

## BUSINESS ASSOCIATE AGREEMENT

This **Business Associate Agreement** (the "Agreement"), effective December 20, 2007, is entered into by and between \_\_\_\_\_, having an address at \_\_\_\_\_, (hereinafter referred to as "Provider") and **RemitDATA, Inc.**, (also known as "Business Associate") having an address at **516 Tennessee Street, Memphis, TN 38103**, (each a "Party" and collectively the "Parties")

WHEREAS, the Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information codified at Chapter 45, parts 160 and 164, of the Code of Federal Regulations (the "Privacy Regulations"), such regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); and

WHEREAS, the Privacy Regulations describe certain types of individually-identifiable health care information that are subject to protection, including, but not limited to, health information that identifies or could be used to identify an individual if such information relates to (a) the past, present or future physical or mental health condition of an individual; (b) the provision of health care to an individual or (c) the past, present or future payment for the provision of health care to an individual (collectively, "Protected Health Information"); and

WHEREAS, the Parties have entered into a service agreement (the "Underlying Agreement") pursuant to which RemitDATA uses and/or discloses, or may use and/or disclose, Protected Health Information in its performance of the Services (as hereinafter defined) pursuant to the Underlying Agreement; and

WHEREAS, this Agreement sets forth the terms and conditions pursuant to which Protected Health Information that is provided by, created by, or received by RemitDATA from or on behalf of Provider shall be handled between RemitDATA and Provider, and with third parties during the term of the Underlying Agreement and after its termination;

NOW, THEREFORE, in consideration of the mutual premises contained herein, the execution of the Underlying Agreement by both Parties, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **1. PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION**

**Services.** Pursuant to the Underlying Agreement, RemitDATA provides Electronic Data Services ("Services") for Provider which involve, or may involve, the use and/or disclosure of Protected Health Information. Please check services below:

- \_\_\_\_\_ **Reimbursement Pro** – Electronic Remittance Advice analysis, workflow management and benchmarking.  
\_\_\_\_\_ **WebScan** – Document imaging and workflow management.

**Definition of Use.** The term "use" shall mean the sharing, employment, application, utilization, examination, or analysis of Protected Health Information within an entity holding such information.

**Definition of Disclose or Disclosure.** The terms "disclose" and "disclosure" shall mean the release, transfer or provision of access to or divulging in any other manner of information outside of an entity holding such information.

**Use and Disclosure of Protected Health Information:** Except as otherwise specified herein, RemitDATA may make any and all uses of Protected Health Information necessary to perform its obligations under the Underlying Agreement and in providing the Services, provided that such uses do not violate the Privacy Regulations and are otherwise lawful. All other uses and disclosures of Protected Health Information only (i) to its employees, subcontractors, and agents in accordance with Section 2 of this Agreement, (ii) as directed by Provider, or (iii) as otherwise permitted by the terms of this Agreement including, but not limited to, Section 1.5 of this Agreement. All other uses and disclosures of Protected Health Information by RemitDATA are prohibited.

**Business Activities of Business Associate.** RemitDATA may disclose the Protected Health Information in its possession to third parties for the purpose of RemitDATA's proper Management and administration or to fulfill any present or future legal responsibilities of RemitDATA, if, and only if, RemitDATA represents to Provider, in writing, that (1) the disclosures are required by law, as such phrase "required by law" is defined in 45 C.F.R. § 164.501 or (ii) RemitDATA has received from the third party written assurances regarding its confidential handling of such Protected Health information as required under 45 C.F.R. § 164.504 (e)(4).

### **2. RESPONSIBILITIES OF BUSINESS ASSOCIATE WITH RESPECT TO PROTECTED HEALTH INFORMATION**

With regard to its use and/or disclosure of Protected Health Information, RemitDATA shall:

- a. use and/or disclose the Protected Health Information only as permitted or required by this Agreement or as otherwise required by law, as such phrase "required by law" is defined in 45 C.F.R. § 164.501;
- b. report, in writing, to the designated privacy officer, as such position is defined in the Privacy Regulations, of Provider any use and/or disclosure of the Protected Health Information that is not permitted or required by this Agreement of which RemitDATA becomes aware within three business days of RemitDATA's discovery of such unauthorized use and/or disclosure;
- c. establish procedures for mitigating, to the greatest extent possible, any deleterious effects from any improper use and/or disclosure of Protected Health Information that RemitDATA reports to Provider;
- d. use commercially reasonable efforts to maintain the security of the Protected Health Information and to prevent unauthorized use and/or disclosure of such Protected Health Information,
- e. require all of its employees, subcontractors, agents and other third parties that receive, use or have access to Protected Health Information to agree, in writing, to adhere to the same restrictions and conditions on the use and/or disclosure of such Protected Health Information;
- f. at Provider's request, make available to the Secretary of the Department of Health and Human Services, or his or her designee, all records, books, agreements, policies, and procedures relating to the use and/or disclosure of Protected Health Information for purposes of determining Provider's compliance with the Privacy Regulations, subject to attorney-client and other applicable legal privileges.
- g. Upon five-days prior written request, make available to Provider during normal business hours at RemitDATA's offices all records, books, agreements, policies, and procedures relating to the use and/or disclosure of Protected Health Information for purposes of enabling Provider to audit and determine RemitDATA's compliance with the terms of this Agreement;
- h. Provide an accounting of disclosures to Provider in accordance with 45 C.F.R. § 164.528 (b)(2), for disclosures, as outlined in 45 C.F.R. § 164.528 (a)(1), for other than treatment, payment and healthcare operations at the time of each disclosure;

- i. Subject to Section 3.4 of this Agreement, de-identify or destroy, with thirty days of the termination of this Agreement, all Protected Health Information in its possession, including all copies and back-up files thereof and all electronic records containing such Protected Health Information;
- j. disclose to its employees, subcontractors, agents, or other third parties, and request from Provider, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder, and
- k. within a reasonable time period, make available to Provider such information as Provider may require to fulfill Provider's obligations to provide access to, amendment or, and account for disclosures with respect to PHI pursuant to HIPAA and the HIPAA regulations, including but not limited to, 45 C.F.R. §164.524, 164.526, and 164.528 (such information to be made available in electronic and uploadable format); and
- l. cooperate with Provider in any investigation or inquiry concerning Provider's and/or RemitDATA's compliance with the Privacy Regulations

**3. TERMS AND TERMINATION**

**Term.** This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Section 3.

**Termination by Provider.** Provider may immediately terminate the Underlying Agreement, if RemitDATA fails to cure a breach of any material term of this Agreement. In order to terminate under such circumstances, Provider must: (i) provide RemitDATA with written notice of the existence of a material breach, and (ii) afford RemitDATA an opportunity to cure said alleged material breach; provided, however, that said breach must be cured within 30 business days. Failure to cure in the manner set forth in this Section 3.2 is grounds for the immediate termination of the Underlying Agreement by Provider.

**Effect of Termination.** Upon termination of the Underlying Agreement for any reason, RemitDATA shall de-identify or destroy all Protected Health Information pursuant to 45 C.F.R § 164.504 (e)(2)(ii)(I) and shall retain no copies of such Protected Health Information. RemitDATA further agrees to recover any Protected Health Information in the possession of its subcontractors, employees or agents and to return or destroy such Protected Health Information as provided herein. If it is not feasible for RemitDATA to de-identify or destroy said Protected Health Information, RemitDATA shall notify Provider in writing. Such notification shall include: (i) a statement that RemitDATA has determined that it is not feasible to de-identify or destroy the Protected Health Information in its possession and (ii) the specific reasons for such determination. RemitDATA further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any Protected Health Information retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible. If it is infeasible for RemitDATA to obtain from a subcontractor, employee or agent any Protected Health Information in the possession of the subcontractor, employee or agent, RemitDATA shall provide a written explanation to Provider and require the subcontractor, employee or agents to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractor's, employees, or agent's use and/or disclosure of any Protected Health Information retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible.

**4. MISCELLANEOUS**

**Subsidiaries of Parties.** For purposes of this Agreement, the term Provider shall include the Provider, as well as any or all subsidiaries of the Provider. The term RemitDATA shall include any or all of its subsidiaries.

**Survival.** The respective rights and obligations of RemitDATA and Provider under the provisions of Sections 2, 3.3, and 4.4 shall survive termination of this Agreement of the Underlying Agreement for any reason.

**Amendments; Waiver.** This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

**No Third-Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

**Notices.** Any notices to be given hereunder to a Party shall be made in the manner provided for giving notices in the Underlying Agreement.

**Counterparts; Facsimiles.** This Agreement may be executed in counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

**No Impairment of Underlying Agreement.** Nothing contained herein shall impair or negate the Parties' rights and obligations in and under the Underlying Agreement nor RemitDATA's obligations to comply with all applicable laws, rules and regulations in providing the Services, including, but not limited to, applicable state and local laws, rules and regulations relating to the use and disclosure of Protected Health Information.

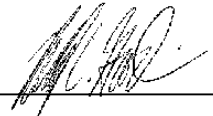
**Further Assurances.** The Parties shall execute such other agreements or amendments and modifications hereto necessary to comply with changes in the Privacy Regulations.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of \_\_\_\_\_.

PROVIDER

REMITDATA, INC.

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

By:  \_\_\_\_\_ Date: December 20, 2007

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

Print Name: Bently C. Goodwin

Print Title: \_\_\_\_\_

Print Title: CEO