

**HARDIN COUNTY FISCAL COURT
RESOLUTION NO. 2021-093**

BE IT RESOLVED, upon recommendation of Judge/Executive Harry L. Berry to renew the Data Collection, Billing, and Electronic Health Information Exchange with Ambulance Medical Billing.

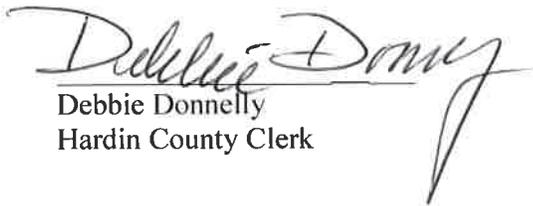
BE IT FURTHER RESOLVED, to authorize the Hardin County Judge/Executive and the County Attorney to finalize the negotiation and execute all required agreements, contracts, and other documents reasonably necessary to complete this project.

ADOPTED, by Hardin County Fiscal Court in its regular meeting on 25 May 2021.



Harry L. Berry
Hardin County Judge/Executive

ATTEST



Debbie Donnelly
Hardin County Clerk

AMB SERVICE AGREEMENT

THIS AMB SERVICE AGREEMENT (the "Agreement") is made and entered into on this the 1st day of July, 2021, by and between Hardin County EMS, of Elizabethtown, Kentucky ("CLIENT"), and Credit Bureau Systems, Inc. d/b/a Ambulance Medical Billing, of 100 Fulton Court, Paducah, Kentucky 42001-9004 (hereafter "AMB"), pursuant to the terms and conditions set forth herein. For the consideration stated herein, the parties do hereby agree as follows:

1. **Description of Services.** AMB is a national ambulance and EMS full-service billing and revenue cycle management firm, specializing in billing and obtaining payment for services provided by ambulance services, and CLIENT is in the business of providing ambulance services to patients in its geographical location. For the term of this Agreement, as defined herein, AMB shall use commercially reasonable efforts to bill for and obtain reimbursement for CLIENT for the services rendered by the CLIENT to patients, on or after the Effective Date, by billing patients and third-party payers, including applicable governmental programs and entities (hereafter the "Services"). Any additional services which AMB agrees to provide, other than those set forth in this Agreement, will be explicitly set forth in an Addenda hereto which, if applicable, is incorporated herein by reference and explicitly made a part of and included in the Services. All provisions in this Agreement apply to any Addenda unless explicitly stated otherwise.

CLIENT agrees that AMB will be the sole and exclusive provider of the Services during the terms of this Agreement, and CLIENT will not utilize any other party or entity, or its own personnel, to bill for services rendered by CLIENT during the term of this Agreement.

2. **Effective Date.** This Agreement shall be effective for all Services rendered by CLIENT on and after July 1st, 2021, during the term of this Agreement, as defined herein.

3. **Term.** The initial term of this Agreement shall be for a period from July 1st, 2021 through June 30th, 2022. This agreement may be renewed under identical terms of the initial contract for two (2) additional one (1) year periods without rebidding.

4. **Fees.** Beginning as of the Effective Date, CLIENT shall pay AMB a fee of 3.85% per month of net collections received during the Initial Term and any Additional Term (the "Base Fee"), including any wind down period as defined herein. Net collections shall be defined as the total sum of all money collected and/or received by AMB and/or CLIENT, for the services rendered by CLIENT after the Effective Date, during the Initial Term or any Additional Term of this Agreement. It is specifically agreed that net collections are calculated based on gross dollars received, without regard to whether CLIENT has been required to refund any money collected to any third-party payers, including applicable governmental programs and entities. The parties acknowledge that some direct payments will be made to CLIENT during the term of this Agreement (hereafter "Direct Payments") and CLIENT acknowledges that AMB is entitled to be paid its fee, as described herein, with respect to any such Direct Payments. CLIENT shall report all such Direct Payments to AMB within 72 hours of receiving said payment.

5. **Computer Hardware, Software, and Training.** To implement the Services, CLIENT has requested, and AMB has agreed to provide, the following necessary computer hardware, software, whether cloud based or otherwise, equipment, and training (hereafter collectively the “Equipment”) for the following agreed upon prices:

a. ESO Solutions - \$13,275.85

b. Training - \$4,500.00

Total Charge for Subscriptions and Training: \$17,775.85

By executing this Agreement, CLIENT acknowledges that the CLIENT has received and is using or can use the Equipment, including all training, contemplated hereunder, unless CLIENT provides written notice, as required herein, to AMB within sixty (60) days of the Effective Date. Absent written notice, CLIENT waives any claim that it did not receive the Equipment, is not using the Equipment, or that the Equipment does not work.

CLIENT further acknowledges that it, rather than AMB, has independently chosen all Equipment and made such investigation into the quality, reliability and need for the Equipment as it deems necessary. CLIENT agrees that AMB is not vouching for or warranting the Equipment, or the specific version of Equipment, and CLIENT agrees that AMB will have no liability or responsibility for any problems, malfunctions, or glitches with the Equipment. CLIENT agrees and acknowledges that its sole remedy with respect to any problems with any Equipment shall be as against the vendor or manufacturer and AMB’s only obligation is to assist CLIENT in finding the appropriate solution so as to provide the Services.

CLIENT and AMB agree and acknowledge that Equipment shall become the property of the CLIENT, and title shall pass to the CLIENT, upon delivery and/or installation by AMB.

If this Agreement is terminated by CLIENT or AMB, for any reason, prior to the completion of the Initial Term, CLIENT shall immediately pay AMB the pro-rata portion of the Total Charge for Equipment that represents the pro-rata portion of the Initial Term that is not completed due to termination (hereafter the “Pro Rata Charge for Equipment”). By way of example, if CLIENT terminates this Agreement, for whatever reason, after 19 of 36 months, CLIENT shall owe and shall pay AMB the Pro Rata Charge for Equipment which shall be equal to 17/36ths of the Total Charge for Equipment, immediately upon termination. CLIENT specifically acknowledges that it shall have no right to return the Equipment or any portion of the Equipment to AMB for a full or partial credit towards the Total Charge for Equipment owed by CLIENT to AMB.

If CLIENT fulfills its obligations as described herein, including its obligation to pay for all Base Fees as described herein, and the Agreement is not terminated prior to the expiration of the Initial Term, CLIENT shall owe no additional amount to AMB for the Equipment.

6. **Remit To Address.** It is mutually agreed that all payer “remit to” addresses and patient payments shall be directed to the office of AMB. CLIENT acknowledges that it is a material breach of this Agreement to change the “remit to” address for any payer or third-party payers, including applicable governmental programs and entities.

7. **Payment of Fees to AMB.** AMB shall send an invoice to CLIENT for all Base Fees, any Pro Rata Charge for Equipment due and owing, and any other charges, as provided for herein, on or about the 10th day of each month following the close of business for the prior month (hereafter "Invoice"). Payment is due, and CLIENT shall pay, the Invoice upon receipt. Any Invoice, or part of any Invoice, that is not paid by CLIENT within thirty (30) days of the Invoice date, shall be subject to, and CLIENT shall pay, interest at the rate of 1.5% per month until paid.

CLIENT agrees to carefully review each Invoice upon receipt, and CLIENT shall notify AMB in writing with respect to any charges that are disputed within thirty (30) days of the Invoice date. All charges on any Invoice that are not disputed in writing by CLIENT within thirty (30) days of the Invoice date, along with all accrued interest charges, shall be deemed correct, final and non-modifiable by the parties.

CLIENT agrees to, and hereby does, grant AMB a lien and right of offset on all money received and to be received on behalf of CLIENT pursuant to this Agreement, as a result of the Services provided by AMB, up to the amount of all outstanding Invoices.

Should CLIENT fail to pay AMB within thirty (30) days of the date of any Invoice, Client hereby authorizes and directs AMB to access, withhold, retain and apply sufficient sums for payment to AMB of all outstanding Invoices from money paid to and on behalf of CLIENT from payment transactions on patient accounts, whether from insurance companies, governmental payers, or patients. AMB shall have the right, but not the obligation, to take such steps as allowed herein, and AMB does not waive the right to take any steps it is allowed to take hereby by refraining from immediately taking such steps. All balances due and owing to AMB after any offset shall remain due and owing pursuant to the terms set forth herein. Without limiting the foregoing, CLIENT specifically authorizes and directs AMB to change all "remit to" addresses in connection with all billing to direct all patient and/or third-party payments to AMB, rather than CLIENT. AMB shall provide a full and complete accounting to CLIENT of all payments remitted to AMB on behalf of CLIENT, and AMB shall promptly remit to CLIENT all money remitted to AMB, net of any money retained and applied towards amounts owed to AMB. If CLIENT fails to pay any outstanding Invoice within 90 days of the Invoice date, AMB reserves the right to terminate the Agreement immediately with the wind down period being voided and AMB having no further obligations hereunder. AMB's lien, and right of offset, as set forth herein, shall survive the termination of this Agreement.

8. **Bank Account and Treasury Process.** A bank account or lockbox account will be set up and maintained in the name of CLIENT for the purpose of receiving remittances from AMB (hereafter the "Bank Account"). CLIENT shall be responsible for all bank charges, and AMB shall have no responsibility or liability for any bank error or omissions. Except as provided for in Section 7 of this Agreement, AMB shall remit all amounts collected on a daily basis to the CLIENT's Bank Account via ACH Electronic Funds Transfer.

9. **Operating Procedures.** CLIENT agrees and acknowledges that in order for AMB to provide the Services contemplated hereby, CLIENT must provide, or cause facilities, hospitals, or other third-party sites at which CLIENT provides services, to provide to AMB accurate and complete demographic information required by AMB, at no cost to AMB (hereafter the "Demographic Information"). CLIENT acknowledges that AMB will necessarily rely on the

Demographic Information in providing the Services contemplated herein, and that the timing and number of reimbursements and ultimately Net Collections generated by AMB and received by CLIENT is directly related to the completeness, timeliness and accuracy of the Demographic Information and other variables, some of which are beyond the control of AMB. CLIENT agrees, therefore, to provide sufficient employees, and training and oversight of its employees, so that complete and accurate Demographic Information is captured.

AMB will bill and attempt to collect CLIENT charges in a commercially reasonable manner and in accordance with all applicable Federal, State, and Local laws and regulations.

a) **Responsibilities of AMB:**

(1) Provide coding of all encounters generated by CLIENT, as required by third-party payers, inclusive of, but not limited to HCPCS, and the appropriate ICD coding schemes, including but not limited to ICD-9 CM or ICD-10 coding schemes, and such other coding schemes as may be adopted and/or used.

(2) Issue bills to individuals for all self-pay patients with a minimum of 2 statements and 1 script letter (Collection Notice). CLIENT will be given limited discretion regarding the wording to appear on bills and letters.

(3) As necessary, develop and maintain electronic data interfaces directly with CLIENT's hospital service sites (where such sites allow) for the collection of patient demographic data. CLIENT agrees to apply its best efforts to assist AMB in achieving these interfaces, including, but not limited to interacting with hospital Information Systems staff, Administration, and others.

(4) Issue initial billing to patients and/or third parties no more than three (3) business days after receiving all required information.

(5) Submit claims electronically to all third-party payers capable of accepting claims in electronic format.

(6) Prepare and deliver month-end reports of the billing performance and practice statistics no later than the tenth (10th) business day of the next month. This duty may be fulfilled by electronic and/or paper reports.

(7) Produce monthly credit balance reports and advise the CLIENT of refunds due to both patients and third parties.

(8) Provide toll free phone lines for patient inquiries and adequate phone inquiry staff to effectively respond to patients in a reasonable amount of time.

(9) Use reasonable efforts to advise CLIENT of any material change in third-party rules and regulations which are made known to providers and third-party billing agents or otherwise known to AMB.

b) **Responsibilities of CLIENT:**

(1) Identify one administrative and one clinical representative to whom AMB may, respectively, address all matters related to Services under this Agreement. If AMB or its selected vendor performs coding for CLIENT, CLIENT will also appoint a coding representative. All CLIENT representatives will have the power to agree, on behalf of CLIENT, to mutually agreed resolutions to any issues arising in their respective areas, and upon AMB's request, receive confirmatory memoranda or letters, which will thereupon be incorporated into this Agreement by reference. These individuals appointed by CLIENT will provide timely response to all reasonable requests by AMB.

(2) CLIENT warrants that AMB may rely on the existence of patient signatures on assignment of benefits, medical information releases and Advance Beneficiary Notices, and physician signatures on charts and other medical documents, as required for submission of claims on behalf of CLIENT.

(3) CLIENT will assist AMB in working with and/or resolving problems related to work performed by personnel employed by hospitals, labs and other institutions in order to achieve the goals of this Agreement and the provision of Services by AMB in an efficient and cost-effective manner.

(4) CLIENT will provide AMB with timely notice at least sixty (60) days prior to the expected addition or reduction of services so that AMB has adequate time to perform its duties under the Agreement. AMB will not be responsible for losses or delays in payment resulting from untimely notice.

(5) It is the mutual goal of CLIENT and AMB to conduct all billing in a compliant manner. CLIENT will establish and enforce and AMB will follow written billing policies and procedures for the practice that will serve as the foundation of a practice Compliance Program for CLIENT and AMB. These billing policies and procedures will be developed and amended, as needed, in concert with AMB's Compliance Staff and AMB's Compliance Plan, as described in the Agreement, and shall be consistent with AMB's Compliance Plan.

(6) CLIENT will respond, within five (5) business days, to any documentation requests, made by payers and/or AMB, and forwarded from AMB.

(7) Upon receipt of the requisite research and worksheets from AMB, CLIENT will timely issue refunds of overpayments to patients and payers and shall be responsible for reconciliation of the refund checking account to assure that all refund checks have been cashed. CLIENT shall promptly notify AMB of the receipt of cancelled checks upon which AMB shall rely to remove credit balances from CLIENT's accounts receivable files. CLIENT shall be solely responsible for monitoring and surrendering unclaimed funds to the Treasurer of the State having escheat jurisdiction over any unclaimed payments.

(8) CLIENT shall be responsible for assuring that all information required for CLIENT enrollment, if performed by AMB, is provided timely, accurately and completely. AMB

shall not be responsible for delays in provider enrollment and subsequent billing and payment delays or losses related to delayed response by CLIENT.

(9) CLIENT shall give AMB timely advance notice of any new payment contracts, HMO or PPO relationships and other contracts or market changes so that AMB may accommodate these changes, as necessary.

(10) CLIENT shall give AMB a 30-day notice of any fee schedule changes to update the billing software.

11. **Confidentiality.** AMB agrees not to disclose to anyone other than CLIENT any information about CLIENT's business, fee structure, internal compensation, operating practices and procedures, methods, managed care or facility contracting strategies, or similar business information that would commonly be understood to be confidential or any confidential medical information regarding CLIENT's patients received in the course of performing the Services (CLIENT's "Confidential Information"), except as required to bill charges, as legally required, or as otherwise provided herein.

CLIENT agrees that it will not disclose to third parties information about AMB's business, fee structure, strategies, internal compensation, operating practices, procedures, protocols, methods, vendors, computer hardware and any proprietary software utilized, and resulting or related processes employed by AMB to provide the Services (AMB's "Confidential Information").

Each party's Confidential Information shall remain the property of that party, during and after this Agreement. Both parties shall, at all times, have in force a signed Confidentiality Agreement executed by each full time and part time employee, independent contractor, consultant and vendor that requires CLIENT's Confidential Information and AMB's Confidential Information to be maintained and protected as set forth herein, which said Confidentiality Agreement(s) shall survive the expiration or termination of this Agreement. Both parties shall comply with, and assist the other with compliance with applicable state or federal confidentiality requirements as to individual patient information. Notwithstanding the foregoing, CLIENT agrees that AMB may use CLIENT information for research and statistical compilation purposes so long as CLIENT and patient identifying information is kept confidential in accordance with applicable law.

12. **Software, Proprietary Information, and CLIENT Data.** AMB will at all times during the term of this Agreement, have a valid and current copy of and license for use of any third-party billing software used to provide the Services required hereunder, and CLIENT will be given timely notice of any changes in third-party software vendors or systems to the extent those changes would materially affect the Services. The parties agree that AMB may store Demographic Information, back-up documentation, statements, explanations of benefits, payer inquiries and other information it receives in connection with the Services ("CLIENT Information") in electronic form through optical scanning or other technologies selected by AMB and that AMB is not obligated to maintain paper copies. CLIENT represents that it shall maintain a current and complete copy of all CLIENT Information for such time as it deems advisable or is required by law. During the term of this Agreement, AMB will at all times maintain a current and complete copy of all CLIENT Information in a secure, off-site location. At the expiration of the Initial Term

or, if applicable, any Additional term, AMB shall provide CLIENT with a disc or by such other means, of all CLIENT Data which includes a complete list of the existing accounts receivable (all debit and credit balances in an industry standard electronic format, including data layout and/or translation tables (hereafter "Close Out Disk"), if CLIENT has paid all fees due and owing to AMB hereunder. CLIENT agrees and acknowledges that once AMB provides the Close Out Disk, it shall have no further obligation to store CLIENT's data, except as may be required by law. CLIENT further agrees and acknowledges that if CLIENT terminates this Agreement before the expiration of the Initial Term or, if applicable, any Additional term, or if CLIENT fails to pay AMB all fees due and owing hereunder, AMB shall have no further obligation to store CLIENT's data, or provide the Close Out Disc, unless otherwise required by law.

It is specifically acknowledged that all CLIENT Data is the property of CLIENT but that AMB may maintain a copy for documentation of Services and for other purposes relating to this Agreement during and after the term of this Agreement.

13. **Termination.** This Agreement can be terminated by CLIENT at any time with 90 (ninety) days written notice, as defined herein, for any reason. CLIENT acknowledges that any termination without written notice, as defined herein, is of no effect. In the event this Agreement is terminated, for whatever reason, or expires, the parties agree as follows:

a) AMB shall continue to perform Services, and be entitled to the Base Fees set forth herein, for a period of one hundred twenty (120) days after the effective date of termination (hereafter "Wind Down Period") for all of CLIENT's charges for services rendered prior to the termination date (hereafter "Wind Down Fees").

b) CLIENT expressly agrees to cooperate and assist AMB with its performance during the Wind Down Period and will timely report, or cause to be reported, all payment received during the Wind Down Period.

c) AMB shall discontinue performing Services for CLIENT at the end of the Wind Down Period. CLIENT shall have no right to require the discontinuation of Services before the completion of the Wind Down Period.

d) CLIENT shall pay AMB the Pro Rata Charge for Equipment if the Agreement is terminated by the CLIENT prior to the end of the Initial Term and, if applicable, any Additional Term.

e) AMB shall deliver to CLIENT, conditioned upon full payment to AMB of all Invoices owed to AMB, a Close Out Disk of all accounts in AMB's billing software.

14. **Non-Employment.** During the term of this Agreement and for a one-year period commencing with the termination of this Agreement, both parties agree not to employ, directly or indirectly, or through any third-party rendering services on behalf of such party, any employees of the other or its parent, affiliates or subsidiaries, without written consent of the other party. Both parties agree that the other party does not have an adequate remedy at law to protect its rights under this section and agree that the non-defaulting party will have the right to injunctive relief from any violation or threatened violation of this section.

15. **Notice.** All notices required hereunder must be in writing and shall be deemed to have been given upon receipt if delivered by overnight courier service, or seven (7) days after mailing (any such mailing to be by certified or registered mail with first-class postage prepaid), sent to the following:

| If to AMB: | If to CLIENT: |
|-------------------------------------|-------------------------------------|
| Ambulance Medical Billing | Hardin County EMS |
| <u>Attn: Lloyd Ledet</u> | <u>Attn: Mark Peterson</u> |
| <u>P.O. Box 9150</u> | <u>PO BOX 1780</u> |
| <u>Paducah, Kentucky 42002-9150</u> | <u>Elizabethtown, KY 42702-1780</u> |

16. **Governing Law and Jurisdiction.** This Agreement, and any addendums to it, shall be interpreted and governed by the laws of the Commonwealth of Kentucky. In the event of any dispute or disagreement between CLIENT and AMB, arising under this Agreement or otherwise, the sole and exclusive venue and jurisdiction shall be in the McCracken Circuit Court, McCracken County, Kentucky. In the event the CLIENT files any legal proceeding in any other venue, CLIENT shall be obligated to pay all costs and attorney's fees incurred by AMB until such time as the action is pending in McCracken County, Kentucky.

17. **Indemnification.** AMB will indemnify, defend (including providing a legal defense and paying all reasonable attorney's fees and reasonable litigation expenses) and hold harmless, CLIENT, its officers, directors, shareholders, employees and contractors, against any claims, damages, or liability (including but not limited to any claims, judgments, causes of action, fines, penalties, attorneys' fees, litigation costs and/or damages) arising out of AMB's errors, omissions, or acts which cause damage to CLIENT, in connection with claims by third-party payers, including applicable governmental programs and entities, subject to the limitation of liability set forth herein..

It is mutually understood and agreed that AMB shall use commercially reasonable efforts in the performance of its duties. Collection performance or CLIENT's cash flow concerns, however, shall not be deemed an error, omission, act, or basis for a claim under this Agreement.

CLIENT will indemnify, defend (including providing a legal defense and paying all reasonable attorney's fees and reasonable litigation expenses) and hold harmless, AMB, its officers, directors, shareholders, employees and contractors, against any claims, damages, or liability (including but not limited to any claims, judgments, causes of action, fines, penalties, attorneys' fees, litigation costs and/or damages) arising out of CLIENT's errors, omissions, or acts which cause damage to AMB.

18. **Compliance.** Both parties agree to, and have represented to each other that they do, perform their respective business activities in a manner consistent with all federal, state, and local laws and regulations. As part of the inducement, each to the other, to enter into this Agreement,

both parties have represented that they do, and will continue to operate consistent with and fully comply with their respective Corporate Compliance Plans, to the extent that such plans have been adopted. To the extent that no such Plan has been adopted, both parties agree to the following:

a) Each party will conduct its own periodic risk assessment and advise the other party to this Agreement of any findings that may affect that other party's compliance or performance under this Agreement.

b) Both parties agree that the other party hereto may review its Compliance Program upon request.

c) Both parties agree to conduct appropriate background checks on all employees, prospective employees, contractors, agents and vendors to assure that all services are provided by individuals who have not been excluded by any governmental authority or should be excluded by any governmental authority.

d) Both parties agree to maintain appropriate compliance records and assure the completeness and security of said records.

e) Both parties agree to comply with the rules and regulations related to the following areas of widely known compliance risk:

(1) Improper waiver of charges, deductibles and copayments;
(2) Up-coding, unbundling, serial reporting and other coding violations;
(3) Misuse of a provider number or misrepresenting the identity of a provider of services;

(4) Failure to repay overpayments or failure to timely refund overpayments;
(5) Seeking duplicate payment for the same service and/or from the same source;
(6) Failure to maintain proper records of current and prior billing;
(7) Failure to protect the confidentiality of patient information;

f) Both parties agree that, in the event that they become aware of a compliance concern that appears to be related to the other party's conduct, they will promptly communicate that concern to the other party in writing. The party receiving notice will take prompt action to investigate the concern and will timely (within 30 days) report back to the other party, in writing, their response to the reported concern.

g) Both parties specifically agree that they will defer reporting any such concern to any payer, governmental agency or agent, or law enforcement organization until they have complied with the above paragraph and remain concerned that the other party's response is inappropriate or more than thirty (30) days has elapsed without any response. Both parties agree that only in cases where a party has firm, credible evidence of deliberate, willful or criminal misconduct will they immediately report concerns to anyone other than the other party.

h) Nothing herein shall be construed to infer or imply a duty or expectation that any party will knowingly conceal or participate in any misconduct or allow any misconduct to continue.

i) It is expressly agreed that AMB has the right and duty to suspend and refuse submission of any and all claims that AMB reasonably believes are, or may be, improper and

would subject CLIENT or AMB to compliance violations. AMB has the duty to provide reasonable and timely notice to CLIENT of such suspension and to make reasonable and timely efforts to resolve the issue or concern leading to the suspension of claim submission. In the event that investigation is required to resolve the suspension, each party agrees to cooperate in such investigation.

j) Each party agrees to be separately responsible for their respective compliance-related legal and consulting expenses.

19. **Independent Contractors.** The parties to this Agreement are independent contractors and nothing herein shall be construed to create an employment relationship between either party or its members.

20. **Insurance.** AMB affirms that at all times during the term(s) of this Agreement, it shall have in force valid Worker's Compensation insurance covering all of its employees, as well as General Liability Insurance with a policy limit of no less than \$500,000, and Errors and Omissions insurance coverage with a policy limit of no less than \$3,000,000. AMB shall provide CLIENT proof of required coverage upon request.

21. **Inspection.** CLIENT, its agents and representatives, shall at all times during the term of this Agreement have reasonable access, during regular business hours, to review and inspect the location(s) where the services are performed upon seven (7) days advance written notice to AMB. Any inspection performed shall be subject to the confidentiality provisions of this Agreement and shall be conducted so as not to disrupt AMB's staff or business. AMB shall not unreasonably deny, restrict or delay access for any requested inspection. In the event that CLIENT engages the services of an outside party to conduct or assist in any inspection, CLIENT shall ensure that all other parties are bound by a Confidentiality Agreement identical to the one applicable to the parties to this Agreement.

22. **Force Majeure.** Time is of the essence in the performance of the duties required by each party hereunder. However, performance of duties hereunder may be impeded by occurrences beyond the control of one or both parties. Events such as flood, earthquake, hurricane, tornado, blizzard, fire, riot, war, insurrection, or civil disturbance, strikes by common carriers, disruption of business operations by lawful governmental order due to a pandemic, extended loss (more than 48 hours) of utilities (except for non-payment), and similar events shall excuse the affected party from performance of services impeded by such event(s). Nevertheless, each party has a duty to use reasonable efforts to prevent or mitigate such impediments. In the event that any catastrophe shall prevent the timely billing of CLIENT's services by AMB for more than fifteen (15) working days, CLIENT shall have the right to secure, without penalty, substitute services until AMB can restore services, at which time AMB's responsibilities and rights under this Agreement shall be reinstated. For its protection, CLIENT shall, at its own expense, purchase and maintain business interruption and/or accounts receivable insurance coverage to cover any such catastrophic event, as stated above. CLIENT agrees that under no circumstance shall AMB be liable to CLIENT for any losses associated with a business interruption, no matter the reason.

23. **Waiver.** The waiver by either party of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein.

24. **Severability.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect so long as the purposes for which the parties entered into this Agreement are not substantially frustrated thereby.

25. **Limitation of Liability.** AMB shall not be liable to CLIENT for any damages, whether direct or indirect, consequential or incidental, including, without limitation, loss of profits, arising out of or relating to uncollected or uncollectible accounts receivable or unpaid ambulance runs. The parties expressly agree that AMB makes no express warranty, nor shall any warranty be implied under this Agreement in respect of any service provided pursuant hereto, including but not limited to any warranty as to the ability to collect any customer/patient account from any patient, insurance company or other third-party payer.

AMB's aggregate liability relating to any of the Services and/or arising under this Agreement shall be limited in all cases to the amount of fees actually paid by CLIENT for the Services during the twelve (12) months preceding the date of any claim made by CLIENT against AMB.

26. **Miscellaneous.**

a) This Agreement contains the entire agreement between the parties relative to the Services to be provided to CLIENT and no amendments, representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied in the Agreement will be of any force or effect, unless in writing and signed by both parties.

b) This Agreement specifically supersedes any prior written or oral representations or agreements between the parties relating to the provisions of the Services, and any amendments or changes to this Agreement must be in writing, and signed by both CLIENT and AMB to be effective. CLIENT acknowledges that all prior representations and/or projections by AMB regarding potential recoveries of CLIENT prior to the Effective Date are not guarantees or warranties of results, and are merged into, and do not survive this Agreement, unless explicitly stated herein. CLIENT acknowledges that AMB has made no performance guarantee.

c) This Agreement is binding upon, and inures to the benefit of and is enforceable by AMB, CLIENT and their respective legal representatives, assigns and successors in interest, subject to Section 26 (d) below.

d) Neither party may assign this Agreement without the prior written consent of the other party, provided that this Agreement will be deemed assigned to, and will be binding upon, the survivor in any merger or business combination involving a party or the purchaser of all or substantially all of the assets of a party.

e) In the event CLIENT fails to comply with the terms of this Agreement, including but not limited to CLIENT's failure to pay AMB's fees when due, CLIENT shall pay all costs of collection including court costs, attorney fees, and collection agency contingency percentages of

not less than 35% to be added to the principal balance as a collection charge immediately upon default and referral of the account to the collection agency of AMB's choice.

f) AMB and CLIENT acknowledge that they are duly authorized by appropriate corporate action to enter into this Agreement and that this Agreement is being signed by duly authorized agents authorized to act on their respective behalf.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

CLIENT:

Signature: _____



Print Name: Harry L. Berry

Title: Hardin County Judge/Executive

Date: May 25, 2021

AMB:

Signature _____

Print Name: Lloyd Ledet

Title: President and CEO

Date: _____

**HARDIN COUNTY EMS
Business Associate Agreement
Between
HARDIN COUNTY EMS and Ambulance Medical Billing**

This Business Associate Agreement (“Agreement”) between HARDIN COUNTY EMS and Ambulance Medical Billing is executed to ensure that Ambulance Medical Billing will appropriately safeguard protected health information (“PHI”) that is created, received, maintained, or transmitted on behalf of HARDIN COUNTY EMS in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the “HITECH Act”).

A. General Provisions

1. **Meaning of Terms.** The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.
2. **Regulatory References.** Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.
3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate

Ambulance Medical Billing agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information (“e-PHI”) and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
3. Report to HARDIN COUNTY EMS any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to HARDIN COUNTY EMS without unreasonable delay but in no case later than 60 days after discovery of the breach;
4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Ambulance Medical Billing agree to the same restrictions, conditions, and requirements that apply to Ambulance Medical Billing with respect to such information;

5. Make PHI in a designated record set available to HARDIN COUNTY EMS and to an individual who has a right of access in a manner that satisfies HARDIN COUNTY EMS's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;
6. Make any amendment(s) to PHI in a designated record set as directed by HARDIN COUNTY EMS, or take other measures necessary to satisfy HARDIN COUNTY EMS's obligations under 45 CFR §164.526;
7. Maintain and make available information required to provide an accounting of disclosures to HARDIN COUNTY EMS or an individual who has a right to an accounting within 60 days and as necessary to satisfy HARDIN COUNTY EMS obligations under 45 CFR §164.528;
8. To the extent that Ambulance Medical Billing is to carry out any of HARDIN COUNTY EMS's obligations under the HIPAA Privacy Rule, Ambulance Medical Billing shall comply with the requirements of the Privacy Rule that apply to HARDIN COUNTY EMS when it carries out that obligation;
9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Ambulance Medical Billing on behalf of HARDIN COUNTY EMS, available to the Secretary of the Department of Health and Human Services for purposes of determining Ambulance Medical Billing and HARDIN COUNTY EMS's compliance with HIPAA and the HITECH Act;
10. Restrict the use or disclosure of PHI if HARDIN COUNTY EMS notifies Ambulance Medical Billing of any restriction on the use or disclosure of PHI that HARDIN COUNTY EMS has agreed to or is required to abide by under 45 CFR §164.522; and
11. If HARDIN COUNTY EMS is subject to the Red Flags Rule (found at 16 CFR §681.1 *et seq.*), Ambulance Medical Billing agrees to assist HARDIN COUNTY EMS in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of HARDIN COUNTY EMS's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of HARDIN COUNTY EMS agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting HARDIN COUNTY EMS of any Red Flags incident (as defined by the Red Flags Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to HARDIN COUNTY EMS of any threat of identity theft as a result of the incident.

C. Permitted Uses and Disclosures by Business Associate

The specific uses and disclosures of PHI that may be made by Ambulance Medical Billing on behalf of HARDIN COUNTY EMS include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by HARDIN COUNTY EMS to its patients;
2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;
3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by HARDIN COUNTY EMS to its patients or to appeal denials of payment for the same; and
4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Ambulance Medical Billing has been engaged to perform on behalf of HARDIN COUNTY EMS.

D. Termination

1. HARDIN COUNTY EMS may terminate this Agreement if HARDIN COUNTY EMS determines that Ambulance Medical Billing has violated a material term of the Agreement.
2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.
3. Upon termination of this Agreement for any reason, Ambulance Medical Billing shall return to HARDIN COUNTY EMS or destroy all PHI received from HARDIN COUNTY EMS , or created, maintained, or received by Ambulance Medical Billing on behalf of HARDIN COUNTY EMS that Ambulance Medical Billing still maintains in any form. Ambulance Medical Billing shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

Agreed to this day July 1st, 2021.

HARDIN COUNTY EMS

Ambulance Medical Billing

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| Signature:  <hr/> Print Name: Harry L. Berry <hr/> Title: Hardin County Judge/Executive <hr/> Date: <u>May 25, 2021</u> <hr/> | Signature: _____ <hr/> Print Name: Lloyd Ledet <hr/> Title: President and CEO <hr/> Date: _____ <hr/> |
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