patient information or notifications of breaches, and claims based on violations by Associate of its obligations under this Article or, in the case of any Agent or Subcontractor, claims based on violations of its obligations under its agreement with Associate, in an amount agreed by the parties hereto.

4.8 **Termination: (a) Material Breach.** A breach by Associate of any material provision of this Article that is not cured within twenty (20) business days following written notice by the Covered Entity to Associate shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement by the Covered Entity;

however, Covered Entity is not obligated to terminate the Agreement, same being in the discretion of the Covered Entity.

(b) **Effect of Termination.** Upon termination of this Article for any reason, including, without limitation, by expiration, Associate shall return or destroy all Protected Information that Associate still maintains in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, in whole or part, as mutually agreed by the parties and such agreement not to be unreasonably withheld, Associate shall continue to extend the protections of this Article to such information, as provided for in the Privacy Rule, and limit further use and disclosure of such Protected Information to those purposes that make the return or destruction of such Protected Information infeasible. If Associate elects to destroy such Protected Information, Associate shall certify in writing to the Covered Entity that such Protected Information has been destroyed.

4.9 **Disclaimer:** The covered Entity makes no warranty or representation that compliance by Associate with this Article, HIPAA, HITECH or the HIPAA Regulations will be adequate or satisfactory for Associates own purposes.

4.10 **No Third Party Beneficiaries:** Nothing express or implied in this Article is intended to confer, nor shall anything herein confer, upon any person other than the Covered Entity, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

4.11 **Notices:** Any notices to be given under this Article by one party to another party shall be made, in writing, by United States Mail, certified return receipt requested and postage prepaid, or express courier, to such party's last known address.

4.12 **Amendment – changes in Law or Regulation:** Except as otherwise expressly set forth in this Article, this Article may only be amended by a writing signed by the Covered Entity and Associate. This Article shall be interpreted as broadly as necessary to implement and comply with HIPAA, the Privacy Rule, the Security Rule and the Breach Notification Rule, and shall be deemed amended, as of the date covered entities and business associates are required to be in compliance and without any further writing or action, to incorporate any changes hereafter

made to HIPAA, the Privacy Rule, the Security Rule or the Breach Notification Rule, to the extent such changes include provisions that are required in agreements between covered entities and business associates and that are not included in this Article. In addition, a change to the HIPAA Regulations which alters the regulatory citation shall be deemed incorporated by reference without further action or writing. The parties agree that any ambiguity in this Article shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the Privacy Rule, the Security Rule and the Breach Notification Rule.

#### **ARTICLE 5. DEFAULTS AND REMEDIES**

5.1 **Defaults:** The occurrence of any one or more of the following shall constitute a “Default” hereunder.

5.1.1 Payment: Failure of either party to pay any amount required hereunder within thirty (30) days after such is due hereunder, or

5.1.2 Performance: Failure of either party to perform any other covenant, condition, agreement or provision contained herein within thirty (30) days after receipt by such party of written notice of such failure to diligently and reasonably pursue cure of said failure.

5.2 **Remedies:** Upon the occurrence and continuance of a Default and subject to the limitations and waivers otherwise set forth herein, the party not in Default may, at its option and without any obligation to do so and in addition to any other remedies otherwise set forth in this Agreement, elect any one or more of the following remedies: (1) Performance – withhold performance of any obligation, including payment obligations, under this Agreement until such time as such Default is cured; or (2) Cure Default – cure such default and recover the reasonable costs thereof from the party in Default, provided that the party not in Default is current in all payments due hereunder; or (3) injunctive relief – seek injunctive relief to enjoin any act of a party in violation hereof; or (4) Specific Performance – seek specific performance of any covenant or obligation of a party hereunder; or (5) Other Available Remedies – pursue any other remedy now or hereafter available under the laws or judicial decisions of any State where jurisdiction and venue are appropriate.

5.3 **Seperability:** Each and every covenant and agreement herein shall be separate and independent from any other and the breach of any covenant or agreement shall in no way or manner discharge or relieve the performance of any other covenant or agreement. Each and all of the rights and remedies given by this Agreement or by law or equity are cumulative, and the exercise of any such right or remedy shall not impair any party's right to exercise any other right or remedy available under this Agreement or by law or equity.

5.4 **No Waiver:** No delay in exercising or omission of the right to exercise any right or power shall impair any such right or power, or shall be construed as a waiver of any breach or default or as acquiescence thereto. One or more waivers of any covenant, term or condition of this Agreement shall not be construed as a waiver of a continuing or subsequent breach of the same covenant, provision or condition. The consent or approval to or of any act of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar acts.

5.5 **Attorney Fees:** In the event of any controversy arising under or relating to the interpretation or implementation of this Agreement or any breach thereof, the prevailing party shall be entitled to payment of all costs and attorney's fees incurred in connection therewith.

## **ARTICLE 6. TERMINATION**

6.1 **Non-Cause:** Either party may terminate this Agreement, without cause, upon giving not less than ninety (90) days prior written notice to the other of the intent to terminate.

6.2 **Cause:** Either party may terminate this Agreement, for cause, upon breach of this Agreement, by giving written notice to the breaching party as to the alleged breach, and which is breach is not cured within thirty (30) days of receipt of such notice.

6.3 **Effect of Termination:** Upon notice of termination of this Agreement for any reason, Collector shall be entitled to be assigned new account through the effective termination date. Thereafter, Collector shall continue to work all account in its possession subject to the terms of this Agreement and shall be entitled to its fee hereunder.

## **ARTICLE 7. MISCELLANEOUS**

7.1 **Originals, counterparts, and electronic signatures:** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original. Any counterpart of this Agreement which has attached to it one or more separate signature pages is deemed a fully executed original of this Agreement. Without limiting the preceding sentence, signatures of any party to this Agreement transmitted by facsimile or any other electronic means shall be deemed to be their original signature for all purposes.

7.2 **Entire Agreement:** This Agreement, together with any other agreements entered contemporaneously herewith or at some later period as a written modification or amendment to this Agreement, constitutes and represents the entire Agreement between the parties hereto and supersedes any prior understandings or agreements, written or verbal, between the parties hereto respecting the subject matter herein. This Agreement may be amended, supplemented, modified only upon an agreement in writing executed by all of the parties hereto. This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns. In the event that any court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, same shall not invalidate or render unenforceable the remaining provisions of this Agreement.

7.3 **Governing Law:** This Agreement shall be governed by the laws of the State of West Virginia, and, unless otherwise agreed by the parties, jurisdiction and venue shall lie only in the State of West Virginia, Monongalia County. Further, the parties hereto waive any right to trial by jury on any action related to this Agreement or the services provided hereunder, as well as any right to any punitive damages.



**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the day and date first hereinabove written:

Creditor:

\_\_\_\_\_

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

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

Debt Collection Partners LLC

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

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