

**COLLECTION SERVICES AND  
BUSINESS ASSOCIATE AGREEMENT**

THIS COLLECTION SERVICES AND BUSINESS ASSOCIATE AGREEMENT ("Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between [COVERED ENTITY/HEALTHCARE PROVIDER], ("HEALTHCARE PROVIDER"), and CREDIT COLLECTIONS U.S.A., L.L.C., a West Virginia Limited Liability Company, ("CCUSA").

**W I T N E S S E T H:**

WHEREAS, the Healthcare Provider is a "covered entity" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA "); and

WHEREAS, the Healthcare Provider's direct and indirect use and disclosure of Protected Health Information ("PHI") is subject to HIPAA; and

WHEREAS, the Healthcare Provider is desirous of obtaining the services of CCUSA to assist in the collection of patient accounts receivable; and

WHEREAS, CCUSA is, for purposes of HIPAA, a "Business Associate;" and

WHEREAS, CCUSA wishes to provide third party accounts receivable collection services for the Healthcare Provider upon the terms and conditions herein stated.

NOW THEREFORE, in consideration of the foregoing covenants and promises, the adequacy and sufficiency of which is hereby acknowledged, the parties mutually agree to the following terms and conditions:

**I. GENERAL TERMS AND CONDITIONS**

**1.1 Description of Collection Services**

CCUSA shall perform third party collection services on patient accounts referred to CCUSA by the Healthcare Provider in compliance with the applicable requirements of HIPAA, the Fair Debt Collection Practices Act ("FDCPA"), Medicare and Medicaid rules and regulations, and state and local laws and regulations. The parties agree that the number and dollar value of patient accounts referred to CCUSA under this Agreement shall be within the sole discretion of Healthcare Provider. The services to be performed by CCUSA on referred patient accounts may include:

- (A) Data extraction;
- (B) Data aggregation services;
- (C) Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and subrogation of health benefit claims;
- (D) Performance of location information services;

- (E) Mailing of collection notices;
- (F) Telephone requests for payment;
- (G) Establishment of repayment plans;
- (H) Obtaining payment under a contract for reinsurance (including stop loss insurance and excess of loss insurance), and related health care data processing;
- (I) Review of health care services with respect to coverage under a health plan or justification of charges.

### 1.2 Necessary Information to Effectuate Services

Healthcare Provider authorizes CCUSA to commence its collection procedures to effectuate payment of a referred account when Healthcare Provider provides CCUSA with the following patient/responsible party information that pertains to the patient's referred account:

- (A) Name, address and telephone number of responsible party;
- (B) Name, address and telephone number of patient;
- (C) Name of responsible party's spouse
- (D) Social security number of responsible party;
- (E) Social security number of patient;
- (F) Payment history pertaining to the account;
- (G) Employment name, address and telephone number of responsible party;
- (H) Employment name, address and telephone number of patient;
- (I) Name and address of any healthcare provider and/or health plan pertaining to the account;
- (J) Balance;
- (K) Patient Date of Birth;
- (L) Date of Last Service;
- (M) Date of Last Payment or Insurance Denial Date.

The parties agree that each of the above listed items is reasonably necessary for CCUSA to perform services under this Agreement and to comply with applicable law.

### 1.3 Limitations on Use and Disclosure of Minimum Necessary Information

CCUSA agrees to not use or disclose PHI other than as permitted or required by this Agreement or as required by law. CCUSA further agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than to those employees, officers, directors, authorized agents, vendors and subcontractors of CCUSA whose ability to perform their job functions or render services to CCUSA may require such access, use or disclosure of PHI. Authorized agents, vendors and subcontractors of CCUSA include, but may not be limited to, its attorneys, accountants and accounting service providers, providers of hardware, software, technical support service providers,

and letter services used by CCUSA in connection with services to the Healthcare Provider.

#### **1.4 Obligations of the Healthcare Provider**

(a) Healthcare Provider shall notify CCUSA of any limitation(s) in its notice of privacy practices of Healthcare provider in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect CCUSA's use or disclosure of PHI.

(b) Healthcare Provider shall notify CCUSA of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect CCUSA's use or disclosure of PHI.

(c) Healthcare Provider shall notify CCUSA of any restriction to the use or disclosure of PHI that Healthcare Provider has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect CCUSA's use or disclosure of PHI.

#### **1.5 Verification Information**

Upon CCUSA's receipt of a written request from patient requesting verification of the account information, Healthcare Provider shall provide CCUSA with an itemization of the services and the date(s) such service(s) were rendered to the patient which pertain to the account receivable referred to CCUSA pursuant to this Agreement.

#### **1.6 Right to Withdraw Referred Accounts**

Upon written notification to CCUSA, the Healthcare Provider shall be permitted to withdraw any patient account not in payment status which was referred to CCUSA more than six (6) months preceding the withdrawal request. The Healthcare Provider shall be permitted to withdraw without charge any patient account which CCUSA determines is uncollectible, or which may require legal action. Subject to the retention requirements set forth in this Agreement, CCUSA agrees to return or destroy all data and information relating to such patient accounts to the Healthcare Provider within thirty (30) days of its receipt of the notice of withdrawal.

#### **1.7 Right to Refuse to Perform Services**

Upon receipt of notice that a referred patient account is subject to restrictions on the use or disclosure of PHI, CCUSA may, at its sole discretion, return the said patient account to the Healthcare Provider without penalty,

### 1.8 Electronic Data Exchange

Healthcare Provider and CCUSA shall adhere to the electronic data exchange protocols as required by Health and Human Services Department Standards for Individually Identifiable Health Information.

## II. TERM OF AGREEMENT

### 2.1 Primary Term

The Primary Term of this Agreement shall be for a period of one (1) year from the date of the execution of this Agreement.

### 2.2 Renewal

The Healthcare Provider must provide CCUSA with at least thirty (30) days written notice prior to the expiration of the Primary Term of this Agreement of its intent not to renew this Agreement or this Agreement will automatically be renewed for a length of time equal to the Primary Term.

## III. COMPENSATION AND REPORTING REQUIREMENTS

### 3.1 Calculation of Commissions Earned

CCUSA's commission, unless otherwise stated, shall be calculated according to the provisions set forth in Schedule A which is attached hereto and incorporated herein.

### 3.2 Compensation for Withdrawn Accounts Receivable

CCUSA shall be compensated in accordance with Schedule A of this Agreement with respect to any payments received by either CCUSA or the Healthcare Provider on an account receivable subject to this Agreement as of the date said account is withdrawn by Healthcare Provider.

### 3.3 Statement of Payments Collected

On or before the 10<sup>TH</sup> day of each month, CCUSA shall submit to Healthcare Provider a Monthly Activity Invoice of payments collected by CCUSA and/or Healthcare Provider, a Check if monies are due the Healthcare Provider, and a Statement of Commissions earned. The Monthly Activity Invoice shall set forth an itemization of payments collected by CCUSA and/or Healthcare Provider, the amount of commission

earned on each payment that CCUSA earned during the preceding month as a result of its performance of collection services under this Agreement.

### **3.4 Additional Monthly Reporting Requirements**

On a monthly basis, CCUSA shall provide Healthcare Provider with a Performance Report detailing listings and collections during the preceding month, current and prior years. This comprehensive collection report allows the Healthcare Provider to closely monitor collection results achieved.

## **IV. INSURANCE AND BONDS**

### **4.1 General Liability Insurance**

Throughout the term of this Agreement, CCUSA shall obtain and maintain comprehensive general liability insurance with minimum limits of \$1,000,000.00 in the aggregate. CCUSA shall obtain and maintain this insurance coverage at its own expense, without reimbursement from Healthcare Provider and provide Healthcare Provider with evidence of this coverage upon request.

### **4.2 Workers Compensation Insurance**

Throughout the term of this Agreement, CCUSA shall obtain and maintain required Worker's Compensation Insurance. CCUSA shall provide Healthcare Provider with evidence of this coverage upon request.

## **V. INDEMNIFICATION**

### **5.1 Hold Harmless and Indemnification**

CCUSA and Healthcare Provider shall mutually protect, indemnify and hold harmless each other, their officers and employees from all claims, suits, actions, attorney's fees, costs, expenses, damages, judgments or decrees arising out of the failure by either party to comply with all applicable federal, state and local laws and regulations enacted now or to be enacted in the future as the same may apply to the subject matter of this Agreement and all claims, suits, actions, costs, attorney's fees, expenses, damages, judgments or decrees by reason of any injury to persons or property caused by the other party, their officers, or employees in the performance of the work and services under this Agreement.

## **VI. TRANSFER, ASSIGNMENT, USE OF SUBCONTRACTORS**

### **6.1 Transfer and Assignment**

CCUSA shall not, without the prior written consent of Healthcare Provider, assign, transfer, or otherwise dispose of this Agreement, any claim thereunder, any

interest therein, or any moneys due or to become due thereunder. Such consent shall not be unreasonably withheld.

## 6.2 Use of Subcontractors or Agents

To the extent CCUSA uses agents or subcontractors to assist it in performance of services under this Agreement and performance by the agents or subcontractors necessitates their access to, use or disclosure of any item of Information, CCUSA will not provide its agents or subcontractors any PHI unless the agent or subcontractor has agreed, in writing, that the provisions of this Agreement relating to the use, access, disclosure or audit of PHI are binding upon and applicable to the agent or subcontractor to the same extent such provisions are binding on, and applicable to, CCUSA.

## 6.3 Access to Subcontractor or Agency Agreements

CCUSA shall provide Healthcare Provider with copies of any subcontractor or agent contracts upon request throughout the term of this Agreement.

# VII. MUTUAL ASSURANCES

## 7.1 Healthcare Provider Assurances

In addition to all other representations, terms and conditions provided in this Agreement, Healthcare Provider represents and agrees that:

- (A) Accounts referred to CCUSA pursuant to this Agreement are in default;
- (B) Healthcare Provider has and shall obtain throughout the term of this Agreement, all necessary consents required by HIPAA, as amended, sufficient to permit the disclosure of PHI to CCUSA and to permit CCUSA to perform services contemplated by this Agreement;
- (C) The uses and disclosures of PHI under this Agreement are consistent and in accordance with Healthcare Provider's privacy policies and procedures adopted pursuant to the Health and Human Services Department Standards for Individually Identifiable Health Information;
- (D) Healthcare Provider shall immediately notify CCUSA of any restrictions placed on the use of PHI pertaining to a referred account with sufficient detail so as to allow CCUSA to honor such restrictions;
- (E) If Healthcare Provider knows or has reason to know that the consumer for whom it has or does provide service disputes the

account, is represented by an attorney or has filed bankruptcy, Healthcare Provider shall notify CCUSA of this knowledge upon receipt thereof;

## 7.2 CCUSA Assurances

In addition *to* all other representations, terms and conditions provided in this Agreement, CCUSA represents and agrees that with respect PHI provided by the Healthcare Provider or obtained by CCUSA in connection with services rendered for the Healthcare Provider under the Agreement that:

- (A) CCUSA shall not use or further disclose PHI pertaining to the recipient of Healthcare Provider's services or any responsible party on a referred account other than as permitted or required by this Agreement or as required by law;
- (B) CCUSA shall use appropriate safeguards to prevent the use or disclosure of PHI pertaining to the recipient of Healthcare Provider's services or any responsible party on a referred account other than as provided for in this Agreement;
- (C) CCUSA shall notify Healthcare Provider of any use or disclosure of PHI not provided for by this Agreement of which it becomes aware;
- (D) CCUSA shall make available PHI in accordance with the Health and Human Services Department Standards for Privacy of Individually Identifiable Health Information;
- (E) CCUSA shall make available for amendment and incorporate any amendments to PHI in accordance with the Health and Human Services Department Standards for Privacy of Individually Identifiable Health Information;
- (F) Healthcare Provider has determined that the uses and disclosures of PHI specified in this Agreement, whether by Healthcare Provider, CCUSA, or their authorized agents and subcontractors, are made and authorized as part of treatment, payment and healthcare operations relating to the Healthcare Provider. CCUSA will use its reasonable best efforts to maintain records of any use or disclosure of PHI not provided for in this Agreement by CCUSA, its officers, directors, employees, agents and subcontractors and, to the extent known by CCUSA, report to the Healthcare Provider any use or disclosure by such persons not authorized by this Agreement and provide such information to the Healthcare Provider upon written request of the Healthcare Provider, which request shall be made only in connection with an accounting request made to the Healthcare Provider under the then applicable HIPAA Standards. Information regarding any unauthorized use or disclosure of PHI

shall be maintained by CCUSA for a period of not less than six (6) years from the date of such unauthorized use or disclosure.

- (G) CCUSA shall make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by CCUSA on behalf of the Healthcare Provider, available to the Health and Human Services Secretary for the purposes of determining the Healthcare Provider's compliance with the Health and Human Services Department Standards for Individually Identifiable Health Information.
- (H) CCUSA shall train appropriate staff so as to assure compliance with this Agreement and the Health and Human Services Department Standards for Individually Identifiable Health Information.
- (I) CCUSA's obligation to provide PHI, to make corrections or amendments to PHI, to respond to the written instruction/request of the Healthcare Provider; or to deliver PHI and documentation to the Healthcare Provider shall only be as directed, in writing, by the Healthcare Provider.

## VIII. INDEPENDENT CONTRACTOR

### 8.1 Independent Contractor Status

The parties expressly agree hereto that CCUSA is an independent contractor. Nothing in this Agreement is intended, nor shall be construed to create, an employer-employee relationship or a joint venture relationship, or to allow Healthcare Provider to exercise direction or control over the manner or method by which CCUSA performs the Services which are the subject matter of this Agreement.

## IX. AUDIT

### 9.1 Audit

CCUSA shall make its records relating to Healthcare Provider's accounts placed with CCUSA available for an audit at its office at reasonable times upon reasonable prior written notice to CCUSA during the Agreement period, said audit to be performed by Healthcare Provider's patient accounting staff, Healthcare Provider's internal auditors or their outside accounting firm selected and compensated by Healthcare Provider.



**X. SECURITY**

**10.1 Security**

CCUSA shall at all times during this Agreement maintain security procedures in accordance with the requirements of Health and Human Services Department Standards for Security of Individually Identifiable Health Information,

**XI. NOTICES**

All notices required under this Agreement shall be given in writing and shall be sent by US Mail, first class postage pre-paid, to the following address:

If to CCUSA:                                 Credit Collections U.S.A., L.L.C.  
   16 Distributor Drive, Suite 1  
   Morgantown, WV 26501  
   Attn: Linda Wolfe, C.O.O.

If to Healthcare Provider: \_\_\_\_\_  
   Name of Healthcare Provider  
  
   \_\_\_\_\_  
   Address  
  
   \_\_\_\_\_  
   City, State, Zip  
  
   Attn: \_\_\_\_\_  
   (Insert Title as applicable)

**XII. ENTIRE AGREEMENT, MODIFICATIONS AND AMENDMENTS**

This document contains the entire agreement between the parties and shall supersede all previous agreements between the parties. This Agreement, or any of its provisions may be modified or amended at any time during its term, but only by an agreement in writing, signed by both parties, stating which provisions of this Agreement are so amended and setting out such amendment or modification in full.

**XIII. GOVERNING LAW**

This Agreement shall be governed by the laws of the State of West Virginia.

**XIV. TERMINATION**

**14.1 Termination Upon Notice**

Notwithstanding anything contained herein to the contrary, this Agreement may be terminated by either party upon thirty (30) days prior written notice. Upon termination of this Agreement, CCUSA shall immediately cease all collection activity for Healthcare Provider. Upon termination, CCUSA shall, within thirty (30) days, remit outstanding collections net of CCUSA's commissions, received by CCUSA on behalf of Healthcare Provider.

**14.2 Post Termination Events**

To the extent feasible and regardless of the reason for termination of this Agreement, CCUSA shall return or destroy all PHI received from, or created or received by CCUSA on behalf of the Healthcare Provider that CCUSA still maintains in any form. CCUSA shall retain no copies of such information or, if such return or destruction is not feasible, CCUSA shall extend the protections of this Agreement to the PHI and limit further uses and disclosures of the PHI to those purposes that make its return or destruction infeasible.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CREDIT COLLECTION U.S.A., L.L.C.

HEALTHCARE PROVIDER

\_\_\_\_\_

\_\_\_\_\_

## FEE SCHEDULE

**ADDENDUM TO COLLECTION SERVICES  
AND BUSINESS ASSOCIATE AGREEMENT**

This Addendum to Collection Services and Business Associate Agreement (“Addendum”) supplements and is made a part of the service agreement[s] ([individually and collectively and whether written or unwritten,])( the AAgreement@) by and between \_\_\_\_\_[the Healthcare Provider] (“Covered Entity”), and Credit Collections U.S.A., L.L.C., as Business Associate (AAssociate@).

**RECITALS AND INTRODUCTION**

A. The Covered Entity wishes to disclose certain information to Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (APHI@) (defined below).

B. The Covered Entity and Associate 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 AHIPAA Regulations@), to the extent that same are applicable hereunder. These various privacy considerations and statutes are hereinafter collectively referred to as “HIPAA”.

C. 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.

D. The Cover Entity and Associate have entered into a Collection Services and Business Associate Agreement, and this Addendum is supplemental to same. It is intended to amend and supplement said Agreement, and it does not constitute a replacement of the prior Agreement except where the terms of this Addendum are inconsistent with the Agreement, in which case the terms of this Addendum replace said inconsistent terms, and are considered as controlling.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum and the Agreement, the parties agree, as follows:

## DEFINITIONS

1. **ABreach,** 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. **ABreach 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. **ABusiness 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 Addendum, shall mean Associate.
4. **ACovered Entity** shall, when generally used in this Addendum, have the meaning given to such term under the HIPAA Regulations, including but not limited to, 45 CFR Section 160.103.
5. **AData 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. **ADesignated 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. **AElectronic 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. **AHITECH 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. **APrivacy Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Part 160, Subpart E of Part 164, and other applicable sections.
10. **AProtected Health Information** or **APHI** 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. **AProtected 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. **ASecurity Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Part 160, Subpart C of Part 164, and other applicable sections.

## **OBLIGATIONS OF ASSOCIATE**

**Permitted Uses.** Associate shall not use Protected Information except as necessary to perform Associate=s obligations under the Agreement and as permitted under the Agreement and this Addendum, 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.

**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 Associate=s obligations under the Agreement and as permitted pursuant to the Agreement and this Addendum, (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.

**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, the Agreement and this Addendum.

**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 the Agreement and this Addendum 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.

**Associate=s 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.

**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.

**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.

**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 individual=s 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.

**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 ASecretary@) for purposes of determining Associate=s 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 Addendum.

**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.

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

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

**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.

**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 Addendum for the purpose of determining whether Associate has complied with this Addendum; 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 the Agreement and this Addendum, including, without limitation, by expiration. The fact that the Covered Entity inspects, or fails to inspect, or has the right

to inspect, Associate=s facilities, systems, books, records, agreements, policies and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does the Covered Entity=s (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate=s remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of the Covered Entity=s enforcement rights under this Addendum.

**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.

### **OBLIGATIONS OF COVERED ENTITY**

**Disclosure of Information.** The Covered Entity agrees to disclose information to Associate upon its own volition, upon Associate=s 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.

**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 Associate=s use or disclosure of Protected Information.

**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 Associate=s use or disclosure of Protected Information.

**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 Associate=s use or disclosure of Protected Information.

### **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, attorneys= 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 Addendum 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 Addendum 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 Addendum 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.

#### **TERMINATION**

**Material Breach.** A breach by Associate of any material provision of this Addendum 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.

**Effect of Termination.** Upon termination of this Addendum 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 Addendum 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.

#### **DISCLAIMER**

The covered Entity makes no warranty or representation that compliance by Associate with this Addendum, HIPAA, HITECH or the HIPAA Regulations will be adequate or satisfactory for Associate=s own purposes.

#### **NO THIRD PARTY BENEFICIARIES**

Nothing express or implied in this Addendum 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.

#### **NOTICES**

Any notices to be given under this Addendum 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.

#### **AMENDMENT; CHANGES IN LAW OR REGULATION**

Except as otherwise expressly set forth in this Addendum, the Addendum may only be amended by a writing signed by the Covered Entity and Associate. This Addendum and the Agreement 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 Addendum. 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 Addendum 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.

**STATUS OF PARTIES, COUNTERPARTS, AND ELECTRONIC SIGNATURE**

The parties execute this Addendum as independent contracting parties, and no principal-agent or employer-employee relationship is created hereby. This Addendum may be executed in one or more counterparts, each of which shall be deemed to be an original. Any counterpart of this Addendum which has attached to it one or more separate signature pages, deemed a fully executed original of this Addendum. Without limiting the preceding sentence, signatures of any party to this Addendum transmitted by facsimile or any other electronic means shall be deemed to be their original signature for all purposes.

IN WITNESS WHEREOF, the parties have duly executed this Addendum by their respective duly authorized representatives, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COVERED ENTITY:

\_\_\_\_\_

By:

\_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

BUSINESS ASSOCIATE:

Credit Collections U.S.A., L.L.C.

By:

\_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_