

LIFE LINE BILLING SYSTEMS, LLC

SERVICE AGREEMENT

EMERGENCY MEDICAL SERVICES (EMS) BILLING AND FIRE SERVICE FEE RECOVERY

This SERVICE AGREEMENT ("Agreement") is entered into this 28th day of February, 2017, ("Effective Date") by and between City of Killeen, a governmental entity duly organized and existing under the laws of the State of Texas, whose notice address is 101 North College Street, Killeen, Texas 76540 ("Service Provider") and Life Line Billing Systems, LLC, d/b/a LifeQuest Services, a limited liability company duly organized and existing under the laws of the State of Delaware, whose notice address is N2930 State Road 22, Wautoma, Wisconsin 54982 ("Agency") (Service Provider and Agency are generically referred to herein as "Party" and/or "Parties").

Article 1

Recitals

1.1 Service Provider Operations. Service Provider is engaged in the business of providing EMS and Rescue response and it desires to receive Services from Agency.

1.2 Agency Operations. Agency is engaged in the business of providing customized billing, collecting and data management systems and desires to do the billing, collecting and provide data management for the Service Provider.

1.3 Consideration. In consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree to the terms of this Agreement.

1.4 Definitions. Words with initial capital letters that are not proper names are either defined within the text of this Agreement or specifically as follows:

"Breach" shall mean the failure by one Party to perform any obligation set forth in this Agreement having an effect on the other Party. (A "material" breach of contract is a breach that strikes so deeply at the heart of the contract that it renders the agreement "irreparably broken" and defeats the purpose of making the contract in the first place.)

"Healthcare Accounts" means any Patient Accounts that are provided by the Service Provider that is regulated by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") requiring additional obligations, warranties and covenants by the Parties that are referenced in this Agreement and within the incorporated and attached Exhibit B-2 and Exhibit B-3.

"Patient Accounts" means the accounts receivable that result from a patient's receipt of ambulance and/or rescue services and include accounts not in default.

1.5 Account Status. Agency provides billing services for Service Provider on Patient Accounts that are not in default and collecting for services by Service Provider on accounts and other services as provided in this Agreement.

Article 2

Services

Agency shall supply the customized billing, collecting and data management services for Patient Accounts to the Service Provider as detailed in this Article ("Services").

2.1. Agency Processing. Agency shall supply reports and do the billing and collecting through its employees as detailed in Exhibit A-1 attached hereto and incorporated by reference.

2.2. Insurance Processing. Agency shall process insurance claims generated by the appropriate carriers of patients, who have provided the necessary information for insurance filings.

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2.3. Inquiries. Agency shall handle and respond to all inquiries concerning the Patient Accounts by patients, insurance companies and Service Provider. Service Provider shall assist Agency with any inquiries related to the services provided by the Service Provider. Agency shall provide a toll-free telephone number for patient and Service Provider inquiries.

2.4. Software. Agency shall implement software upgrades as required by changes in the law and/or national insurance standards.

2.5. Reports. Agency shall create and review monthly reports for the internal analysis of factors affecting the collecting performance of the Patient Accounts and present the information to the Service Provider upon the detection of any means available to improve the efficiency of collecting.

Article 3

Obligations of Service Provider

3.1. Pre-Screening. Service Provider shall be responsible for the accuracy of the original data regarding the Patient Accounts delivered to the Agency as further detailed in Exhibit B-1 attached hereto and incorporated by reference.

3.2. Validity of Accounts. Service Provider represents and warrants to Agency that all Patient Account debts are valid, legally enforceable debts, and in compliance with any corresponding state or federal law ("Laws and Regulations"). Upon request by the Agency, Service Provider shall provide specific assurance of validity in accordance with the Laws and Regulations.

3.3. Notification Requirements. Service Provider must immediately notify Agency in writing of its actual, constructive or reasonably conceived knowledge of any of the following events: (i) any patient of Service Provider files bankruptcy, is represented by an attorney or has submitted a dispute(s) regarding any Patient Account to the Service Provider or is the subject of a complaint or a cease and desist notification by debtor during the time in which Agency is providing Services to the Patient Account (collectively referred to as "Consumer Actions") and (ii) Service Provider receives any direct or indirect payment on a Patient Account or a returned check on any such payment during the time in which Agency is providing Services to the Service Provider.

3.4. Ceasing collecting. Service Provider has the right to cease collecting of any Patient Account upon Agency's receipt of written Notice from Service Provider.

Article 4

Term

4.1. Initial Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of twenty-four (24) months ("Initial Term").

4.2. Renewal. Upon the expiration of the Initial Term and unless otherwise Terminated, this Agreement can be extended and consecutively renewed for up to three (3) twelve (12) month terms (each shall be generically referred to herein as "Subsequent Term(s)") (the Initial Term and Subsequent Term(s) shall be jointly referred to as "Term") – total period not to exceed five (5) years.

4.3. Termination. This Agreement shall terminate as provided in this section ("Termination"). The date of termination is defined within each subsection ("Termination Date").

4.3.1. Written Notice/No Fault. Either party may terminate this Agreement by giving written notice to the other Party at least one hundred twenty (120) days prior to said Termination.

4.3.2. Discontinuance of Business. This Agreement shall terminate in the event the Agency discontinues the operation of its business. The Termination Date shall be the last day of the month in which Agency ceases operations.

4.3.3. Breach of Contract. A non-breaching Party ("Non-breaching Party") may immediately terminate this Agreement upon the allegedly breaching Party's ("Breaching Party") failure to cure the Breach within thirty (30) days of receipt of Non-breaching Party's written Notice of the Breach, and having a material effect on the Non-breaching Party that has been sufficiently set forth by the Non-

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breaching Party and received in writing by the Breaching Party. The Termination Date shall be thirty (30) days from the Breaching Party's receipt of the written Notice of the Breach.

4.3.4. Failure of Performance. Except in the event of a Material Breach, the failure by either Party to perform any of their obligations hereunder shall not be deemed a breach of this Agreement unless the Party gives the Party failing to perform written Notice of such failure to perform and such failure is not corrected within thirty (30) days after receipt of such Notice ("Termination Date").

4.4. Effect of Termination. The Parties agree that upon Termination of this Agreement for any reason, Agency shall be entitled to receive any accrued but unpaid Fees through the Termination Date and the rights and obligations of Articles 6-8 pertaining to confidentiality shall survive Termination and continue in full force and effect.

Article 5

Collection Fees

5.1 Fees. Service Provider shall pay Agency the fees set forth in this Article ("Fees").

5.1.1. Billing Contingency Fees. 4.6% of the Patient Accounts collected in billing/phase one as further detailed in Exhibit A-1 attached hereto ("Billing Procedures").

5.1.2. Reasonable Costs. The Service Provider shall compensate the Agency for all reasonable costs incurred by the Agency which are tied directly to implementing the billing services solution (annual technology Service Bridge at \$100 per user not to exceed 10 users and technology directory for City of Killeen not to exceed \$750 one time cost).

5.2. Payment of Fees. Service Provider and Agency agree to manage the payment of Fees in accordance with the provisions of this section.

5.2.1. Payments. Agency shall provide monthly payments from the established, agreed upon account to the Service Provider.

5.2.2. Payment Procedure. Service Provider authorizes electronic transfer of Agency fees when electronic transfer of Service Provider payment is made from the checking account at the time of the month end reporting provided by Agency ("Due Date"). Any Fees not paid by the Due Date shall be subject to a late charge of twelve percent (12%) per annum or the highest rate allowed by applicable law. Service Provider acknowledges that its failure to authorize Fees to the Agency upon receipt of month end reports constitutes a breach of this Agreement. Service Provider grants Agency a lien on the Checking Account until the Fee is received by Agency. In addition, Service Provider shall be responsible for all costs of collecting, including reasonable attorney's fees incurred in enforcing this Section ("Payment Terms").

5.2.3. Electronic Funds Transfer. When a check is used by Service Provider for Agency's payment, the Service Provider authorizes Agency to either use information from any check received by Agency to make a one-time EFT from the applicable account or to process the payment as a check transaction. When Agency uses an EFT, funds may be withdrawn from the applicable account as soon as the same day Agency receives payment and Service Provider will not receive a cancelled check back from its financial institution.

Article 6

Confidential Information

The Service Provider hereby acknowledges that it shall have access to Agency's Confidential Information. Service Provider acknowledges that Agency's obligations under this Agreement are expressly contingent on Service Provider's compliance with this article. Service Provider expressly recognizes that: (i) the efficacy and profitability of Agency's business is dependent in part upon Service Provider's protection of Agency's Confidential Information; (ii) Service Provider may already possess

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Confidential Information which Agency desires to protect and (iii) in receiving Services, Service Provider may be provided access to and/or gain knowledge of Agency's Confidential Information as defined below.

6.1. Nondisclosure. To ensure the continued confidentiality of the Confidential Information, Service Provider shall not, during the Term of this Agreement or for a period of twenty-four (24) months after Termination of this Agreement, disclose to or use, for any other person or entity, directly or indirectly, any of Agency's Confidential Information, except as such disclosure or use is expressly authorized by Agency in writing, as permitted by law or is reasonably required in connection with performance of this Agreement.

6.2. Property. All Confidential Information and all Agency's files, reports, materials, records, documents, notes, memoranda and other items and any originals or copies thereof, which Service Provider either is provided, prepares, uses or simply acquires during the Term of this Agreement ("Property") are, and shall remain, the sole and exclusive property of the Agency and shall not be removed from Agency's and Service Provider's premises or disclosed to any other party without the prior written consent of Agency.

6.3. Confidential Information. As used herein, the term "Confidential Information" means any and all information relating directly or indirectly to Agency that is not generally ascertainable from public or published information or trade sources including, without limitation, all information concerning copyrighted materials, patented materials, contracts, forms, research, product information, services and pricing of services, patient data and any information protected by any state or federal privacy laws or regulations, which is or was disclosed to Service Provider, or known by Service Provider as a consequence of or through Service Provider's relationship with Agency.

6.4. Remedies. In the event of a breach of any covenant in this article, it is understood and agreed that Agency shall be entitled to injunctive relief, as well as all applicable remedies at law or in equity, available to Agency against the Service Provider and any such breach shall be a Material Breach.

6.5. Return of Confidential Information. Service Provider agrees, immediately upon the Termination of this Agreement, to make a diligent search for any and all Property and return to Agency or destroy the information as directed prior to, or upon, the Termination of this Agreement.

6.6. Applicable Law. The Parties shall comply with all applicable laws, including, without limitation, HIPAA and the additional requirements for any Healthcare Accounts as further detailed in Exhibit B-2 and Exhibit B-3 attached hereto and incorporated by reference.

6.7. Indemnification Regarding Open Records. Agency understands that the Service Provider must comply with public records laws, and the Agency may from time to time be the custodian of Service Provider's records subject to disclosure. Agency agrees to provide Service Provider with any public records it requests that do not fall under the protection of the HIPAA promptly after the Service Provider requests the same in writing. To the extent allowed by law, Service provider shall indemnify and hold Agency harmless from any actions resulting from open records requests.

Article 7

Indemnification

7.1 Agency Indemnification. To the extent allowed by law, Service Provider shall indemnify and hold the Agency and assigns harmless from and against any actions, causes of action, claims, demands, damages, costs, loss of services, expenses, compensation and attorney's fees incurred or suffered as a result of the Service Provider's breach of any provision of this Agreement whether by negligent or intentional means causing an incident where recovery is sought including, but not limited to, actions arising out of the failure of the Service Provider to fully, completely, accurately and adequately report, for purposes of the Agency's collecting attempt of a Customer Account. It is understood and agreed that this acknowledgment is given as a full release of liability to the Agency, to the extent allowed by law.

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7.2 **Service Provider Indemnification.** Agency shall indemnify and hold the Service Provider and assigns harmless from and against any actions, causes of actions, claims, demands, damages, costs, loss of services, expenses, compensation and attorney's fees incurred or suffered as a result of the Agency's breach of any provision of this Agreement whether by negligent or intentional means. It is understood and agreed that this acknowledgment is given as a full release of liability to the Service Provider.

Article 8

Miscellaneous Provisions

8.1. **Exclusivity.** Service Provider hereby acknowledges the Agency is the exclusive provider of the Services specified herein to the Service Provider.

8.2. **Assignment.** Either Party may freely assign this Agreement upon the nonassigning Party's failure to provide the written rejection of an assignment, not to be unreasonably withheld by nonassigning Party, within thirty (30) days of its receipt of written Notice of assignment from the assigning Party.

8.3. **Severability.** The Parties agree that if any term or clause of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term or clause shall be excluded to the extent of such invalidity or unenforceability; all other terms and clauses hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term or clause shall be deemed replaced by a term or clause that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term or clause.

8.4. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without giving any effect to any choice or conflict provision of law that would cause the application of the laws of any jurisdiction other than the State of Texas. The venue of any dispute arising out of this Agreement shall be a Court of competent jurisdiction in and for Bell County, Texas.

8.5. **Notices.** Any notice required or permitted to be given under this Agreement shall be sufficient if given: (i) in writing and personally delivered; (ii) sent by certified mail, postage prepaid, to the address set forth in the introductory paragraph or other notice address as designated in writing between the Parties prior to delivery and shall be effective and duly delivered on the day of personal or courier delivery; (iii) via electronic mail to an electronic mail address as designated in writing between the Parties prior to delivery and shall be effective and duly delivered upon the sending Party's confirmation of receiving Party's receipt of electronic notice or (iv) via electronic facsimile transmission to the name, address and facsimile number of the receiving Party as designated in writing between the Parties prior to delivery and shall be effective and duly delivered upon the sending Party's receipt of confirmation ("Notice").

8.6. **Waiver.** The waiver of one Party of a breach of any provision of this Agreement by the other Party shall not operate or be construed as a waiver of any subsequent breach.

8.7. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their respective heirs, representatives, successors and assigns.

8.8. **Entire Agreement.** This Agreement and any Exhibits or Addendums attached hereto shall be deemed to express, embody and supersede all previous understandings, agreements and commitments, whether written or oral, between the Parties hereto with respect to the subject matter hereof and to fully and finally set forth the entire agreement between the Parties hereto. No modifications shall be binding unless stated in writing and signed by all Parties hereto.

8.9. **Counterparts.** This Agreement may be signed in one or more counterparts but all of which taken together shall constitute one instrument.

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8.10. **Attorney Fees.** In any proceeding to enforce the terms of this Agreement, each Party shall be responsible for their own attorney's fees, unless otherwise stated in this Agreement, or if an action brought forth is deemed frivolous by a court of law, in which case the Party bringing the frivolous action shall be responsible for any attorney's fees incurred.

8.11. **Construction.** The Parties and their respective counsel have had the opportunity to review and revise this Agreement. The Parties acknowledge that the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

8.12. **Incorporation of Recitals and Introductory Statements.** The Parties hereto acknowledge that the recitals and all introductory statements are true and correct and incorporated by reference.

8.13. **Electronic Signatures.** Facsimile and electronic signatures in PDF form shall be considered original signatures for the purpose of enforcing this Agreement.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

Agency:
Life Line Billing Systems, LLC, d/b/a LifeQuest
Services
a Delaware limited liability company

Service Provider:
City of Killeen
a Texas governmental entity

Date: 15 February 2017

Date: _____



By: Michael J. Finn
Its: Chief Executive Officer

By: Ronald L. Olson
Its: City Manager

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EXHIBIT A

BILLING PROCEDURES

All billing services on Patient Accounts will be in the name of Service Provider.

Initial Billing

- Patient receives initial billing for services that were provided. In addition, Patient's primary insurance company is billed. With Patients who are participating in a Medicaid Program, Medicaid will be billed directly. If Medicaid Patient has primary commercial insurance coverage, that company will be billed first and Medicaid will act as a secondary carrier. Medicaid and Medicaid HMO Patients will not receive a bill if required by state law, unless appropriate waivers are allowed and obtained and signed by the Patient or other authorized person.
- The Patient will typically be billed within seven days of receipt of all the necessary billing documentation and information.
- For the convenience of the Patient transported by your service there is an invoice and a return envelope for sending the payment with all applicable billings.

Additional Billing

- The Patient will receive additional bills/statements/denial notices normally within thirty (30) days after the first bill was sent. Agency utilizes a scheduling procedure to optimize revenue recovery based on effective business practices. We will work to place bills into specific cycles, which will ensure the submission of regularly scheduled billings. Once the Patient's primary insurance has paid, any secondary insurance will be submitted for consideration for any unpaid balances.
- Medicare, Medicaid, and private insurance companies that have paid the maximum amounts eligible for the Patient and any outstanding balances/monies owed will be pursued via self-pay/private pay options.

Note: Any resubmissions that would be necessary due to lack of information or incorrect information would be resubmitted upon receiving the proper information at any stage of billing.

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EXHIBIT B-1

DOCUMENTATION PROCEDURES

1. Patient should have the Insurance/Medicare Authorization form signed at the hospital by the patient or patient's representative.
2. Medicare or Medicaid patient that is transported from hospital to hospital or hospital to nursing home/residence must have a Physicians Certification Statement for transport completed by a doctor BEFORE the transport unless there is an acute emergency.
3. Run Forms:
 - A. All documents should be completed legibly.
 - B. The patient's name, address, phone number and Social Security number need to be documented if at all possible.
 - C. Record location of patient pick-up and transport destination.
 - D. Record all appropriate dispatch information. (Nature of Call)
 - E. Record all patient past history related to this emergency/non-emergency.
 - F. Record all patient complaints related to this emergency/non-emergency.
 - G. Complete a detail narrative indicating the medical necessity for transport.
 - H. Record patient's date of birth.
 - I. Record admitting/receiving doctor's name (first & last).
 - J. Record the responsible party for all patients.
 - K. Record all times accurately.
 - L. Record loaded mileage to the nearest tenth of a mile (i.e. 11.2 mi).
 - M. Record crew names, crew license levels and any specialty areas of expertise which are relevant to the patient care being provided.
 - N. Have all crew members review the form for accuracy and completeness before leaving receiving facility.
 - O. Service Provider shall keep copies of all information provided to the Agent.
 - P. Record reasons why transport by other means was contraindicated.
 - Q. Record reasons why the level of service was required, i.e. ALS assessment.
 - R. Record patient condition at the time of transport including chief complaint.
 - S. Record zip code at point of pickup.
 - T. Obtain necessary Medicare and Medicaid waivers where appropriate, signed by patient or other appropriate person. *PCS and/or ABN

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EXHIBIT B-2

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 patient 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;

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- 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 (Fair Debt Collection Practices Act) 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

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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.

EXHIBIT B-3

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 patient, the provision of health care to a patient, or the past, present or future payment for the provision of health care to a patient; (b) that identifies the patient or with respect to which there is a reasonable basis to believe the information can be used to identify the patient, 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 a patient, 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 patients, carriers, insurers and others responsible for payment or

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reimbursement of the services provided to the patients; (2) the preparation of reminder notices and documents pertaining to collecting 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 patients 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

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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 (Agency) herein complies with the terms of this Exhibit.

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.