

THIS SOFTWARE AND BILLING SERVICES AGREEMENT (This "Agreement") is entered into by and between the entity that receives services under this Agreement (the "Client") from ClinicMind, Inc, a Florida incorporated company, with a mailing address of 1350 Gulf Blvd #803, Clearwater, FL 33767, ("BillCo"). The Effective Date of this Agreement is the date on which the Client receives such services from BillCo. (BillCo and the Client are sometimes referred to herein as a "Party" and sometimes collectively as the "Parties".)

Background

- A. BillCo provides healthcare practices webbased practice management software ("ClinicMind"), and billing services ("Billing Services"), including billing, troubleshooting, and follow up of the insurance accounts receivables, using Clinicmind.
- B. The Client operates a healthcare practice, and desires to engage BillCo to perform the Services (as defined below), in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing, the mutual covenants and promises hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party to the other, the Parties hereby covenant and agree as follows:

Terms

1. AGREEMENT TO PROVIDE SERVICES.

- a. **CHANGE OF SERVICE SCOPE.** The Client elects from time to time the scope of provided services, which can range from clinicmind only to Billing Services for a set of Client-selected insurance payers, as configured in Client's clinicmind account.
- b. **AUTHORITY; EXCLUSIVITY.** If Client engages BillCo to provide Billing Services in addition to clinicmind, (collectively, the "Services"), and BillCo accepts such engagement, then
 - i. During the Term (as defined in Section 5 hereof), Client grants BillCo with the exclusive authority to bill, troubleshoot, and follow up on any and all insurance accounts receivable that Client enters into the clinicmind® System (the "Accounts") and to submit claims and supporting information to insurers, benefit plans or other third party payers ("Payers") on Client's behalf, and shall sign and submit to Payers any instruments necessary to reflect that authority.
 - ii. During the Term, Client shall not, without BillCo's written consent, engage any other person or entity (other than Client's employees) to prepare claims for submission to Payers (other than claims under automobile insurance policies and for workers compensation benefits), other than a

collection agent or attorney engaged to collect accounts that are long past Due.

2. OBLIGATIONS OF BILLCO

- a. **Client Use of clinicmind® System.** During the Term, BillCo shall make certain clinicmind® System available to all employees of the Client authorized by the Client, including the following features:
 - i. Superbill for charge entry,
 - ii. Client Workbench for response to information requests for claim problems,
 - iii. Patient Scheduler for online appointment scheduling,
 - iv. Patient Encounter Notes (SOAP Notes), Online Reports.
 - v. BillCo is not responsible for setting up electronic interfaces or other integration of Client's existing practice management systems with the clinicmind® System.

- b. **Client Training on clinicmind® System.** BillCo shall provide the following types of training to Client's principals, agents, owners, staff and other office personnel:
 - i. Scheduled Interactive Q & A Sessions;
 - ii. clinicmind Academy, a shared interactive repository of frequently asked questions and answers and video recorded tutorials and keyword-driven search functions.
 - iii. Custom Interactive Training over the Web, scheduled at Client's and BillCo mutual convenience for the additional fee specified in Section 4(a).
 - iv. Custom On-Site Training, scheduled at Client's and BillCo mutual convenience for the additional fee specified in Section 4(a).

- c. **Accounting; Periodic Reports.** BillCo shall make available to the Client online reports, which include but are not limited to the following information: posted charges and payments, Accounts Receivable, collection history, old claims, payment failures, follow up actions, cash flow, and patient referral tracking.

- d. **Data Backups.** The clinicmind® System includes features that allow users to protect their data from loss or destruction. BillCo does not separately maintain Client records or provide any backups of data entered into the clinicmind® System. BillCo has insurance covering risk of loss of Client's data. Said insurance is subject to the specific policy provisions including, without limitation, the exclusions and other conditions of coverage in said policy(ies). BillCo makes no representation as to the specific coverage offered and strongly encourages Client to contact Client's insurance agent to determine the exact scope of the said coverage. BillCo will provide reasonable cooperation with Client to assist Client in obtaining such information.

- e. Other 3rd Party Vendors.** BillCo may introduce or recommend to Client other vendors of items or services, such as automated patient appointment reminders, outsourced patient appointment scheduling, transcription, credit card processing, electronic medical record management systems, insurance verification and collections services, and may facilitate communication of information to such vendors by establishing electronic access to information on the clinicmind® System. Client is solely responsible for Client's decision to hire such vendors, for negotiating the terms of any engagements or agreements with vendors, for granting such vendors access to Client's clinicmind® System account, for reconciling data between clinicmind and vendors' systems, payments for their services or access to their systems, and entering into any HIPAA Business Associate Agreements or other agreements with such vendors as may be required by applicable law. BILLCO SHALL NOT BE LIABLE FOR ANY CONDUCT OR MISCONDUCT OF ANY SUCH VENDORS OR THEIR PERFORMANCE OR FAILURE TO PERFORM ANY SERVICES REQUESTED OF THEM BY CLIENT.
- f. Basic Insurance Billing, Troubleshooting, and Follow Up Services.** If Client's clinicmind configuration includes Billing Service, then BillCo shall perform the following billing, troubleshooting, and follow up services, using the information pertaining to Accounts entered by Client into the clinicmind® System:
- i.** BillCo shall prepare claims for payment and submit them to the primary Payer, on Client's behalf after Client's entry into the clinicmind® System of all information needed for the claim. Where the information entered by Client into the clinicmind® System indicates a secondary Payer is responsible for payment, BillCo shall submit claims to the secondary Payer upon receipt of the remittance advice or EOB issued by the primary Payer.
 - ii.** In preparing claims, BillCo shall utilize diagnosis and procedure coding specified by Client and the other information entered into the clinicmind® System by Client. CLIENT SHALL BE SOLELY RESPONSIBLE FOR THE ACCURACY AND APPROPRIATENESS OF ALL CODES AND OTHER INFORMATION USED ON CLAIMS. BILLCO DISCLAIMS ANY RESPONSIBILITY FOR THE VERACITY AND ACCURACY OF THE CODING USED AND SUPPLIED BY CLIENT OR THE AMOUNTS CHARGED TO PATIENTS BY CLIENT. Billco will contact the Client regarding any deficient information preventing the submission of a 'clean claim' (as defined under N.J.A.C. 11:22) and resubmit the Client's claims to the appropriate payor(s) in a timely manner IN ACCORDANCE WITH ALL APPLICABLE LAWS, INCLUDING, WITHOUT LIMITATION, N.J.S.A. 17B:3023 and N.J.A.C. 11:223.1.
 - iii.** BillCo shall use reasonable efforts to pursue collections on such claims. BillCo does not guarantee the collectability of any accounts.

- iv. All claims shall be prepared in Client's name and Client's provider and tax identification numbers, and shall include instructions for delivery of payment and remittance advice specified by Client.
 - v. In the event that BillCo believes that additional information or action by Client is necessary in order to prepare or pursue collection on an initial claim, BillCo shall move the claim to the Client Workbench on the clinicmind® System. Client acknowledges that it is responsible to review the Client Workbench frequently and provide appropriate responses or take other appropriate action specified in the Client Workbench in a timely manner, that failure to do so may affect the collectability of Accounts, and that BillCo is not responsible to Client for any loss incurred by Client as a result of such failure.
 - vi. When BillCo receives reasonable indication that Client has received payment from a Payer to whom BillCo has submitted a claim, BillCo shall post payments to the appropriate Account on the clinicmind® System. Such indication includes but is not limited to any of the following methods of receiving information from Payers: documented calls with insurance representatives, online payer websites or portals, electronic remittance advice, or paper explanations of benefits. BillCo will not be required to prove that the Client received said payments.
 - vii. In the circumstance where an insurance renders payment directly to the patient or other agent, rather than the Client, and the payer in question is under a full service agreement, BillCo will charge the collection fee outlined in the Schedule 1 of this agreement as soon as there is a reasonable determination that the payment was sent to the patient. Such determination includes but is not limited to any of the following methods of receiving information from Payers: documented calls with insurance representatives, online payer websites or portals, electronic remittance advice, or paper explanations of benefits. BillCo will not be required to prove that patients received said payments. The Client shall be responsible for collecting the reimbursement directly from patient or agent.
 - viii. BillCo shall receive and respond to inquiries and disputes about Accounts from Payers and may communicate with Client, as necessary, to resolve such inquiries and disputes.
 - ix. Unless requested to do so pursuant to Section 2(d) hereof, BillCo shall not prepare or send statements to patients or post collections from patients.
- g. Optional Services with Respect to Patient Accounts.** Optional services are only available to clients who have completed their payer enrollment and full training requirements and started using the Services.

- i. **Patient Statements:** If Client has requested that BillCo prepare and send statements to patients on the Provider Information Form or otherwise by written notice to BillCo, BillCo shall do so for the "Statement Fee" specified in Section 4(a).
 - ii. **Management of Patient Collections:** BILLCO DOES NOT PROVIDE PATIENT COLLECTIONS AND FOLLOW UP ON PATIENT BALANCES. If Client requests BillCo to post patient collections on the Provider Information Form or otherwise by written notice to BillCo, BillCo shall respond to patient inquiries concerning patient balances, and, when BillCo receives evidence that Client has received payment from a patient, BillCo shall post payments to the appropriate Account on the clinicmind® System, for the "Patient Collections Management Fee" specified in Section 4(a).
 - iii. **Delinquent Patient Accounts:** For Accounts for which Client has requested BillCo to post patient collections, upon Client's request, BillCo shall, on Client's behalf, forward delinquent Accounts to a collection agent approved by Client. Client shall be responsible for cooperating with the collection agent as necessary to authorize and assist the collection agent in pursuing collections.
 - iv. **Optional Demographics Entry.** If Client requests, BillCo shall enter into the clinicmind® System the patient demographics information sent by Client to BillCo for the fee specified in Section 4(a).
 - v. **Optional Insurance Verification.** If Client requests, BillCo may (at BillCo's option) verify the insurance benefits of patient for whom Client forwards to BillCo the necessary information for the fee specified in Section 4(a).
- h. Overpayment or Incorrect Payment Reconciliation Process.** If an incorrect payment amount was posted in the clinicmind® System, BillCo shall:
- i. promptly notify the Client;
 - ii. investigate the cause for the incorrect posting to avoid future mistakes,
 - iii. reverse the incorrect posting and post the correct one. Reversing the incorrect posting and posting the correct one will automatically credit the service fee in the next monthly invoice for any incorrect service fee charged to the Client because of the previous incorrect posting.

3. OBLIGATIONS OF CLIENT

- a. **Credentialing.** Client shall be solely responsible for the completion of any and all necessary credentialing processes required by Payers, as applicable, on or before the Effective Date and without any assistance whatsoever, from BillCo. Client shall also be responsible for periodically updating any credentialing information provided to Payers.

- b. Enrollments.** Client shall
 - i. complete, execute and return to BillCo the Provider Information Form on or before the Effective Date; and
 - ii. complete and return to BillCo, within two (2) business days of Client's receipt from BillCo, an Enrollment Instruction Packet consisting of any and all necessary enrollment authorization and National Provider Number (NPI) forms required by Payers, along with sample Explanations Of Benefits ("EOBs").

- c. Training.**
 - i. Client's principals, agents, owners, staff and other office personnel shall utilize all available training resources in clinicmind Academy to learn and become proficient at using the clinicmind® System, including, but not limited to:
 - A.** Watching the recorded training tutorials and taking quizzes ("Recorded Training") as well as attending Interactive Questions and Answer Sessions ("Interactive Training Sessions"); and
 - B.** Posting Client's ongoing support questions about the clinicmind® System in Vericle's Help system. Postings to shared support repositories and emailed postings must not include any information that identifies patients.
 - C.** Client, and any of Client's principals, agents, owners, staff and other personnel who may attend Interactive Training sessions, shall conduct themselves in a professional manner in accordance with the highest industry standards and as necessary and desirable in order to protect and promote the reputation and business interests of BillCo.
 - ii. Client acknowledges that the training of Client's principals, agents, owners, staff and other office personnel is vital to enable BillCo to provide the Service effectively and shall comply with the provisions of this Section 3(c).

- d. Data Entry for Billing and Collection.** Client shall enter into the clinicmind® System any and all data necessary or required in order for BillCo to provide the Services, as soon as it becomes available and at least on a daily basis, as follows:
 - i. **Demographics Entry.** Client shall enter patient demographics and insurance information into the clinicmind® System.
 - ii. **Charge Entry.** Client shall enter service descriptions, including diagnosis and procedure codes and charges daily into the clinicmind® System. BILLCO SHALL RELY UPON THE ACCURACY OF CLIENT'S ENTRIES, SHALL HAVE NO RESPONSIBILITY TO VERIFY SUCH SERVICE DESCRIPTIONS AND DISCLAIMS ANY LIABILITY FOR ANY INACCURACY ENTERED INTO THE clinicmind SYSTEM BY CLIENT.

- iii. **Batch Data Submission.** Client shall verify batch data submission using the clinicmind® WebDepot technology.
 - iv. **Payer Website and 3rd Party System Access.** Client shall provide BillCo with access to Payer websites and 3rd party systems for any data available to client and required by BillCo to expedite billing and payment follow up process.
- e. **Notification of Remittances and Forwarding Remittance Advices.**
- i. When possible, Client shall authorize Payers to
 - A. make direct deposit of payments to Client's bank account and
 - B. send electronic remittance advice (ERA) to BillCo. In the rare exceptions, when ERAs are unavailable by the payers, Client shall forward to BillCo by fax or scan copies of all checks and remittance advices received from Payers on Accounts on a daily basis.
 - ii. If a Payer makes a payment or issues a denial on a claim to the patient and not to Client, Client shall forward to BillCo copies of all checks received from the patient promptly upon receipt thereof, and shall request from the patient and forward to BillCo a copy of the explanation of benefits promptly upon receipt thereof.
 - iii. When Client has requested BillCo to send patient statements, but has not requested BillCo to manage patient accounts, Client shall post payments received from patients promptly upon receipt thereof.
- f. **Problem Resolution; Daily Workbench Review.**
- i. Client's principals, agents, owners, staff or other personnel shall make themselves available at all times during business hours to resolve any and all issues regarding billing and collections on the Accounts.
 - ii. Client shall use clinicmind® System's Workbench feature ("Workbench") to track and respond to all of BillCo's information requests ("Requests for Information"). Client shall review its Workbench on a daily basis. Without limiting the generality of the foregoing, at no time shall allow requests for information on Client's Workbench to remain open for more than ten (10) working days.
 - iii. The client understands that tickets on their workbench will not be looked at by the team or BillCo. If the client wants a ticket handled by the team or BillCo, the client must assign the ticket to the correct person or role.
- g. **Accuracy of Information.** Client shall ensure that all information furnished to BillCo in connection with the Services is accurate.

- h. Periodic Review of Claims.** Client shall periodically review claims submitted by BillCo on Client's behalf and report any questions or problems with respect thereto to BillCo.
- i. Monitoring and Reporting of Payer Allowances.** Client expressly acknowledges and agrees that it is Client's sole and exclusive responsibility to monitor the amount allowed on claims by Payers and to utilize the available clinicmind® System features to alert BillCo when Payers allow amounts that are not consistent with Client's contracts with Payers.
- j. Bank Account Reconciliation; Excess Postings.**

 - i. Client expressly acknowledges and agrees that it is Client's sole and exclusive responsibility to properly reconcile payments posted in the clinicmind® System with checks and direct deposits received from Payers and deposited in Client's bank account, and report any discrepancy immediately to BillCo using the clinicmind® System's tracking features to allow timely investigation.
 - ii. If BillCo posts an amount that exceeded the amount supported by a check copy or remittance advice received by BillCo (an "Excess Posting Amount"), and BillCo charges client a Billing Service Fees or Patient Collections Service Fee based on such Excess Posting Amount; BillCo shall reverse the corresponding fee, as required under Section 2(i).
 - iii. If Client, using the clinicmind® System's ticketing system, identifies an Excess Posting Amount to BillCo within sixty (60) days after the date the Excess Posting Amount was posted, BillCo shall pay to Client an amount equal to the smaller of the billing fee collected on such Excess Posting Amount and three hundred dollars (\$300) per incident of excess posting.
 - iv. BillCo shall not be liable to Client for any other loss or damage incurred by Client as a result of incorrect postings, including, but not limited to, any loss related to collectibility of Account balances.
- k. Problem Reporting.**

 - i. Client shall communicate any problems relating to the Services to BillCo support staff solely via one of the following three interfaces, and which shall include: (I) a detailed written description of the problem; and (II) the clinicmind® System claim or patient account number that relates to the problem:

 - A.** Special Help Interface on clinicmind® System: All problems and questions relating to the use of the clinicmind® System, training, and/or billing shall be reported via the special Help interface in the clinicmind® System (the "clinicmind Help Function").
 - B.** email and phone: Client shall NOT communicate problems to BillCo support staff via email or phone, except in the documented

events when the clinicmind Help Function is unavailable. Emailed postings must not include any HIPAA-protected information.

- ii. Client acknowledges that timely communication of problems relating to the Service is vital to enable BillCo to provide the Service effectively and shall ensure that Client's personnel are complying with the provisions of this Section 3(k).
 - iii. The client understands that a majority of the billing is a manual process that is prone to human error. Even if the BillCo team reaches our target 95% accuracy rate on claims processing every day, then that will still leave 5% of claims with errors. For example, if the BillCo process 1,000 claims per month, about 50 claims on average will be handled incorrectly that month.
- I. Daily End-of-Day Report Review.** Client shall use the ClinicMind System's Patient Scheduling and Claim Reconciliation reporting functions to track generation of claims for every patient visit.
- m. Monthly Charge and Payment Expectations.** Client shall provide BillCo with expectations for monthly charges and monthly payments on the Provider Information Form and monitor them using the clinicmind® System.
- n. Service Quality Feedback.** Client shall provide systematically documented feedback ("Feedback") to BillCo, upon BillCo's reasonable request, as follows:
- i. Feedback Scope: Feedback includes four kinds of data, collected using online rating mechanisms integrated in clinicmind and clinicmind Academy and the standard Internet-based survey mechanisms ("Surveys"), such as www.surveymonkey.com:
 - A.** Practice identification: Client's practice name.
 - B.** Subject Matter: Feedback is collected regarding four components of BillCo's service, including training quality, integration quality, billing service, and clinicmind system.
 - C.** Complaints and Improvement Ideas: Each Survey has special room where Client shall document complaints about and/or improvement ideas for BillCo.
 - D.** Referral Solicitation: Each Survey may ask the Client to refer BillCo to specific friends or colleagues.
 - ii. Feedback Frequency: Client shall provide Feedback at the following frequencies:
 - A.** Training Quality Surveys: Upon attending any Scheduled Interactive Training sessions or Recorded Training sessions.
 - B.** Enrollments and Integration Quality Surveys: Upon completion of the enrollment and integration stage. III. Ongoing Billing Service

and Practice Management Software System Performance Surveys: Periodically, as needed, and at least as frequently as every six (6) months.

- iii. **Feedback Result Ownership and Dissemination Procedure:** All Feedback results remain the exclusive property of BillCo and BillCo retains the exclusive right, in its sole and reasonable discretion, to report Feedback results to Client, separately or in the aggregate; and to publish Feedback results using any medium of dissemination, including, in BillCo's marketing materials. Notwithstanding the foregoing, BillCo agrees not to disclose Client's individual Feedback scores to anybody but the Client.
- iv. **Client Involvement in Providing Feedback:** Client acknowledges that its timely feedback concerning the Service is vital to enable BillCo to provide the Service effectively.

- o. **Office Equipment.** Client is responsible for the purchase, installation, operation and maintenance, at its own expense, of all office equipment, including fax machines, computers, Internet connectivity and telephones required for BillCo to provide the Services (the "Required Equipment"). BillCo personnel make themselves reasonably available to consult with Client to help set up the Required Equipment to enable Client to access the clinicmind® System, provided that BillCo shall not be obligated to incur any expenses for equipment, supplies, services or consultants in doing so.

- p. **Office Supplies.** Client is responsible, at its own expense, for the purchase of any materials, forms, and office supplies that they need for performing any billing functions in their office.

- q. **Reporting and Coding of Services.** CLIENT EXPRESSLY ACKNOWLEDGES AND AGREES THAT IT IS CLIENT'S SOLE AND EXCLUSIVE OBLIGATION TO PROPERLY IDENTIFY, REPORT, AND CODE ALL SERVICES RENDERED BY OR ON BEHALF OF THE CLIENT AND THAT CLIENT DOES NOT, SHALL NOT, AND HAS NOT RELIED UPON BILLCO AND ITS OFFICERS, MANAGERS, AGENTS, REPRESENTATIVES OR ANY OTHER PERSON AS TO ANY PROPER CODING DESIGNATION, WHETHER OR NOT SUCH INFORMATION, IDENTIFICATION OR SUGGESTION HAS BEEN PROVIDED BY BILLCO.

- r. **Compliance.** Client acknowledges that Medicare and other payers will not pay claims without proper modifiers and will only pay claims for service that is "medically necessary" as determined by that payer. It is the Client's sole and exclusive responsibility to (i) submit proper modifiers, (ii) perform and bill for only those services which are "medically necessary" as determined by the payer (as such definition may vary among payers and be amended from time to time) and (iii) otherwise comply with all Medicare and all other applicable laws, rules, and

regulations; BILLCO SHALL NOT BE RESPONSIBLE FOR ANY SUCH VIOLATIONS.

- s. **Bad-debt Collections.** Client expressly acknowledges and agrees that it is Client's sole and exclusive responsibility to find, select, hire, work with and compensate bad-debt collections services.

4. COMPENSATION FOR SERVICES.

- a. **Fees.** In consideration for the Services provided by BillCo hereunder, Client shall pay BillCo the following fees (collectively, the "Fees") in accordance with the Cover Letter sent to the Client by BillCo and the fees as set forth in Schedule I, attached hereto.
- b. **Fee Change.** BillCo reserves the right to modify its Fees upon renewal of this Agreement and upon prior written notice to the Client. Should BillCo initiate any changes in fees, Client shall receive written notice of the change at least sixty (60) days prior to the scheduled fee change. Notwithstanding the foregoing, Client's fees shall remain fixed as specified in this Agreement for the Initial Term.
- c. **Invoicing.** BillCo shall maintain records of the Services rendered herein, and shall make invoices available within the clinicmind system each month. No invoices shall be sent to by paper or email.
- d. **Invoice Dispute.** In the event of any good faith invoice dispute between BillCo and Client,
 - i. BillCo may invoice Client for Fees due hereunder via the clinicmind system. In the event such invoicing process is utilized, then Client shall have the right to dispute any such invoice by selecting the Ask a Question button at the top of the invoice view by 5:00 PM EST on the 10th day of the month. Failure to timely dispute such invoice pursuant to the foregoing shall be deemed an acceptance of such invoice. In any event, Client shall pay the disputed amount according to the required schedule for payment;
 - ii. Client shall promptly furnish BillCo with all relevant information regarding the dispute in question by opening a clinicmind Help Request ticket, within One Hundred (100) hours of Client's receipt of its invoice and label such ticket as an "Invoice Dispute" under "Billing Category";
 - iii. BillCo shall use its best efforts to promptly investigate the facts and circumstances surrounding the dispute and shall credit Client's account for overpayment, if any, that Client may have made in connection with the disputed invoice.

- ii. Client may terminate this Agreement upon not less than sixty (60) days written notice of termination to BillCo in the event that Client believes that the clinicmind® System are not functioning satisfactorily or does not otherwise meet Client's needs and sets forth its concerns in writing; provided that BillCo shall have the opportunity to address such concerns during the sixty (60) days notice period.
 - iii. Upon termination of this Agreement, Client shall return any discounts received from BillCo at the time of signing this Agreement.
 - iv. Upon termination of this Agreement, Client shall pay BillCo a termination fee of \$2.00 per open claim, or, in the alternative, Client may elect in writing to have BillCo to continue to process insurance billings on open claims for one hundred eighty (180) days, in which event:
 - A. for one hundred eighty (180) days after such termination, Client shall send BillCo copies of all payments and remittance advices received with respect to such claims and shall not take or authorize any other billing company to take any action that would interfere with BillCo's attempts to collect on such claims, and
 - B. Client shall pay BillCo a fee of % percent of insurance collections on such claims received within one hundred eighty (180) days of the date of termination.
- b. **Termination for Cause.** Either Party may terminate this Agreement immediately by delivering written notice to the other Party in the event of any of the following:
 - i. the other Party has committed or may imminently commit fraud or illegal conduct in the generation, origination, tender, proffer, billing or collection of any of the Accounts;
 - ii. the other Party has, or may imminently, assign, pledge, hypothecate, borrow against, finance, factor or sell any of the Accounts;
 - iii. the other Party has filed, or had filed against it, a petition in bankruptcy that remains undismissed and unstayed for more than thirty (30) days;
 - iv. the other Party has engaged in any dishonest, unethical or illegal conduct that may have an adverse effect on the reputation of the other Party;
 - v. the other Party has engaged in gross negligent, intentional or willful conduct that actually or imminently threatens to disparage the reputation of the other Party; or
 - vi. the other Party has breached any of its obligations under this Agreement, which breach remains uncured after fifteen (15) days written notification of such breach.
- c. **Non-Refundable Training/Integration Fee.** The Training/Integration Fee is payable upon execution of this Agreement are non-refundable and shall not be returned even if the Client terminates the Agreement prior to starting to submit claims or otherwise prior to expiration of the Initial Term.

d. **Data.** Upon termination and provided that Client has paid all Fees payable hereunder, any Client data within the clinicmind® System shall remain available for thirty (30) days. Client is responsible for downloading any such data and uploading it into any other system within this time period. Should Client be interested in continued access to data beyond the termination date, this Agreement shall be renewed on a monthly basis and the Technology Access Fee shall be paid on a monthly basis.

7. **CONFIDENTIALITY.** BillCo agrees not to disclose, and to cause its employees, agents and representatives not to disclose, to anyone other than Client the terms of this Agreement, Client's business practices or other trade secrets or confidential information of Client or any information about any of Client's patients received in the course of performing the Services, except as required to bill charges or as otherwise legally required. Client agrees that BillCo may use Client information for data aggregation and/or research and statistical compilation purposes so long as Client and patient identifying information is kept confidential in accordance with applicable law. Client agrees not to disclose and to cause its employees, agents and representatives not to disclose to anyone the terms of this Agreement, BillCo's business practices or other trade secrets or confidential information of BillCo, except as legally required. Each Party agrees that the other Party does not have an adequate remedy at law to protect its rights under this Section and agrees that the nondefaulting Party will have the right to injunctive relief from any violation or threatened violation of this Section.
8. **REGULATORY RESTRICTIONS.** Each Party warrants that it is not currently listed by a Federal agency as excluded, debarred, or otherwise ineligible for participation in any Federal health care program. Each Party agrees that it will not employ, contract with, or otherwise use the services of any individual whom it knows or should have known, after reasonable inquiry, (a) has been convicted of a criminal offense related to health care (unless the individual has been reinstated to participation in Medicare and all other Federal health care programs after being excluded because of the conviction), or (b) is currently listed by a Federal agency as excluded, debarred, or otherwise ineligible for participation in any Federal health care program and further agrees that it will immediately notify the other in the event that it, or any person in its employ, has been excluded, debarred, or has otherwise become ineligible for participation in any Federal health care program. Each Party agrees to continue to make reasonable inquiry regarding the status of its employees and independent contractors on a regular basis by reviewing the General Services Administration's List of Parties Excluded from Federal Programs and the United States Department of Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities.

9. PROTECTED HEALTH INFORMATION AND HIPAA COMPLIANCE

- a. HIPAA Compliance.** Each Party acknowledges that the laws of the United States and of the individual States prohibit any person who has received Protected Health Information (“PHI”), as defined by the Health Insurance Portability and Accountability Act (“HIPAA”) and its implementing regulations from using or further disclosing such PHI other than as permitted or required by this Agreement or as permitted or required by law. Both Parties agree to execute a separate HIPAA Business Associate Addendum in the form attached hereto as Exhibit A.
- b. Individual clinicmind Logins.** Client shall ensure that each Client’s employee or agent has separate and individual login to enable separate and individual documentation and tracking of all actions.
- c. Use of Transaction Histories.** BillCo reserves the right to collect transaction histories and to use the statistical information derived from such histories in providing further enhancement to its service that is used to support the Client.

10. RESTRICTION ON EMPLOYMENT. During the Term and for a period of twelve (12) months following the termination of this Agreement, each Party agrees not to, without the prior written consent of the other Party, employ, contract with for services, solicit for employment on its own behalf or on behalf of any third party, or have ownership in any entity which employs or solicits for employment, any individual who (i) was an employee of the other or its parent, affiliates or subsidiaries at any time during the preceding twelve (12) months and (ii) was materially involved in the provision of the Services. Notwithstanding the foregoing, upon any termination of this Agreement, Client may rehire any individual who was employed by Client on the Effective Date, and who was hired by BillCo on or after such date. Each Party agrees that the other Party does not have an adequate remedy at law to protect its rights under this Section and agrees that the nondefaulting Party will have the right to injunctive relief from any violation or threatened violation of this Section.

11. NON-SOLICITATION. During the term of this Agreement and for twenty four months after any termination of this Agreement, Client will not, without the prior written consent of the Billco, either directly or indirectly, solicit or attempt to solicit, divert or hire away any person employed by the Billco or any customer of the Billco.

12. INDEMNIFICATION.

- a.** Each Party shall defend, indemnify and hold the other Party and its owners, managers officers, directors and employees (each an “Indemnified Person”) harmless from and against any and all suits, claims, judgments, settlements, penalties and other costs and expenses, including reasonable attorneys’ fees and disbursements (“Costs”) incurred by such Indemnified Person arising out of the negligence or willful misconduct of such Party or such Party’s employees or agents; provided that a Party shall not be obligated to indemnify any Indemnified Person for any Cost caused, in whole or in part, by the breach of any obligations

under this Agreement by the other Party or its employees or agents or by such Indemnified Person, or by the negligence or willful misconduct of the other Party or its employees or agents or such Indemnified Person.

- b. Client shall defend, indemnify and hold BillCo, and its owners, managers officers, directors and employees from, for and against any and all Costs incurred by BillCo, its, officers, managers, owners, agents or representatives as a result of Client's failure to comply with any applicable law or regulation, or any allegations of improper coding or inaccurate or improper information furnished by client.
- c. An Indemnified Person seeking indemnification shall promptly notify the Party from whom indemnification is sought hereunder of any claim asserted against it for which indemnification is sought and shall promptly deliver to the Party from whom indemnification is sought a true copy of any summons or other process, pleading or notice issued in any lawsuit or other proceeding to assert or enforce such claim. The Party from whom indemnification is sought reserves the right to control the investigation, trial and defense of such lawsuit or action (including all negotiation to effect settlement; provided, however, that such Party shall not effect any settlement that could result in any cost expense, or liability to the Indemnified Person unless the Indemnified Person consents in writing thereto, which consent shall not be unreasonably withheld, delayed or conditioned) and any appeal arising therefrom and to employ or engage attorneys of its own choice. The Indemnified Person may, as its own cost, participate in such investigation, trial and defense of such lawsuit or action and any appeal arising therefrom. The Indemnified Person shall provide full cooperation to the Party from whom indemnification is sought at all times, including providing them with all available information concerning the claim and reasonable access to relevant witnesses, while the claim or lawsuit is pending.
- d. The indemnification obligations under this Section 12 shall be limited by the limitations set forth in Section 14.

13. DISCLAIMER OF WARRANTIES. Client expressly understands and agrees that:

- a. BillCo makes no representations or warranties with regard to the Services that are not expressly set forth in this Agreement.
- b. Without limiting the generality of the foregoing:
 - i. BillCo does not dispense any medical, legal, accounting, claim coding, medical documentation compliance, or HIPAA compliance advice. If Client requires any assistance in such areas, then Client shall seek the services of a competent person outside of BillCo.
 - ii. Client's use of clinicmind® System and BillCo's billing service is at Client's sole risk. The clinicmind® System and service are provided on an "AS IS"

and "AS AVAILABLE" basis. BillCo expressly disclaims all warranties of any kind, whether express or implied, including, but not limited to the implied warranties or merchantability, fitness for a particular purpose or non-infringement. BillCo makes no representation or warranty that the clinicmind® System will: (i) meet Client's requirements; (ii) be accurate, reliable, uninterrupted, timely or secure from viruses or other security breaches.

- iii. Any material downloaded or otherwise obtained through the service is done at Client's own discretion and risk and Client will be solely responsible for any damage to Client's computer system or loss of data that results from the download of such material.
 - iv. Client has been advised and understands that the Services provided by BillCo are based on the clinicmind® System, which uses automated processes to perform most of the functions necessary to expedite and maximize collections, including various functions that have traditionally been performed by human personnel. The automated functions include processes to identify and resolve many types of errors and problems through interaction between the Client and the clinicmind® System, and without the use of other personnel. Importantly, when claims are placed on the Client's Workbench, further action on those claims will generally not occur until the Client has responded by inputting the necessary data into the clinicmind® System, and Clients are expected to undergo initial training on the clinicmind® System, and also to resolve problems using automated and Web-based customer assistance features. Except as expressly set in this Agreement, BillCo makes no representations concerning the oversight of the handling of Client's Accounts by BillCo personnel.
- c. No advice or information whether oral or written, obtained by Client from BillCo or through or from BillCo services shall create any warranty not expressly stated in the terms of service.

14. LIMITATION OF LIABILITY AND PROCEEDINGS.

- a. Notwithstanding anything to the contrary set forth in this Agreement, Client agrees that BillCo's liability to Client under this Agreement or otherwise in connection with the Services shall be limited to the smaller of five thousand (\$5,000) dollars or the greatest amount of fees paid to BillCo by Client in any consecutive six (6) month period during the Term.
- b. Without limiting the generality of Section 14(a), BillCo shall not be liable to Client under this Agreement or otherwise in connection with the Services for:
 - i. any loss or damage resulting from incorrect postings, as specified in Section 3(f) (iv);

- ii. any loss or damage resulting from the receipt or obligation to refund any overpayments or alleged overpayments received by Client; or
 - iii. any loss or damage resulting from any malfunction or design flaw with respect to the clinicmind® System or any goods, data or services obtained through or by virtue of the clinicmind® System, including (1) any loss, destruction or unauthorized access to or alteration of data transmitted to or stored on the clinicmind® system; or (2) the conduct of any representatives of clinicmind® or any other vendor.
- c. Neither Party shall be liable to the other for any direct, indirect, incidental, special, consequential, or exemplary damages, including, but not limited to, damages for loss of revenue or profits, goodwill, use, data, or other intangible losses (even if the other Party has been advised of the possibility of such damages);
- d. In addition to the other limitations on remedies set forth herein, Client shall be subject to the following limitation on claims. Client waives any claims it may have at any time against BillCo based on one or more incorrect or otherwise improper entries into Client's accounts on the clinicmind® System, or any event action or inaction by BillCo or its employees or agents that involves or results in one or more incorrect or otherwise improper entries into Client's accounts on the clinicmind® System, if (i) such entry or entries resulted in a discrepancy that would have been revealed by a careful reconciliation of Client's bank account balances against Client's accounts on the clinicmind® System, and (ii) Client does not report such discrepancy to BillCo within twelve (12) months after the later of the entry into Client's accounts on the clinicmind® System or the Client's bank account.
- e. No proceeding or action arising under this Agreement may be brought by either Party more than twelve (12) months after the cause of action arose.
- f. **The limitations on liability and the waiver of claims set forth in this Section 14 and elsewhere in this Agreement reflect a deliberate and bargained for allocation of risks between BillCo and Client and constitute the basis of the parties' bargain, without which BillCo and Client would not have agreed to the terms and conditions of this Agreement.**

15. CLIENT CONSENT TO ASSIGNMENT OF BILLCO'S OBLIGATIONS. Client hereby agrees and acknowledges that

- a. BillCo may assign and subcontract any of its obligations under this Agreement to unrelated third parties ("Third Parties"), including but not limited to, off-shore business process outsourcing companies; and
- b. BillCo shall be permitted to give such Third Parties access to the clinicmind® System and confidential information regarding the Client, including but not limited to PHI; subject to the terms and conditions of this Agreement and the HIPAA Business Associate Addendum in the form attached hereto as Exhibit A.
- c. Any document or addition to the clinicmind system derived through client collaboration will be the property of the billco.

16. CLIENT CONSENT TO ADVERTISING. Client hereby agrees and acknowledges that BillCo may use, publish, broadcast, display, reproduce, and distribute information that Client provides to BillCo for BillCo's advertising or promotional programs, including the business name of the Client's firm. Client agrees that BillCo may use this information in a variety of media in its advertising including printed, website, graphic, video, or audio, on its own and in combination with other advertising materials. BillCo may use all of the information provided by the Client, only part of it, or may summarize it, but only in a way that does not distort the accuracy of the information.

17. REPRESENTATIONS BY CLIENT. Client represents and warrants that it is duly authorized to enter into this Agreement and that the person executing this Agreement on its behalf is a duly authorized officer or agent of Client. Client further represents and warrants that none of its Accounts have been nor shall they be pledged, sold, hypothecated, encumbered, factored, or borrowed against, without BillCo's prior written consent. Client represents that it is a sophisticated purchaser of BillCo's products and services and is knowledgeable in the billing requirements and all laws, rules, regulations governing its billing practices and that Client is not relying on BillCo in any manner related to implementing proper billing techniques.

18. AGENCY RELATIONSHIP. Nothing in this Agreement creates an employer-employee relationship, joint venture or partnership arrangement. BillCo is an independent contractor acting as an agent on Client's behalf, as described in Section 1 herein. Except for information to be provided to BillCo by the Client in accordance with this Agreement, BillCo and Client shall maintain their own separate books and records of their operations.

19. MISCELLANEOUS.

- a. **Assignment.** Client's rights and obligations hereunder may not be assigned, and any assignment or attempted assignment shall be deemed null and void.

- b. **Modifications.** BillCo shall have the right to modify the terms of this Agreement by written notice to Client given not less than sixty (60) days before such modification becomes effective. The Fees payable by Client hereunder shall not be modified during the Initial Term, except that if fees charged by clinicmind® for use of and training on the clinicmind® System increase, BillCo may make a corresponding increases in the Technology Access Fee and the Training/Integration Fee. If Client objects to any such modification, it shall have the right to terminate this Agreement by written notice to BillCo given not less than fifteen (15) days after receipt of the notice of modification, in which event this Agreement shall terminate on the date that the modification was to go into effect. This Agreement may not be otherwise modified or amended, except in writing and signed by both Parties.

- c. **Delay Not Waiver.** Delay by a Party in enforcing any rights it may have hereunder shall not constitute a waiver of such rights. Waiver of a right by a Party in one or more instances shall not be construed as a waiver of that right in other instances.

- d. **Notices.** Any notice, request, instruction or other document to be given hereunder by either Party hereto to the other shall be in writing, and sent and delivered by certified or registered mail, postage prepaid, return receipt requested, to the address set forth for such Party hereinabove. Any Party may change the address to which notices are to be sent by giving notice of such change of address to the other parties in the manner herein provided for giving notice.

- e. **Non-Disparagement Agreement.** Each Party agrees that it shall not at any time make disparaging statements to anyone with respect to the other Party, its personnel or business practices. The provisions of this paragraph shall not apply to statements made in the context of litigation, or pursuant to legal process, or information otherwise provided as required by law. The provisions of this paragraph shall survive termination of this Agreement.

- f. **Choice of Law; Jurisdiction.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida without regard to its principles of conflict of laws. The Parties irrevocably
 - i. agree that any suit, action or other legal proceeding arising out of this Agreement shall be brought in the courts of the State of Florida or in the United States District Court for the District of Florida;
 - ii. consent to the jurisdiction of each such court in any such suit, action or proceeding; and

iii. waive any objection it may have to the laying of venue of any such suit, action or proceeding in any of such courts.

g. **Entire Agreement.** This Agreement represents the entire agreement among the parties, with respect to the subject matter hereof, and all prior agreements or understandings relating to any and all rights and obligations, written or oral, are nullified and superseded hereby.

h. **Meaning of Including.** Whenever used in this Agreement, the term “including” shall mean “including but not limited to.”

i. **Incorporation of Recitals.** The Recitals set forth in the Background of this Agreement are hereby incorporated into and made a part of this Agreement.

20. MESSAGING TERMS & CONDITIONS. Client acknowledges and agrees that the Practice may contact patients and/or end users via marketing campaigns and appointment reminders using text (SMS) messaging. Message and data rates may apply depending on the recipient’s mobile carrier and plan. Message frequency may vary based on interactions with the Practice’s services. For support or questions regarding messaging, recipients may contact (234)254-2255 or support@clinicmind.com. Recipients may opt out of receiving text messages at any time by replying STOP to any message. For additional help, recipients may reply HELP.

Schedule I - Optional Services Pricing

Fee Type	Amount	Details
Paper Patient Statements	\$0.99	Per statement..
Electronic Patient Statements	\$0.05	Per statement..
Patient Demographic Data Entry	\$1.00	For each entry of patient demographic record.
Old Claims	\$2.00	For each Account forwarded by Client to BillCo with a date of service more than 120 days prior to the Effective Date, in addition to the Billing Service Fee on payments received on such Accounts after the Effective Date ("New Money on Old Claims"). The Old Claims Fee is assessed regardless of the outcome of the processed claim and is payable when the claim is forwarded.
Manual Insurance Verification	\$6.00	Per patient, per insurance plan for verifying insurance coverage. Client may elect to have BillCo perform such insurance verification on a patient-by-patient basis.
Electronic Insurance Verification.	\$0.10	Per patient, per insurance plan for verifying insurance coverage electronically, where available. Client may elect to have BillCo perform such electronic insurance verification on a patient-by-patient basis.
Patient Demographic Bulk Upload - First File	\$700	For each upload of patient demographic data in a csv file format. Each patient demographic data upload will be limited to 20 columns. Client may manually enter additional patient demographics at no extra cost to client.
Patient Demographic Bulk Upload - Next File	\$300	For each additional upload of patient demographic data in a csv file format, as specified above.
Custom Web-based Training	\$150	Per hour for custom training over the Web.
Custom On-Site Training.	\$750.00	Per day, plus travel, lodging, and food expenses, for custom on-site training, subject to Client's approval ahead of incurred expenses.
Processed-to-Patien	\$3.00	If claims are processed to the patient, then the Client is

t Service Fee Exception		responsible for collecting EOBs from the patient and faxing them to BillCo. If Client fails to provide the EOB's for longer than six weeks from the date of claim submission to insurance, Client shall pay a flat fee of \$3.00 for processing of "Processed to Patient" claims, instead of Billing Service Fee.
Termination Fees	\$2.00	Per open claim, upon termination of this Agreement. Alternatively, Client may elect in writing to have BillCo to continue to process insurance billings on open claims for one hundred eighty (180) days, in which event: (1) for one hundred eighty (180) days after such termination, Client shall send BillCo copies of all payments and remittance advices received with respect to such claims and shall not take or authorize any other billing company to take any action that would interfere with BillCo's attempts to collect on such claims, and (2) Client shall pay BillCo a fee of \$0.08 per One US Dollar (\$1) of insurance collections on such claims received within one hundred eighty (180) days of the date of termination.
Data Only Access	\$99.00	For access to data in the clinicmind system, upon Termination. This charge will only be applied if you choose to discontinue your relationship and implement the Data Only Access contract.

Exhibit A - HIPAA BUSINESS ASSOCIATE ADDENDUM

This HIPAA Business Associate Addendum (this "Addendum") is attached to and made part of the Software and Billing Services Agreement by and between Billco and the Client.

BACKGROUND

- A. The Covered Entity has engaged Business Associate for the purpose of providing billing services ("Business Associate's Services"), as more particularly set forth in Billing Services Agreement, dated July 22 , 2015.
- B. The Covered Entity wishes to disclose certain information ("Information") to Business Associate pursuant to the terms of this Addendum, some of which may constitute

Protected Health Information (“PHI”), including electronic protected health information (“e-PHI”) (PHI and e-PHI are collectively referred to herein simply as PHI).

- C. The Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to this Addendum in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and regulations promulgated there under by the U.S. Department of Health and Human Services (the “HIPAA Regulations”) and other applicable laws.
- D. The safeguards imposed upon Business Associate with respect to the PHI are imposed in accordance with, and shall satisfy the standards and requirements of, HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Parts 160, 162 and 164 of the Code of Federal Regulations (“CFR”), as the same may be amended from time to time.
- E. **NOW THEREFORE**, in consideration of the foregoing, the mutual covenants and promises contained in this Addendum and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party to the other, the Parties, intending to be legally bound, hereby acknowledge, covenant and agree as follows.

1. Definitions.

- a. “Protected Health Information” or “PHI”: Any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental health or 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 HIPAA and the HIPAA Regulations, including, but not limited to 45 CFR Section 160.103.
- b. “Electronic Protected Health Information” or “e-PHI”: e-PHI shall mean PHI that is maintained on or transmitted by “Electronic Media” (as defined below).
- c. “Electronic Media”: Electronic Media means (i) electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (ii) transmission media use to exchange information already in electronic storage media (i.e., internet, extranet, leased lines, dial-up lines, private networks).

2. Obligations of Business Associate.

- a.** Permitted Uses and Disclosures. Business Associate may use and/or disclose PHI received by Business Associate pursuant to this Addendum (the "Covered Entity's PHI") solely in accordance with the specifications set forth in "Schedule II",, Permitted Uses and Disclosures, which is incorporated herein by reference. In the event of any conflict between this Addendum and Schedule II, this Addendum shall control.
- b.** Nondisclosure. Business Associate shall not use or further disclose the Covered Entity's PHI other than as permitted or required by this Addendum or as required by law.
- c.** Safeguards

 - i.** Generally. Business Associate shall use appropriate safeguards to provide for the security of Covered Entity's PHI. Business Associate shall maintain a comprehensive written security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Business Associate's operations and the nature and scope of its activities.
 - ii.** Administrative Safeguards. Business Associate shall implement policies and procedures to prevent, detect, contain, and correct security violations.
 - iii.** Physical Safeguards. Business Associate shall limit physical access to electronic information systems that maintain PHI and the facility or facilities in which they are housed, while ensuring that properly authorized access is allowed.
 - iv.** Technical Safeguards. Business Associate shall implement technical policies and procedures for electronic information systems that maintain PHI to allow access only to those persons or software programs that have been granted access rights as specified in C.F.R. 164.308(a)(4).
- d.** Reporting of Disclosures. Business Associate shall report to the Covered Entity any uses or disclosures of the Covered Entity's PHI that are not provided for by this Addendum of which Business Associate becomes aware.
- e.** Business Associate's Agents. Business Associate shall ensure that any agents, including subcontractors, to whom it provides PHI received from (or created or received by Business Associate on behalf of) the Covered Entity agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI.

- f.** Availability of Information to the Covered Entity. Business Associate shall make available to the Covered Entity such information as the Covered Entity may require to fulfill the Covered Entity's obligations to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Sections 164.524 and 164.528. Nothing in this provision shall be construed to preclude or limit Business Associate's obligations under the law, specifically with respect to the provision of access to individuals of their PHI and the provision of an accounting of disclosures to individuals of their PHI.
 - g.** Amendment of PHI. Business Associate shall make the Covered Entity's PHI available to the Covered Entity as the Covered Entity may require to fulfill the Covered Entity's obligations to amend PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 164.526, and Business Associate shall, as directed by the Covered Entity, incorporate any amendments to the Covered Entity's PHI into copies of such PHI maintained by Business Associate. Nothing in this provision shall be construed to preclude or limit Business Associate obligations under the law, specifically with respect to the amendment of PHI by Business Associate.
 - h.** Internal Practices. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from the Covered Entity (or created or received by Business Associate on behalf of the Covered Entity) available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining the Covered Entity's compliance with HIPAA and the HIPAA Regulations.
- 3. Obligations of the Covered Entity.** The Covered Entity shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to this Addendum, in accordance with the standards and requirements of HIPAA and the HIPAA Regulations, until such PHI is received by Business Associate.
- 4. Termination.**
- a.** Material Breach. A violation of a material term of this Addendum by Business Associate as determined by the Covered Entity shall provide grounds for immediate termination by the Covered Entity of Business Associate's Services being provided to the Covered Entity.
 - b.** Judicial or Administrative Proceedings. Either Party may terminate Business Associate's Services, effective immediately, if: (i) the other Party is named as a defendant in a criminal proceeding for a violation of HIPAA; or (ii) a finding or stipulation that the other Party has violated any standard or requirement of

changes, amendments, eliminations, or additions made to this contract are not recognized and have no effect on the agreement.

- c.** Succession; Assignment. This Addendum shall inure to the benefit of and be binding upon the Parties and their respective successors, heirs, representatives and permitted assigns; provided, however, that neither Party may assign his or its obligations and duties hereunder without the prior, written consent of the other Party.
- d.** No Waiver. No delay on the part of either Party in the exercise of any power or right shall operate as a waiver thereof, or impair any right or remedy; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies provided herein are cumulative and are not exhaustive of any rights or remedies that any Party may otherwise have at law, in equity, or otherwise.
- e.** Captions. The captions in this Addendum are solely for convenience and shall be given no legal effect in construing or interpreting this Addendum.
- f.** Severability. Each of the sections contained in this Addendum shall be enforceable independently of every other section in this Addendum, and the invalidity or non-enforceability of one section shall not invalidate or render non-enforceable any other section. If any section or provision within a section is determined, by a court of competent jurisdiction, to be invalid or unenforceable, it is the intent of the Parties that a court of competent jurisdiction will reform the section or provision to produce its nearest enforceable equivalent.
- g.** Interpretation. This Addendum has been negotiated jointly by and between the Parties and the principle of contract interpretation that ambiguous language is construed against the drafter shall not apply to the interpretation of this Addendum. The Parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA Regulations.
- h.** Survival. All provisions of this Addendum that, by their terms, survive the termination of this Addendum, including, but not limited to, the post-employment restrictions, shall survive termination and shall remain in full force and effect in accordance with their terms.
- i.** Notices. Any notice required or permitted under this Addendum shall be made in writing and shall be deemed to have been duly given if: (i) personally delivered; (ii) sent by confirmed facsimile;

- j. sent by a recognized overnight delivery service, which provides a receipt against delivery; or
- k. sent by United States certified or registered mail, return receipt requested, with full postage paid, to the address of the Party as set forth above, or to such other address as either Party shall notify the other in the manner set forth above.
- l. Counterparts; Facsimile Signatures. This Addendum may be executed in any number of separate counterparts, each of which shall collectively and separately constitute one and the same agreement. For purposes of the execution of this Addendum by the Parties hereto, a facsimile signature for and on behalf of any Party hereto shall be deemed an original signature of such Party.

SCHEDULE II to HIPAA Business Associate Addendum

PERMITTED USES AND DISCLOSURES OF COVERED ENTITY'S PHI

1. Purpose of Disclosure of PHI by the Covered Entity to the Business Associate: For the Business Associate to provide billing and accounts receivable management services to the Covered Entity (the "Business Associate's Services"), as more specifically described in the Agreement.
2. Information to be Disclosed by the Covered Entity to the Business Associate: Any and all information necessary for the Business Associate to provide the Business Associate's Services to the Covered Entity.
3. Use to Effectuate Purpose of Addendum: The Business Associate may use and disclose PHI to the extent contemplated by the Addendum or as required by law in order for the Business Associate to perform the Business Associate's Services.
4. Uses or Disclosures Requiring Prior Authorization: Business Associate agrees and understands that, except as expressly provided in this Schedule II, it may not use or disclose PHI to any other person or entity without first having received a HIPAA-compliant authorization from Covered Entity. Business Associate agrees to retain a copy of each authorization, and the information provided in response to the authorization, for six years and to provide Covered Entity with copies of said documents upon request.
5. Agents and/or subcontractors that the Business Associate may use to perform any of its obligations under the Addendum: The Business Associate agrees that, if this Addendum is amended to include an approved agent and/or subcontractor, it will contractually require any such agent and/or subcontractor to meet the requirements of this Addendum and to comply with the HIPAA law.

6. Use of Standard Transactions and Code Sets: The Business Associate understands and agrees that it is required to comply with the HIPAA Standards for Electronic Transactions, 45 C.F.R. Parts 160 and 162 (the "HIPAA law"). The HIPAA law currently requires covered entities, such as the Covered Entity, and all of its business associates to conduct transactions covered by the HIPAA law as "standard transactions" (as that quoted term is defined and understood under the HIPAA law) using defined medical data code sets. There may be additional transactions added from time to time and/or the code sets mandated in those transactions may change. The Business Associate agrees that, regardless of whether this Exhibit is amended to include specific transactions or code sets, it will comply with the HIPAA law, as it may be amended from time to time. The Business Associate agrees that it will not:
 - a. Change the definition, data condition or use of a data element or segment in a standard.
 - b. Add any data elements or segments to the maximum defined data set.
 - c. Use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the standard's implementation specifications.
 - d. Change the meaning or intent of the standard's implementation specification(s).
7. Other Permitted Uses and Disclosures of Covered Entity's PHI by Business Associate: In accordance with 45 CFR Sections 164.502(d)(1) and 164.514, Business Associate may use Covered Entity's PHI to create "de-identified information" as such quoted term is understood under the HIPAA Regulations. Business Associate may use and disclose this de-identified information for purposes of providing statistical analyses to Covered Entity in accordance with such conditions as are more fully described in the Agreement.