

**DEBT COLLECTION AGENCY AGREEMENT**

**THIS DEBT COLLECTION AGENCY AGREEMENT** is made as this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, and MEDICAL ACCOUNTS SYSTEMS, LLC, a Florida Limited Liability Company (“Collector”), of 1201 Brickell Avenue, Suite 230, Miami, Florida 33131.

**WITNESSETH:**

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

**WHEREAS**, Collector has expertise in the collection of Delinquent Accounts and Creditor desires to retain Collector as a preferred collection agency to collect their Delinquent Accounts.

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

**ARTICLE 1. GENERAL**

1.1 **Contractor Relationship.** Creditor hereby retains Collector as an independent contractor to collect its Delinquent Accounts as further set forth herein. The relationship between Collector and Creditor shall be solely as set forth herein. Neither party shall be deemed the employee, agent, partner or joint venturer of the other, nor have, or represent to have any authority or capacity to make or alter any Agreement on behalf of the other, to legally bind the other, to credit or receive money due on behalf of the other or to do any other thing on behalf of the other except as specifically set forth herein. Neither Collector nor Creditor will have or attempt to exercise any control or direction over the methods used by the other to perform its work, duties and obligations under this Agreement except as set forth herein. The respective employees, agents and representatives of each of Collector and Creditor shall remain their own employees, agents or representatives, and shall not be entitled to employment benefits of any kind from the other. Collector and Creditor each assume full responsibility for their own compliance with any and all applicable laws, ordinances, rules and regulations, including, without limitation, Collector’s obligation to comply with the Florida and Federal Fair Debt Collection Practices Acts, and the rules promulgated thereunder, each as amended from time to time.

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

1.3 **Proprietary Information.** In recognition of the proprietary interests of each of Creditor and Collector in their respective business operations, Creditor and Collector each acknowledge the confidential nature of their relationship and any information or data relating to the business operations, systems, components, customers, prices, methods, plans, programs, results or other know-how of the other (collectively, “Trade Secrets”) and each agrees to preserve the confidential nature of these relationships (1) by using and retaining the Trade Secrets of the other in trust and confidence, only for its own internal use and not in any way in competition with the other, (2) by not copying (except for internal use), altering, disassembling, or otherwise changing, in any manner whatsoever, the Trade Secrets of the other, (3) by not disclosing any Trade Secrets of the other to, or permitting the use of any Trade Secrets of the other by, any unauthorized persons.

1.4 **Representation of the Parties.** Each party hereto represents, warrants and covenants as of the date hereof and throughout the term of this Agreement that each, and each of their Subsidiaries is and

Creditor: \_\_\_\_\_  
Collector: \_\_\_\_\_

will remain duly organized, validly existing and in good standing under the laws of the State where it was formed and any other state to which it is subject, has and will retain the requisite power and authority to conduct its business, to enter into this Agreement on behalf of itself and its Subsidiaries and to perform the terms hereof and by proper action has duly authorized, executed and delivered this Agreement and any and all instruments in connection herewith on behalf of itself and its Subsidiaries.

## ARTICLE 2. COLLECTIONS

2.1 **Delivery of Delinquent Accounts.** Creditor shall provide to Collector access to its proprietary database (“Collection Information”) to assist and facilitate the collection of Delinquent Accounts referred to Collector.

2.2 **Collection Duties.** Upon receipt of the Collection Information, Collector shall use its best efforts to secure recovery on such Delinquent Accounts referred by Creditor in a timely manner, including, but not limited to the following: (i) contacting Responsible Parties via phone or written correspondence; (ii) reviewing Uniform Billing Forms; (iii) locating and identifying the Responsible Party, and (iv) such other duties available under Federal and state law Collector deems necessary or desirable to secure recoveries on the Creditor’s Delinquent Accounts.

2.3 **Creditor’s Duties.** Creditor shall (i) assure that Collector receives all Collection Information on the Delinquent Accounts referred to Collector in a timely manner with the Collector assuming no liability for the failure to secure recovery on Delinquent Accounts that the Creditor does not refer in a timely manner, (ii) fully cooperate with Collector in its efforts to collect the Delinquent Accounts; (iii) sign all liens, releases, satisfactions, and all other documents reasonably requested by Collector promptly after Collector’s request; (iv) immediately refer to Collector all inquiries and settlement offers with respect to the Delinquent Accounts; (v) comply with Collector’s requests for documentation, itemized bills, and request for the Creditor to re-bill Delinquent Accounts to the Responsible Party and all other documents necessary or requested by Collector to collect the Delinquent Accounts; and (vi) do anything reasonably requested by Collector to collect the Delinquent Accounts.

2.4 **Funds Received.** Collector shall require that all checks for payment of the Delinquent Accounts be made payable to the account of Creditor. Checks or drafts received by Collector from Responsible Parties and made payable to Creditor will be endorsed by Collector for the Creditor and deposited into a trust account in the name of and maintained by the Collector for the benefit of the Creditor for subsequent disbursement to the Creditor in accordance with the terms of this Agreement.

2.5 **Authority to Settle.** Collector shall not settle or compromise on the Fees due on any Delinquent Account without the prior approval of Creditor. Collector shall notify Creditor upon its receipt of any settlement or compromise offer on any Delinquent Account and will assist Creditor with decisions concerning such offers. Notwithstanding the foregoing, Creditor shall be solely responsible for all decisions concerning the settlement or compromises of any Delinquent Account.

2.6 **Return of Delinquent Accounts.** Collector shall return to Creditor, and shall discontinue performing any further collection services on, any Delinquent Account upon Creditor’s request of same.

## ARTICLE 3. COLLECTION FEE

3.1. **Collection Fee.** In consideration of Collector’s services hereunder, Collector shall be paid \_\_\_\_\_ (\_\_\_\_%) of the Gross Amount Collected, as hereinafter defined (individually and collectively, the “Collection Fee”). As used herein, the “Gross Amount Collected” shall mean, for any time period, the total amount collected by Collector on any Delinquent Accounts in cash or cash equivalents, whether through payments from debtor (whether in cash, securities or other forms), credits on any account of Creditor or any other means, less reductions in such period for prior Gross Amounts

Collected which (i) were collected with a check that has proven to be worthless, or (ii) Creditor or Collector were required to return to the payor thereof.

3.2 **Statements.** Within ten (10) days of the end of any given month, Collector shall remit to Creditor a statement showing the total Collections for the past month, itemized by patient account, and Collector's fee for its services with respect thereto. In addition, Collector shall remit to Creditor at this time a check for all sums received and recovered by the Collector for the preceding collection month, except that Collector shall withhold any amounts then due or past due for Fees as described in Section 3.1 above from this monthly remittance.

#### ARTICLE 4. DEFAULTS AND REMEDIES

4.1 **Defaults.** The occurrence of any one or more of the following shall constitute a "Default" hereunder.

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

4.1.2 **Performance under Agreement.** Failure of either party to perform any other covenant, condition, Agreement or provision contained herein within thirty (30) days (or such lesser time as may be otherwise set forth in this Agreement) after receipt by such party of written notice of such failure or, in the event, such failure cannot reasonably be cured within such thirty (30) days, failure to diligently and reasonably pursue the cure thereof within such time frame.

4.2 **Remedies.** Upon the occurrence and continuance of a Default and subject to the limitations and waivers otherwise set forth herein, the party not in Default may, at its option and without any obligation to do so and in addition to any other remedies otherwise set forth in this Agreement, elect any one or more the following remedies: (i) **Performance.** Withhold performance of any obligation, including payment obligations, under this Agreement, until such time as such Default is cured; or (ii) **Cure Default.** Cure such Default and recover the reasonable costs thereof from the party in Default, provided the party not in Default is current in all payments due hereunder; or (iii) **Injunctive Relief.** Seek injunctive relief to enjoin any act of a party in violation hereof; or (iv) **Specific Performance.** Seek specific performance of any covenant or obligation of a party hereunder; or (v) **Other Available Remedies.** Pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of Florida.

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

4.4. **No Waiver.** No delay in exercising or omission of the right to exercise any right or power shall impair any such right or power, or shall be construed as a waiver of any breach or default or as acquiescence thereto. One or more waivers of any covenant, term or condition of this Agreement shall not be construed as a waiver of a continuing or subsequent breach of the same covenant, provision or condition. The consent or approval to or of any act of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act. Payment or receipt of a lesser amount than that due hereunder shall not be deemed to be other than because the earliest amount due hereunder. Any endorsement or statement of any check or letter accompanying any check shall not be deemed an accord and satisfaction and either party may accept and negotiate such check or payment without prejudice to such party's right to recover the balance of any amount due hereunder or pursue any other remedy available hereunder.

4.5. **Attorneys' Fees.** In the event of any controversy arising under or relating to the interpretation or implementation of this Agreement or any breach thereof, the prevailing party shall be entitled to payment for all costs and attorney's fees (both trial and appellate) incurred in connection therewith. The terms of this Section shall survive any termination of this Agreement.

## ARTICLE 5. TERMINATION

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

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

5.3 **Effect of Termination.** Upon notice of termination of this Agreement for any reason, and by either party, Collector shall be entitled to be assigned new accounts through the effective termination date. Thereafter, Collector agrees to continue working all accounts in its possession for one hundred eighty (180) days past the effective termination date, unless otherwise directed by Creditor at its sole discretion.

## ARTICLE 6. MISCELLANEOUS

6.1 **No Conflict or Competition.** Creditor hereby acknowledges the proprietary and confidential nature of Collector's business and will not, during the term of this Agreement or for a period of three (3) years thereafter, compete, directly or indirectly, through ownership, participation, contract or otherwise, with Collector in any "collection services company" in any geographic area where Collector or its affiliates operate.

6.2 **Transfer Restrictions.** Creditor and Collector understand and acknowledge that the rights and duties created by this Agreement are personal to Creditor and Collector and that this Agreement has been made in reliance upon the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of Collector and Creditor. Accordingly, neither this Agreement nor any interest herein nor any ownership or voting interest in Collector of more than thirty-five percent (35%) may be transferred or assigned without the prior written consent of the Creditor, which consent may be withheld in its sole discretion, and such transfer or assignment without such consent shall constitute a material breach hereof and convey no rights to or interest in this Agreement. For purposes hereof, a "transfer" or "assignment" hereunder shall be deemed to include any sale, lease, participation or other Agreement.

6.3 **Time is of the Essence.** Time shall be of the essence in the payment and performance of all obligations hereunder. All references herein to this Agreement or the term hereof shall include the initial term and any renewal or extension term hereof.

6.4 **Notices.** All notices, certificates or other communications hereunder shall be deemed given on the day received, whether by personal delivery, telecopier or telefax, or on the day following the day on which the same have been forwarded by Federal Express or an equivalent courier service, addressed as set forth on the first page hereof. The parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

6.5 **Interpretation.** The captions or headings in this Agreement are for convenience only and in no way limit the scope or intent of any provision of this Agreement. The words "hereof", "hereby", "hereto", "herein", "hereunder" and the like refer to this agreement in its entirety. The word "person" and "persons" shall include any individual, association, joint venture, partnership, corporation, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

The language used herein shall be deemed the language chosen by the parties to express their mutual intent and no rule of strict construction shall be applied against any party.

6.6. **Entire Agreement.** This Agreement, together with any other agreements entered into contemporaneously herewith, constitutes and represents the entire Agreement between the parties hereto and supersedes any prior understandings or agreements, written or verbal, between the parties hereto respecting the subject matter herein. This Agreement may be amended, supplemented, modified or discharged only upon an Agreement in writing executed by all of the parties hereto. This Agreement shall inure to the benefit of, shall be binding upon the parties hereto and their respective successors, and permitted assigns. In the event any court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

6.7 **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, United States of America, and, unless otherwise agreed to in writing by both Collector and Creditor, venue and jurisdiction shall lie only in Miami-Dade County, Florida. Each of Collector and Creditor hereby submits to such jurisdiction and venue and waives any defense or inconvenient forum in relation hereto.

6.8. **Waiver of Rights.** Collector and Creditor hereby irrevocably waive, to the fullest extent permitted by law, the posting of any bond, surety or other security that might be required of any party in actions, proceeding or counterclaim, whether at law or equity, brought by either of them. Further, Collector and Creditor hereby irrevocably waive, to the fullest extent permitted by law, trial by jury on any action, proceeding or counterclaim, whether at law or equity, brought by either of them.

6.9 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such separate counterparts shall to either constitute but the same Agreement.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**CREDITOR:**

**COLLECTOR:**

**MEDICAL ACCOUNTS SYSTEMS, LLC**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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