

**ACTION COLLECTION SERVICES INC. BUSINESS ASSOCIATE
AGREEMENT (FOR MEDICAL PROVIDERS)**

THIS BUSINESS ASSOCIATE AGREEMENT (the "Agreement"), is dated as of _____, by and between Action Collection Services Inc. ("Business Associate") and _____ ("Medical Provider");

WHEREAS, Business Associate and Medical Provider have entered into a Client Agreement (the "Client Agreement") whereby Business Associate will provide to Medical Provider certain collection and other related services;

WHEREAS, in the course of the provision of such services and in connection with the Client Agreement, it may become necessary for the parties to exchange Protected Health Information (as defined below);

WHEREAS, the parties hereto desire to comply with the Health Information Portability and Accountability Act of 1996 ("HIPPA") as it relates to the Client Agreement and the Protected Health Information that may be exchanged thereunder;

NOW THEREFORE, in consideration of the premises and of the mutual agreements hereinafter set forth, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Definitions.

Terms used in this Agreement but not otherwise defined shall have the same meaning as those terms in the Privacy Rule.

- a. Business Associate. "Business Associate" shall mean Action Collection Services Inc.
- b. Covered Entity. "Covered Entity" shall have the same meaning as the term Medical Provider which is defined in the preamble.
- c. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- d. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- e. Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR §

160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

- f. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
 - g. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
2. Obligations and Activities of Business Associate.
- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
 - b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
 - c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
 - d. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
 - e. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
 - f. Business Associate agrees to provide access, at the request of Covered Entity, and in a reasonable time and manner, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524.
 - g. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in a reasonable time and manner.

- h. Business Associate agrees to make written internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a reasonable time and manner or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- i. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- j. Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner, information collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

3. Permitted Uses and Disclosures by Business Associate.

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Client Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

4. Specific Use and Disclosure Provisions.

- a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

- c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).
- d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).
- e. Business Associate may de-identify Protected Health Information as may be necessary for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate provided that the de-identification conforms to the requirements of applicable law as provided for in 45 CFR § 164.514(b) and that Business Associate maintains documentation of de-identification as Required by Law. Documentation of the properly de-identified is no longer subject to the terms and conditions contained in this Agreement.

5. Obligations of Covered Entity.

- a. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.
 - i. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
 - ii. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
 - iii. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.
- b. Permissible Requests by Covered Entity.
 - i. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would

not be permissible under the Privacy Rule if done by Covered Entity except that if the Business Associate will use or disclose Protected Health Information for data aggregation or management and administrative activities of Business Associate.

6. Term and Termination.

- a. Term. The Term of this Agreement shall be effective as of the date set forth in the Client Agreement, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. Termination for Cause by Covered Entity. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either (i) provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Client Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity or (ii) immediately terminate this Agreement and the Client Agreement if Business Associate has breached a material term of this Agreement and cure is not possible. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- c. Termination for Cause by Business Associate. Upon Business Associate's knowledge of a material breach by Covered Entity, Business Associate shall either (i) provide an opportunity for Covered Entity to cure the breach or end the violation and terminate this Agreement and the Client Agreement if Covered Entity does not cure the breach or end the violation within the time specified by Business Associate or (ii) immediately terminate this Agreement and the Client Agreement if Covered Entity has breached a material term of this Agreement and cure is not possible. If neither termination nor cure are feasible, Business Associate shall report the violation to the Secretary.

7. Effect of Termination.

- a. Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the

possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- b. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon [Insert negotiated terms] that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.
 - c. In the event of a material breach of this Agreement or the Privacy Rule by Covered Entity, its agents, contractors (other than Business Associate), employees and representatives, Covered Entity agrees to hold harmless and indemnify Business Associate against all claims for sanctions, fines, penalties, charges or damages of any kind including payment of Business Associate's costs and reasonable attorney fees incurred in any proceedings arising out of any such violation.
8. Miscellaneous.
- a. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
 - b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
 - c. Survival. The respective rights and obligations of Business Associate under Section [Insert Section Number Related to "Effect of Termination"] of this Agreement shall survive the termination of this Agreement.
 - d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
 - e. Waiver. This Agreement may not be modified, nor shall any provision be waived or amended, except in a writing signed by authorized representatives of both parties. The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in anyway affect the validity of this

Agreement or the right of either party to thereafter enforce each and every provision hereof.

- f. Governing Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of New York, and in accordance with HIPPA.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the hereto as of the date first above written.

COVERED ENTITY

Insert Name:

By: _____

Name:

Title:

ACTION COLLECTION SERVICES

By: _____

Name: Vickie Kupriyanov

Title: President