

AGREEMENT
between
THE CITY OF LOS ANGELES
and
HARRIS & HARRIS, LTD.
FOR COLLECTION SERVICES OF THE CITY'S
DELINQUENT ACCOUNTS RECEIVABLE

This Agreement is made between the CITY of Los Angeles (hereinafter referred to as the "CITY"), a municipal corporation, acting by and through its Los Angeles Fire Department (hereinafter referred to as the "LAFD") and Harris & Harris, Ltd., (hereinafter referred to as the "CONTRACTOR").

WITNESSETH:

WHEREAS, CITY utilizes outside collection agency services as a best practice in delinquent debt collection and revenue generator to the CITY; and

WHEREAS, CITY prepared and released a Request for Proposals (RFP) for Primary and/or Secondary Collection Services to pursue collection of the CITY's delinquent accounts; and

WHEREAS, the CONTRACTOR recognizes that the CITY may contract with multiple agencies for collection services and may utilize any account allocation process that it deems appropriate; and

WHEREAS, the RFP Evaluation Committee has evaluated the proposals received and recommended approval of the CONTRACTOR to the CITY Council; and

WHEREAS, the CITY Council has approved the CONTRACTOR as one of the agencies for collection services to pursue collection of the CITY's delinquent accounts; and

WHEREAS, the parties hereto wish to enter into an Agreement by which the CONTRACTOR will perform the work and furnish all labor, materials and equipment necessary to recover the monies due the CITY as a result of active pursuit of outstanding accounts receivables; and

WHEREAS, the Los Angeles Fire Department is a Covered Healthcare Entity within the CITY of Los Angeles organization, in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), must enter into a separate agreement with the CONTRACTOR to ensure the security and segregation of accounts containing Protected Healthcare Information (PHI).

NOW THEREFORE, in consideration of the above premises and the covenants, representations and agreements herein contained, the parties hereby covenant and agree as follows:

ARTICLE I - SERVICES TO BE PROVIDED

The CONTRACTOR is an independent organization that will provide primary and/or secondary collection services on delinquent accounts referred to it by CITY the Los Angeles Fire Department (hereinafter referred to as "LAFD") pursuant to the terms and conditions of this Agreement.

Services to be performed by the CONTRACTOR for primary and/or secondary collection services herein include, but are not limited to, locating debtors, arranging for payments, mailing dunning notices, skip-tracing delinquent accounts, contacting debtors by telephone, filing delinquent notifications with credit bureaus and verifying assets. All correspondence between the CONTRACTOR and the LAFD and CITY debtors shall be sent by first class mail.

Primary collection services include collection efforts on initial referrals of delinquent Emergency Medical Services (EMS) Billing accounts (hereinafter referred to as "delinquent accounts") to the CONTRACTOR by the LAFD. The LAFD may refer delinquent accounts at the time reasonable collection efforts have failed, which is generally within nine (9) months of the date of initial billing.

For primary level services, the CONTRACTOR shall have a period of nine (9) months to effect collection. If the CONTRACTOR is unable to collect on the referred account within nine (9) months from assignment, the CONTRACTOR shall return the account to the LAFD and cease all collection efforts. For the purposes of this Agreement, the term "assignment" means the date that the account is referred to the CONTRACTOR. In no event shall the CONTRACTOR be entitled to any payment on the account once it has been returned to the LAFD. In limited circumstances, the LAFD, as directed by the CITY, may, at its sole discretion, elect to extend the time that the CONTRACTOR may retain said account in writing.

Secondary collection services include collection efforts on referrals of delinquent accounts that were previously assigned to a collection agency at the primary level and were returned to the CITY department by the primary level agency after at least nine (9) months from initial assignment and uncollected. For secondary level collection services, the CONTRACTOR shall have a period of six (6) months to effect collection. If the CONTRACTOR is not able to collect on the referred account within six (6) months from assignment, the CONTRACTOR shall return the account to the LAFD and cease all collection efforts. In no event shall the CONTRACTOR be entitled to any payment on the account once it has been returned to the LAFD, or the CITY. In limited circumstances, the LAFD, as directed by the CITY, may, at its sole discretion, elect to extend the time that the CONTRACTOR may retain said account in writing.

The CONTRACTOR shall only perform primary level or secondary level collection services on any particular account that is referred to it by the LAFD and shall not under any circumstance perform both primary and secondary level collections on the same account.

The CONTRACTOR is prohibited from instituting any legal action on behalf of the LAFD or the CITY against any debtor or performing any service that would constitute the practice of law in the State of California. The CONTRACTOR is also prohibited from using any threats of legal action. The CONTRACTOR may only inform the debtor of

consequences of non-payment, such as reporting to credit bureaus. If the CONTRACTOR determines that legal action or legal services are required, the CONTRACTOR shall make a recommendation for such action and return the account to the LAFD. Under this circumstance, the CONTRACTOR may communicate to debtor that the matter is being returned to the LAFD with a recommendation to consider further legal recourse.

In the event an account assigned to the CONTRACTOR is determined to be uncollectible, by LAFD, CITY, or CONTRACTOR, for reasons that include, but are not limited to, a debtor's bankruptcy filing, court-ordered receivership is granted over debtor's business, debtor is deceased or decedent's estate does not have sufficient assets to satisfy the indebtedness, the CONTRACTOR shall cease all collection efforts on said account upon receipt of this information and return the account to the LAFD with notification of the reason(s) for return of the account, as detailed in Article V of this Agreement.

ARTICLE II - REFERRAL PROCESS

Under no circumstance shall the CONTRACTOR initiate collection on behalf of the LAFD prior to written permission from the LAFD. Execution of this Agreement by the Parties does not obligate or guarantee that the LAFD will actually refer any accounts to the CONTRACTOR. At any time, the LAFD may, at its sole discretion, utilize the services of the CONTRACTOR or another contracted agency. This Agreement only applies to EMS Billing accounts referred by the LAFD. The CONTRACTOR agrees to meet with the LAFD, and in good faith, establish procedures, including, but not limited to, the secure transmittal to CONTRACTOR of all accounts; recording of individual account transactions; processing and documentation of payments against accounts; CONTRACTOR's HIPAA security practices and results of audits; transmittal of account information back to the LAFD; and the return, destruction or retention of account data.

The LAFD may use more than one means/methods to assign accounts to the CONTRACTOR that includes electronic transmission, electronic file, or in writing. For the purposes of this Agreement, the term "assign" means the transfer of accounts by the LAFD to the CONTRACTOR to effect collection. Assigned accounts will include the following information, if available, and any other relevant information that the LAFD may have at the time of referral as deemed appropriate:

- Debtor Name(s)
- Debtor Address
- Type of Account
- Unpaid Balance Outstanding

ARTICLE III - PERFORMANCE REQUIRMENTS

- A. In performing collection services for the LAFD, the CONTRACTOR shall adhere to the highest legal, ethical, and professional standards. The CONTRACTOR shall comply with the Taxpayer Bill of Rights and perform services in a manner that is consistent with all federal and state fair debt collection practices, acts and confidentiality provisions, including, but not limited to California Civil Code Sections 1788 et seq. In addition, all

information and data received by the CONTRACTOR from the CITY shall be regarded as confidential under Section 21.17 of the Los Angeles Municipal Code.

Moreover, for collection of LAFD EMS accounts, the CONTRACTOR shall maintain at all times compliance with all Health Insurance Portability and Accountability Act (HIPAA) regulations and requirements as set forth in Title 45 of the Code of Federal Regulation (Parts 160, 162 and 164) and the American Recovery and Reinvestment Act of 2009 which added the Health Information Technology for Economic and Clinical Health Act of 2009 (Sections 13400 et seq.) throughout the term of the contract. CONTRACTOR agrees to sign the Business Associate Agreement (hereinafter referred to as "BAA", and included in this Agreement as Exhibit A) with the Fire Department prior to receiving any EMS accounts for collection. The CONTRACTOR is required to integrate with existing LAFD HIPAA compliant systems to ensure secure electronic transfer and documentation of EMS related records.

In addition, in performing the services requested, the CONTRACTOR shall:

1. Perform its work as an independent CONTRACTOR and shall, at all times, inform the debtors that it is acting as a collection agency for the CITY but that it is an entity separate and distinct from the CITY;
2. Collect on only amounts authorized by the CITY and shall not add or collect any amounts not authorized by the CITY;
3. Deposit all monies collected for the LAFD into a special trust fund which shall be kept separate and not commingled with other funds of the CONTRACTOR or other clients of the CONTRACTOR. If the trust fund is an interest accruing account, such accruals must be credited to the CITY. All monies collected by the CONTRACTOR for the CITY shall be remitted to the CITY on a monthly basis; as defined in this Article and Article V of this Agreement;
4. Deliver to the LAFD on or before the fifteenth (15th) of each month all monies collected during the previous month. The CONTRACTOR shall not, for any reason, withhold monies collected during the previous month on any account referred to the CONTRACTOR by the LAFD and shall promptly deliver said payments to the LAFD as specified above. Together with the monthly delivery of monies collected during the previous month, the CONTRACTOR shall submit an invoice in duplicate for commission owed and a remittance report summarizing detailed information for payments received in accordance with the requirements outlined in Article V of this Agreement;
5. Obtain approval from the LAFD as to form and content for all letters used by the CONTRACTOR to effect collection before use;
6. Engage in payment plans, when determined appropriate, with the CITY debtors for a term of no longer than one year. Payment plans in excess

of one year require written approval from the CITY Fire Chief or Fire Administrator;

7. Agree that any information provided by the LAFD on delinquent accounts will be used solely for the purpose of collection, held in the strictest of confidence and used for no other purpose;
8. Maintain all LAFD information and records separate from information and records related to other clients;
9. Bear all expenses and costs incurred to effect collection of any account referred by the LAFD;
10. Report CITY department accounts to credit bureaus within 45 days of assignment, except for instances when the CITY has approved in writing a change in this time frame. The account may remain on a credit bureau report for the duration of the time in which the account is assigned with the CONTRACTOR and any written extension granted by the CITY, but upon return of the account to the CITY, the CONTRACTOR will instruct credit bureaus to remove any negative data reported relative to the account;
11. Provide electronic payment options to debtors including online, credit or debit card, e-check, ACH, as well as other CITY approved methods;
12. Return to the LAFD, in automated format or other manner specified by the LAFD, all accounts that remain uncollected by the CONTRACTOR upon nine (9) months from assignment for primary collection and six (6) months from assignment for secondary collection, and shall cease all collection efforts, except for instances where payment plans are in affect and active payments are made in accordance with the plan or in limited circumstances where the LAFD, at the direction of the CITY may, at its sole discretion, elect to extend the time that the CONTRACTOR may retain said account in writing. In no event shall the CONTRACTOR be entitled to any payment on the account once it has been returned to the CITY. The CONTRACTOR shall report to the LAFD, as outlined in Article V of this Agreement, on any account returned prior to or retained past the allotted time specified by the CITY to effect collection in this Agreement;
13. Be able to accept account data through various communication methods employed by the LAFD, whether paper-based or electronic. The CONTRACTOR must work with the LAFD and its EMS billing CONTRACTOR(s) to develop systems interfaces for efficient and secured data transfer of their accounts. All costs associated with the development of said systems will be borne by the CONTRACTOR;
14. Comply with any special collection campaigns authorized by the CITY, wherein selected account types may be targeted for specified reductions in balances owed, for example, offer in compromise and debt amnesty programs.

Moreover, in performing the services requested, the CONTRACTOR shall not:

15. Subcontract, assign, refer or transfer any account referred to it by the LAFD, or otherwise assign its rights or delegate its duties under this Agreement to any other person or entity, including any attorney, without the express written consent of the LAFD;
16. Collect more than the amount of the assigned debt and any applicable contingency fees authorized by the CITY to be added to the assigned amount. The CITY's assigned debt may include both the principal amount and any penalties or interest on the unpaid principal amount, including any accrued amounts authorized by the CITY. The CONTRACTOR shall not add and/or collect penalties, interest or fees not authorized by the CITY in writing. Any additional authorized or unauthorized amounts collected by the CONTRACTOR shall be remitted to the LAFD and/or the CITY, as defined in Article V of this Agreement;
17. Threaten or intimidate debtors under any circumstances in the collection of the LAFD's accounts or violate any applicable government laws or regulations;
18. Use or display the official seal of the CITY of Los Angeles or the Los Angeles Fire Department on any of its letterheads or communications with any debtor for any reason;
19. State or suggest, in any verbal or written communication, that the CONTRACTOR intends to pursue legal action against the debtor, or imply that it has any authority to do so;
20. Take any legal action against a debtor on a CITY account;
21. Initiate, negotiate, or reach settlements on any account assigned to it for collection nor directly or indirectly imply that it has such authority, unless authorized by the CITY in writing;
22. Recommend to debtors the use of "payday" loans to satisfy CITY accounts, or any loans through a lender wherein the CONTRACTOR has any financial interest in the lender or where the CONTRACTOR would realize any additional financial gain through referral of business to the lender;
23. Perform secondary level collection services on any account in which it has previously performed primary collection services under this Agreement.

B. Recall of Accounts

The LAFD shall have the right at their sole discretion to recall from the CONTRACTOR without charge or penalty any account(s) assigned to the CONTRACTOR. For purposes of this Agreement, the term "recall" means

the demand return of an assigned account to the CITY. Upon recall by the LAFD, the CONTRACTOR shall undertake no further collection efforts on recalled account(s). The CONTRACTOR shall also instruct credit bureaus to remove any negative data reported relative to the account(s) recalled. The CONTRACTOR shall not be entitled to any contingency fees for payments received by the LAFD on an account after the date of recall except where the debtor has contacted the LAFD or CITY to engage in settlement of the account prior to the date of recall. In any attempt by a debtor to pay on a LAFD account no longer assigned to the CONTRACTOR, the CONTRACTOR shall not accept payment and direct the debtor to contact the LAFD.

C. Quality Assurance

The CONTRACTOR's performance will be evaluated according to contract standards and other performance measures deemed appropriate by the LAFD and/or CITY, including, but not limited to, establishing CONTRACTOR performance benchmarks and incentives relative to collection on LAFD accounts. The LAFD and/or CITY may use a variety of inspection methods to determine CONTRACTOR's compliance with terms of this Agreement and evaluate performance level. The methods of inspection may include, but are not limited to:

- Random sampling
- Reports, (monthly and as needed)
- Periodic inspection of output items

The LAFD and/or CITY shall have the right at any time during regular business hours to inspect records relative to LAFD accounts maintained by the CONTRACTOR at its place of business. For LAFD EMS accounts, the CONTRACTOR shall retain records as required by HIPAA and the terms of the Business Associate Agreement between the CONTRACTOR and LAFD included herein as Appendix B.

The CONTRACTOR must also be available to meet with representatives of the LAFD and/or CITY on a quarterly basis, or as deemed appropriate by the CITY, to discuss any issues or concerns relating to the contract and/or LAFD accounts. Upon request by the LAFD for an impromptu meeting with the CONTRACTOR, the CONTRACTOR shall coordinate with the LAFD an amicable time; however, if the LAFD deems the matter requires immediate attention, the CONTRACTOR shall make itself available to meet with the LAFD within two (2) business days from the day of the LAFD's request.

D. Account Redistribution

The LAFD shall have sole discretion at any time without reason the right to distribute or redistribute accounts among the CITY's contracted collection agencies. For those accounts assigned to the CONTRACTOR wherein payments are being made and/or subject to a current, agreed upon payment plan, the LAFD may permit these accounts to remain with the

CONTRACTOR while collections continue according to the arranged payment amount and schedule.

For any account assigned to the CONTRACTOR and recalled by the LAFD to pursue other measures to collect, including redistribution to another contracted collection agency, the CONTRACTOR will not be due any commission after the date of recall by the LAFD except where debtor has contacted the LAFD to engage in settlement of the account prior to the date of recall. The CONTRACTOR shall direct the debtor to contact the LAFD on any attempt by a debtor to pay on a LAFD account that has been recalled by the LAFD or is no longer assigned to the CONTRACTOR.

E. Membership in Professional Organizations

The CONTRACTOR shall maintain, at no cost to the LAFD or the CITY, membership in the American Collectors Association, California Association of Collectors, or similar professional organizations that provide interstate and intrastate services and utilize collection techniques consistent with the Code of Ethics and standards adopted by said association(s).

F. Tax Certificate

The CONTRACTOR agrees to have and maintain a valid CITY of Los Angeles Business Tax Registration Certificate for the term of the Agreement, at no cost to the LAFD or the CITY.

G. Automation Support

The CONTRACTOR shall provide information technology/systems support to the LAFD as deemed necessary by the LAFD to establish and maintain account referral protocols, information exchanges and reports. Such information technology/systems support services are to be provided by the CONTRACTOR at no expense to the LAFD.

H. Client Assistance

The CONTRACTOR shall provide to the LAFD as needed on-site customer assistance during, but not limited to, the first thirty (30) days of contract implementation. Client assistance services are to be provided by the CONTRACTOR at no expense to the LAFD.

I. Training

The CONTRACTOR shall provide to the LAFD on-site training relative to collection processes and procedures as deemed necessary by the referring CITY departments at no cost to the LAFD.

J. Consulting

The CONTRACTOR shall provide to the LAFD, upon request of management and supervisory level personnel, consulting services relative to collection and

revenue enhancement processes and procedures as deemed necessary by the LAFD at no cost to the LAFD. The CONTRACTOR shall provide to LAFDCITY management and supervisory level staff data and information relative to collections, industry trends, best practices, projections and any other relevant materials, upon request, to assist LAFD staff in revenue collection management and analysis.

K. Access to Accounts

The CONTRACTOR shall provide to the LAFD remote access to its accounts assigned to the CONTRACTOR through an internet website, or similar process approved by the LAFD. The CONTRACTOR shall also provide the LAFD with technical assistance, training and requirements needed to establish and use remote access privileges to its accounts, if needed, and at no cost to the LAFD. The remote access shall include the ability for LAFD to view and print all transactions, information and documents related to each account referred by LAFD to the CONTRACTOR.

L. Complaint Response and Handling

The CONTRACTOR shall acknowledge and respond to all written and oral complaints received relative to LAFD accounts or LAFD debtors. For written complaints, the CONTRACTOR shall acknowledge receipt of the complaint in writing within two (2) business days from the day the written complaint is received. Complaints and/or inquiries by telephone shall be received by the CONTRACTOR's personnel during regular business hours. During non-business hours, the CONTRACTOR shall provide a means for debtors to leave a message regarding their complaint and/or inquiry. All phone messages regarding LAFD accounts shall be responded to by the CONTRACTOR no later than the next business day from the day that the message was left.

All complaints shall be directed to qualified customer service staff or manager who shall take responsibility for resolving the matter. The CONTRACTOR shall conduct any necessary investigations and take appropriate steps to resolve complaints within thirty (30) calendar days from receipt of the complaint, or other time frame, if deemed appropriate and specified in writing by the LAFD. The CONTRACTOR shall notify complainant of the resolution of their complaint in writing and provide written notification of said resolution to the LAFD, as defined in Article V of this Agreement. In circumstances when a complaint requires more than thirty (30) calendar days to resolve, the CONTRACTOR shall inform the LAFD of the additional time needed, basis for the delay and estimated time when a resolution is expected.

The CONTRACTOR shall document and maintain records of all complaints initiated, including information regarding the person(s) that filed the complaint, specific details regarding the nature of the complaint, all parties involved, steps taken to resolve the matter, final disposition and the name and title of staff that handled the matter.

At its sole discretion, the LAFD may require the CONTRACTOR to take further steps to resolve a complaint if determined by the LAFD that the CONTRACTOR did not address the complaint in a manner satisfactory to the LAFD. The CONTRACTOR shall provide to the LAFD any record(s) relative to a complaint upon request of the LAFD, and said record(s) shall be made available to the LAFD within two (2) business days of the LAFD's request.

The CONTRACTOR shall immediately notify the LAFD of any legal actions initiated against the CONTRACTOR regarding any LAFD account, or which may have any relevance to the LAFD and/or the CITY as a business partner. The CONTRACTOR shall within one (1) week of giving notice to the LAFD of a legal action, submit a comprehensive written report, including any supporting documentation, to the LAFD to acquaint the LAFD of pertinent details regarding the legal matter. The LAFD may, at its discretion, require the CONTRACTOR to provide said report sooner than one (1) week if deemed appropriate. The CONTRACTOR shall keep the LAFD informed on the status of any litigation matter at least on a quarterly basis, and shall immediately inform the LAFD of any key developments with regard to the legal proceeding. The LAFD may, at its sole discretion, modify the CONTRACTOR's reporting requirement regarding a legal matter as deemed appropriate. The CONTRACTOR shall assume all costs related to any litigation and the LAFD shall be held harmless for any liabilities or damages that may result from litigation against the CONTRACTOR on any LAFD account.

ARTICLE IV - COMMISSION PAYMENTS

The LAFD agrees to compensate the CONTRACTOR on a contingency fee basis for services to the LAFD performed under this Agreement. If no recovery is made on an account referred to the CONTRACTOR by the LAFD, there is no compensation due to the CONTRACTOR. The commission due the CONTRACTOR shall be based on the CONTRACTOR's applicable commission rate approved by the LAFD and any recovery made on an account that has been assigned to the CONTRACTOR, up to, but not to exceed the LAFD's assigned amount. For compensation purposes, the assigned amount is the amount of the debt referred to the CONTRACTOR, including any LAFD and/or CITY authorized adjustments to the amount referred after assignment, i.e., interest accruing on the unpaid balance or a reduction in the debt from an audit performed on the account.

Any adjustments made to an assigned amount shall be authorized by the CITY, and upon adjustment, the CONTRACTOR shall be entitled to commission on amounts recovered up to the final adjusted assigned amount. The CONTRACTOR is not entitled to commission on amounts recovered that exceed the LAFD's assigned amount, i.e., the CONTRACTOR's contingency fees authorized by the CITY to be added to the assigned amount and collected by the CONTRACTOR.

The CONTRACTOR's approved commission rates for actual amounts recovered on accounts referred, up to, but not exceeding the assigned amount of the referral, shall vary under this Agreement and the applicable rate will be determined by the following:

- The level of collection services performed by the CONTRACTOR is primary or secondary, and
- Whether the account is pre-judgment or post-judgment. For the purposes of this Agreement the term "pre-judgment" refers to accounts that the CITY has not obtained a court order for payment against the debtor and "post-judgment" refers to accounts that the CITY has obtained a court order against the debtor for payment of the debt.

CONTRACTOR's Approved Commission Rates

Collection Level	Judgment Status of Account	Commission Rate
Primary Collection	<i>Pre-Judgment Accounts</i>	15.9%
	<i>Post-Judgment Accounts</i>	17.9%
Secondary Collection	<i>Pre-Judgment Accounts</i>	23.9%
	<i>Post-Judgment Accounts</i>	24.9%

The CONTRACTOR shall not be compensated in any other method than that prescribed in this Article. An invoice shall be submitted to the LAFD for commission owed the CONTRACTOR on amounts collected during the previous month, as detailed in Article III and Article V of this Agreement.

Any money paid directly to the CITY on any account assigned to the CONTRACTOR shall be deemed to have been collected by the CONTRACTOR, and the CONTRACTOR will be entitled to receive a commission on the payment, unless: 1) payment is received by the CITY or postmarked on or prior to the date of the CITY's receipt of the CONTRACTOR Acknowledgement Report as set forth in Article V of this Agreement or; 2) collection activity, such as dumping notice sent or telephone contact with debtor, by the CONTRACTOR has not begun, in which case the CONTRACTOR would not be due any commission. The LAFD shall promptly notify the CONTRACTOR regarding any payment made directly to the CITY on an account assigned to the CONTRACTOR.

ARTICLE V - REPORTING

A. Required Monthly Reports to CITY Contract Administrator

All EMS accounts transmitted to the CONTRACTOR are deemed to contain PHI. The CONTRACTOR shall work with the LAFD to develop and ensure any and all reports provided to the CITY Contract Administrator, which includes monthly electronic reports regarding collection activities, overall and specific to EMS Billing Accounts, performed by the CONTRACTOR during the previous month and from inception of the Agreement, do not contain PHI. Required monthly reports are due to the CITY's Contract Administrator within five (5) working days of the close of the prior month. The LAFD reserves the right to modify the CONTRACTOR's monthly reporting requirements to comply with Federal, State and Local laws, rules and regulations related to

HIPAA and PHI. The CONTRACTOR shall comply with any requested changes to monthly reporting requirements within one (1) month of being notified by LAFD of the requested modification. Required monthly reporting, as defined by the LAFD, may include, but are not limited to the following reports:

- Activity Reports
- Batch Reports
- Overall Status of Accounts Referred
- Lists of Delinquent Debtors
- Performance Reports
- Stair-Step Reports
- Status of Complaints, as defined in Article III of this Agreement

B. Required Monthly Reports to LAFD

The CONTRACTOR shall also provide monthly electronic reports to the LAFD. Monthly reports shall include information relative to collection activities specific to accounts referred to the CONTRACTOR by the LAFD and include information for the prior month and aggregate from the time department initiated referring accounts to the CONTRACTOR. Required monthly reports are due to the LAFD within five (5) working days of the close of prior month. The LAFD reserves the right to modify CONTRACTOR's monthly reporting requirements as deemed appropriate. The CONTRACTOR shall comply with any requested changes in monthly reporting within one (1) month of receiving notification from the department. Required monthly reporting to the LAFD on accounts assigned to the CONTRACTOR may include, but are not limited to the following:

- Status of Accounts Referred by the CITY department
- Returned/Closed Accounts
- Retained Accounts
- Remittance Report

C. Acknowledgement Report

Upon receipt of a referral from the LAFD, the CONTRACTOR shall provide an Acknowledgement Report to the LAFD within one CITY business day from the assignment to verify account placement. Timely submission of the Acknowledgement Report by the CONTRACTOR is essential in order for the CONTRACTOR to be entitled any commission for monies collected on a referred account, as set forth in Article IV of this Agreement. The LAFD shall specify to the CONTRACTOR the method for receipt of the Acknowledgement Report. Information in the report shall include, but not be limited to the following on each account received:

- CITY Account Number
- Debtor Name
- Assignment Date
- Assignment Amount

D. Returned Accounts Report

The CONTRACTOR is required to furnish to the LAFD, when applicable, a report on accounts returned to the LAFD. Reasons that an assigned account may be returned to the LAFD include, but are not limited to:

- CONTRACTOR was unable to collect the unpaid amounts within the time period allotted by the CITY to effect collection
- Court-ordered receivership is granted over debtor's business
- Debtor bankruptcy filing
- Debtor is deceased
- Decedent's estate lacks sufficient assets to satisfy the indebtedness
- CITY recalled the account

The CONTRACTOR must state in its report the reason(s) for the return of the account and be able to provide detailed information regarding all efforts undertaken by the CONTRACTOR to collect on the account prior to its return. The format for the report on returned accounts shall be specified by the LAFD and shall accompany any returned accounts. At a minimum, information contained in the report shall include the following for each account returned:

- LAFD Account Number
- CONTRACTOR Assigned Account Number
- Debtor Name
- Assignment Date
- Assigned Amount
- Amount Collected
- Remaining Balance Due
- Detailed Reason for Return

E. Retained Accounts Report

The CONTRACTOR is required to furnish to the LAFD when applicable, a report on accounts retained by the CONTRACTOR beyond the approved nine (9) months for primary collection and six (6) months for secondary collection. Reporting on retained accounts shall begin no later than the date that these accounts would normally have been returned to the LAFD due to the time period allotted by the LAFD to effect collection has expired. The CONTRACTOR shall continue to report on retained accounts, on a monthly basis, until said accounts are paid in full or returned to the LAFD.

LAFD accounts shall not be retained by the CONTRACTOR unless authorized in writing by the LAFD or CITY or where payment plans are in effect and debtors are making active payments under the payment plan that will extend beyond the allotted time period to effect collection as specified under this Agreement.

At any time the LAFD may, at its sole discretion and for any reason, recall an account from the CONTRACTOR, as set forth in Article III of this Agreement. However, this action would not preclude payment obligations to the

CONTRACTOR of contingency fees in the event an account with a payment plan in effect is taken over by the LAFD and successfully collected by the LAFD or the CITY. The retained accounts report shall include at least the following information for each account retained:

- LAFD Account Number
- Debtor Name
- Assignment Date
- Assigned Amount
- Amount Collected
- Remaining Balance Due
- Reason(s) Account has been Retained

F. Remittance Report

The CONTRACTOR is required to furnish to the LAFD when applicable, a remittance report setting forth the details from any monies collected from debtors on LAFD assigned accounts during the previous month. This report shall accompany the monthly delivery of monies as defined in Article III of this Agreement, and shall be delivered to the LAFD on or before the fifteenth (15th) of each month that the CONTRACTOR collected payments on assigned accounts during the previous month. Automated remittance processes may be implemented upon written agreement between the LAFD and the CONTRACTOR. Specific information required in the report shall include, but not be limited to:

- Contract Number
- CONTRACTOR Assigned Vendor Code Number
- LAFD Account Number
- Debtor Name
- Batch Number
- Amount Collected
- Remaining Balance Due
- CONTRACTOR Commission

G. Customized, Ad Hoc and Specialized As Needed Reports

On an occasional basis, the CONTRACTOR may be required to provide to the LAFD and CITY Contract Administrators customized, ad hoc or specialized as needed reports. The CONTRACTOR shall furnish said reports within five (5) business days from receipt of a written request, or other timeframe specified in writing, from the LAFD Contract Administrator. Specific details regarding the content and format of the specialized report shall be provided by the requesting party. All reports are to be delivered to the LAFD only. No report may be distributed to other parties without the prior approval of the LAFD.

ARTICLE VI - TERM

The term of this Agreement shall commence on upon execution, and continue through May 31, 2016, unless terminated earlier as provided herein or amended as elsewhere provided herein. Any amendment that extends the term of this agreement beyond 3 years is subject to the approval the City Council in accordance with Los Angeles Administrative Code Section 10.5.

ARTICLE VII - MANAGEMENT, ORGANIZATION AND RESPONSIBILITIES

A. LAFD Contract Administrator

The LAFD hereby appoints the Fire Administrator, or his/her designee, as the LAFD Contract Administrator with respect to overall management, amendments or other matters directly related to this Agreement, provided; however, that any matters which will increase the Department's financial obligation hereunder shall be presented to the City Council for its consideration and approval or otherwise approved as provided in the CITY's Charter or Administrative Codes.

The LAFD shall be primarily responsible for matters regarding their assigned accounts or referrals. The CONTRACTOR shall direct any communications and/or inquiries regarding any assigned accounts to the LAFD in accordance with this Agreement and other directives from the CITY. The LAFD shall provide written notice to the CONTRACTOR with regard to any changes in this Agreement or management of referred accounts.

B. CONTRACTOR's Representative

The CONTRACTOR hereby appoints Brent Brown, Director of Business Development, to represent the CONTRACTOR with respect to amendments or other matters to this Agreement.

ARTICLE VIII - NOTICES

Notices and all other communications to the CITY or the CONTRACTOR required by or regarding this Agreement shall be in writing and delivered personally or sent by first class mail or fax as follows:

A. **LAFD Address:**

Los Angeles Fire Department
200 N. Main Street, Room 1800
Los Angeles, California 90012
Attention: Fire Chief
Telephone: (213) 978-3800
Fax: (213) 978-3815

With copies to:

Los Angeles Fire Department
200 N. Main Street, Room 1630
Los Angeles, California 90012
Attention: Fire Administrator
Telephone: (213) 978-3731
Fax: (213) 978-3414

B. CONTRACTOR's Address:

Harris & Harris, Ltd.
111 W. Jackson Blvd., Suite 400
Chicago, IL 60604
Attn: Arnold Harris, President
Telephone: (312) 423-7400
Fax: (312) 803-0020
Email: aharris@harriscollect.com

Any change by either party with regard to notices and all other communications to the CITY or the CONTRACTOR shall be made through written notice to the other party in accordance with this Article.

ARTICLE IX - TERMINATION

The LAFD may terminate the Agreement, or any part hereof, for its convenience, effective as of any date upon at least thirty (30) days written notification to the CONTRACTOR.

Upon termination of the Agreement, all accounts shall be deemed automatically reassigned by the CONTRACTOR to the LAFD. In-process collections may be considered waived from reassignment upon written consent from the LAFD. For the purpose of this Agreement, in-process collections are instances where payment plans are in effect and active payments are being made by the debtor in accordance with the plan. Contract terms and conditions will stay in effect with regard to accounts that remain with the CONTRACTOR for in-process collections, with no additional account referrals to the CONTRACTOR by the CITY. If any provision of this Agreement is held unenforceable, then such provision may be modified by mutual agreement to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

ARTICLE X - INCORPORATION BY REFERENCE

The CONTRACTOR agrees to comply with all terms and conditions set forth in the CITY's "Standard Provisions for City Contracts" (revised March 2009), a copy of which is attached hereto as Appendix A and incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective duly authorized representatives.

Approved Corporate Signature Methods:

- a) Two signatures: one by Chairman of Board of Directors, President, or Vice President; and one by Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.
- b) One signature by corporate designated individual together with properly attested resolution of Board of Directors authorizing person to sign on the company's behalf.

THE CITY OF LOS ANGELES

HARRIS & HARRIS, LTD

By _____
JAMES G. FEATHERSTONE
Interim Fire Chief

By _____
Name _____

Date _____

Title _____

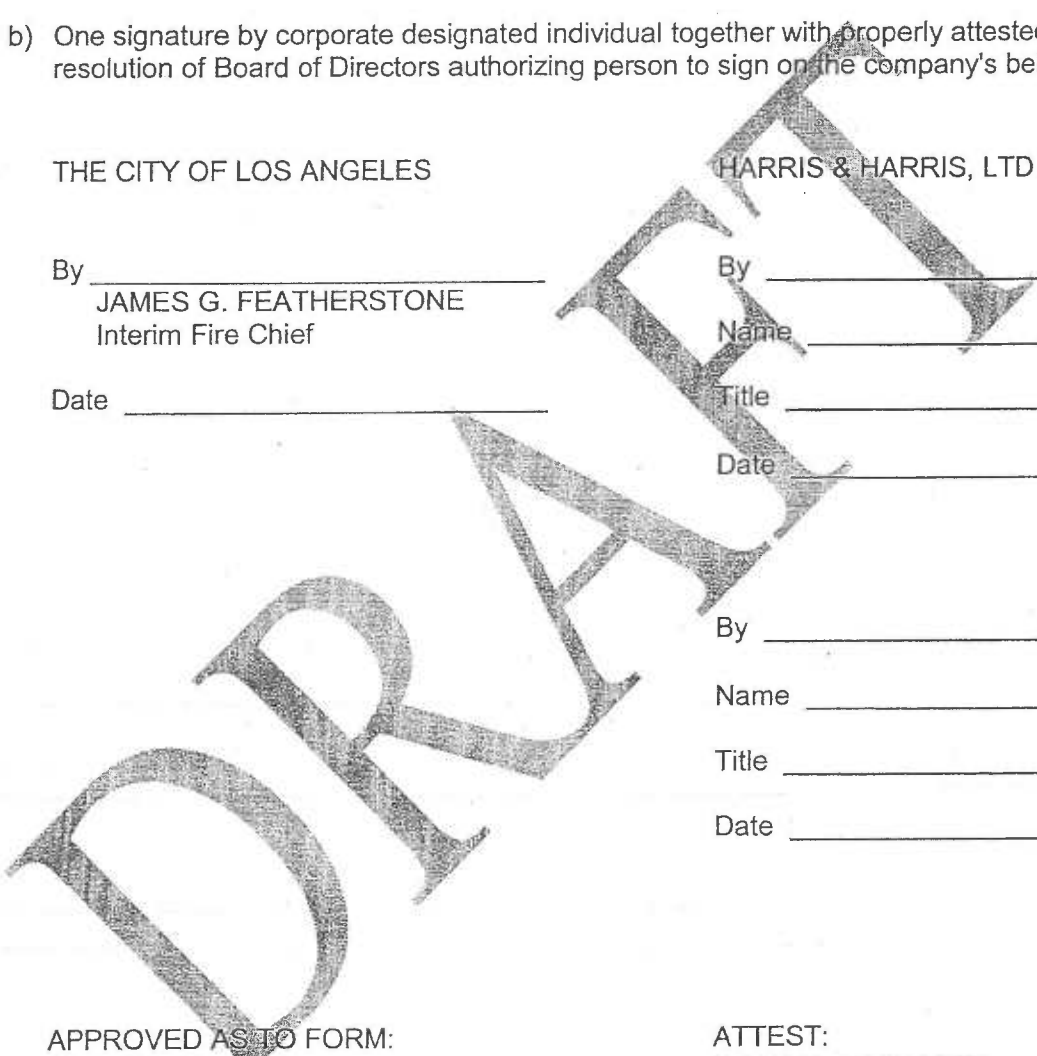
Date _____

By _____

Name _____

Title _____

Date _____



APPROVED AS TO FORM:
MICHAEL N. FEUER,
City Attorney

ATTEST:
HOLLY L. WOLCOTT,
Interim City Clerk

By _____

By _____

Date _____

Date _____

AGREEMENT NO. _____

BUSINESS ASSOCIATE AGREEMENT BETWEEN THE LOS ANGELES FIRE DEPARTMENT AND HARRIS AND HARRIS, LTD. TO COMPLY WITH THE PRIVACY AND SECURITY RULES REQUIRED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OF 1996

This **Business Associate Agreement** (the "Agreement"), is made as of the 1st day of April, 2014 (the "Effective Date"), by and between Los Angeles Fire Department, on behalf of itself and its subsidiaries and affiliates, (the "Covered Entity") and Harris and Harris, LTD. (the "Business Associate") (collectively the "Parties") to comply with the privacy and security standards required under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), adopted by the U.S. Department of Health and Human Services and as amended January 25, 2013, [45 C.F.R. Parts 160, 162 and 164; Volume 78 Fed. Reg. No. 17, Pages 5566 through 5702, January 23, 2013] and, in order to satisfy the electronic storage requirements of the Health Information Technology for Economic and Clinical Health Act as incorporated in the American Recovery and Reinvestment Act of 2009 (hereinafter referred to as "HITECH"), and any applicable state confidentiality laws.

RECITALS

WHEREAS, the City Council has approved the Business Associate as one of the agencies for collection services to pursue collection of the City's delinquent accounts; and

WHEREAS, Business Associate provides professional primary and secondary collection services for the City of Los Angeles;

WHEREAS, the parties hereto wish to enter into an Agreement by which the Business Associate will provide professional primary and/or secondary collection services and pursue collection of the Covered Entity's delinquent accounts;

WHEREAS the Covered Entity and Business Associate have agreed as a condition of the services, the Covered Entity will need to disclose to Business Associate certain "Protected Health Information" ("PHI") that is subject to protection under HIPAA and HITECH;

WHEREAS, HIPAA requires that Covered Entity receive adequate assurances that Business Associate will comply with certain obligations with respect to the PHI received in the course of providing services to or on behalf of Covered Entity;

NOW THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. DEFINITIONS

Terms used in this Agreement, but not otherwise defined, shall have the meaning ascribed by the Final HIPAA Regulations and the HITECH Act, as amended as of January 23, 2013.

1. **Business Associate** (“BA”) shall have the meaning ascribed in 45 C.F.R. § 160.103 and refers to Harris and Harris, LTD. for purposes of this Agreement.
2. **Contract** means any and all Agreements by and between the Covered Entity and Harris and Harris, LTD which includes, but is not limited to, the performance of activities related to primary and/or secondary collection services of the Covered Entity's delinquent accounts.
3. **Covered Entity** (“CE”) means the City of Los Angeles, a Hybrid Entity and the Los Angeles Fire Department (“LAFD”).
4. **Designated Record Set** means a group of records, including, but not limited to, digital, photographic and/or video materials, maintained by or for a Covered Entity that are: (i) medical records about individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record system maintained by or for a health plan; and/or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. For purposes of this definition, the term “record” means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a Covered Entity.
5. **Health Care Component** (“HCC”) means those portions of the Hybrid Entity that perform HIPAA-related activities. The LAFD became a HCC by the Los Angeles City Council action which adopted the recommendation of the Personnel Committee meeting on July 30, 2010. [Council File No. 10-1181.]
6. **HITECH Act** (“HITECH”) means the Health Information Technology for Economic and Clinical Health Act, which is Title XIII of the American Recovery and Reinvestment Act, and any amendments, regulations, rules and guidance issued thereto and the relevant dates for compliance.
7. **HIPAA Final Regulations** means 45 C.F.R. Parts 160, 162 and 164 as amended on January 23, 2013 and effective on March 23, 2013 but only to the extent it allies to a Covered Entity, Hybrid Entity and/or Business Associate.

8. **Hybrid Entity** ("HE") means, for purposes of this Agreement, the City of Los Angeles, a single legal municipal entity that is (i) a Covered Entity; (ii) whose business activities include both covered and non-covered HIPAA functions; and (iii) that has designated the LAFD, along with other portions of the City of Los Angeles, as a HCC pursuant to 45 C.F.R. § 160.103.
9. **Individual** means the person who is the subject of the Protected Health Information as defined in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 502(g).
10. **Protected Health Information** ("PHI") means the Individually Identifiable Health Information ("IIHI") described in 45 C.F.R. § 160.103 that is transmitted electronically; maintained electronically; or transmitted or maintained in any other form or medium.
11. **Required by Law** means mandate contained in law that compels a use or disclosure of PHI under 45 C.F.R. § 164.512(a)(1) and (2).
12. **Secretary** means the Secretary of the Department of Health and Human Services or their designee under 45 C.F.R. § 160.103.
13. **Subcontractor** means a person or entity that creates, receives, maintains or transmits protected health information on behalf of the business associate. (45 C.F.R. 160.103(3)(ii))

B. DISCLOSURE OF PHI TO BUSINESS ASSOCIATE

In connection with the services provided by BA, to, or on behalf of CE, described in this Agreement, CE may disclose PHI to BA for the purpose of providing primary and/or secondary collection services to the Covered Entity.

BA shall comply with its obligations under this Agreement and with all obligations of a BA under HIPAA, HITECH, and other related laws and any implementing regulations, as they exist at the time this Agreement is executed and as they are amended, for so long as this Agreement is in place. Specifically, the BA will comply with all the obligations and assume the liability for failure to do so as provided for in the Final Rules reflected in the Federal Register, Vol. 78, No. 17, commencing at Page 5677, dated, January 25, 2013 which implements among other things Section 13401 of HITECH.

C. OBLIGATIONS OF COVERED ENTITY

1. Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
2. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.
4. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by Covered Entity. [45 C.F.R. § 164.504(e)(2)(i)]

D. OBLIGATIONS OF BUSINESS ASSOCIATE

Business Associate agrees to comply with applicable federal and state privacy and security laws, specifically the provisions of the HIPAA Administrative Simplification to the extent applicable to business associates.

1. Use and Disclosure of PHI. Except as otherwise permitted by this Agreement or applicable law, Business Associate shall not use or disclose PHI other than as permitted or required by the Agreement or as Required By Law, except as necessary to conduct the practices of the LAFD as described in this Agreement and the Contract to or on behalf of the Covered Entity. These activities include primary and secondary collection services and may include the transmitting or receiving of PHI, as may be required from time to time, to other business associates or covered entities on behalf of Covered Entity. Business Associate shall not use or disclose PHI that would violate the HIPAA Rules if used or disclosed by Covered Entity. Provided, however, Business Associate may use and disclose PHI as necessary for the proper management and administration of Business Associate, or to carry out its legal responsibilities. Business Associate shall in such cases:
 - (a) Provide information to members of its workforce suing or disclosing PHI regarding the confidentiality requirements of the HIPAA Final Rules and this Agreement;

(b) Obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (i) the PHI will be held confidential and further used and disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (ii) the person or entity will notify Business Associates of any instances of which it is aware in which confidentiality of the PHI has been breached; and

(c) Agree to notify the designated Privacy Officer of Covered Entity of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules within 24 hours of discovery of the improper use or disclosure, or, if CE's offices are closed, at the earliest moment following discovery.

2. Data Aggregation. In the event that Business Associate works for more than one Covered Entity, Business Associate is not permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the HIPAA Administrative Simplification.
3. De-identified Information. Business Associate may use and disclose de-identified health information if (i) the use is disclosed to Covered Entity in writing and permitted in writing by Covered Entity in its sole discretion and (ii) the de-identification is in compliance with 45 CFR §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 CFR §164.514(a) and (b).
4. Safeguards. Business Associate shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by law. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI ("ePHI") it creates, receives, maintains, or transmits on behalf of Covered Entity.
5. Minimum Necessary. Business Associate shall attempt to ensure that all uses and disclosures of PHI which pertain to the billing or operations of the CE are subject to the principle of "minimum necessary use and disclosure," i.e., that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.

6. Disclosure to Agents and Subcontractors. If Business Associate discloses PHI received from Covered Entity, to agents, including a subcontractor, Business Associate shall require the agent or subcontractor to agree to the same restrictions and conditions as apply to Business Associate under this Agreement. Business Associate shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. Business Associate shall be liable to Covered Entity for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were Business Associate's own acts, failures or omissions, to the extent permitted by law. Business Associate further expressly warrants that its agents or subcontractors will be specifically advised of, and will comply in all respects with, the terms of this Agreement.

7. Individual Rights Regarding Designated Record Sets. If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate agrees as follows:
 - (a) Individual Right to Copy or Inspection. Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will, in the event any Individual delivers directly to Business Associate a request for access to PHI, in order for Covered Entity to respond to such Individual, forward such request to Covered Entity in order to meet the requirements of 45 C.F.R. §164.524(a)(1). Under the HIPAA Final Rules Covered Entity is required to take action on such requests as soon as possible, but not later than 30 days following receipt of the request. [45 C.F.R. § 164.524(b)(2).] Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline. The information shall be provided in the form or format requested if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged. If Covered Entity maintains the requested records, Covered Entity, rather than Business Associate shall permit access according to its policies and procedures implementing the HIPAA Administrative Simplification.

 - (b) Individual Right to Amendment. Business Associate agrees, if it maintains PHI in a Designated Record Set, to make the Designated Record Set available to Covered Entity for amendments to PHI pursuant to 45 CRF §164.526.

 - (c) Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of disclosures of PHI in accordance with 45 CFR §164.528, and to make this information

available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of disclosures. Under the HIPAA Final Rules Covered Entity is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. Business Associate agrees to use its best efforts to assist Covered Entity in meeting this deadline. Such accounting must be provided without cost to the individual or Covered Entity if it is the first accounting requested by an individual within any 12 month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Covered Entity in advance of the fee and is afforded an opportunity to withdraw or modify the request. Such accounting is limited to disclosures that were made in the three (3) years prior to the request (not including disclosures prior to the compliance date of the HIPAA Administrative Simplification and shall be provided for as long as Business Associate maintains the PHI.

8. Internal Practices, Policies and Procedures. Except as otherwise specified herein, Business Associate shall make available its internal practices, policies and procedures relating to the use and disclosure of PHI, received from or on behalf of Covered Entity to the Secretary or his or her agents for the purpose of determining Covered Entity's compliance with the HIPAA Rules, or any other health oversight agency, or to Covered Entity. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity or the Secretary.
9. Notice of Privacy Practices. Business Associate shall abide by the limitations of Covered Entity's Notice of which it has knowledge. Any use or disclosure permitted by this Agreement may be amended by changes to Covered Entity's Notice, provided, however, that the amended Notice shall not affect permitted uses and disclosures on which Business Associate relied prior to receiving notice of such amended Notice.
10. Withdrawal of Authorization. If the use or disclosure of PHI in this Agreement is based upon an Individual's specific authorization for the use or disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to be defective in any manner that renders it invalid, Business Associate shall, if it has notice of such revocation, expiration, or invalidity, cease the use and disclosure of the Individual's PHI except to the extent it has relied on such use or disclosure, of if an exception under the HIPAA Administrative Simplification expressly applies.
11. Knowledge of HIPAA Rules. Business Associate agrees to review and understand the HIPAA Rules as it applies to Business Associate, and to comply

with the applicable requirements of the HIPAA Rule, as well as any applicable amendments.

12. Security Incident. Business Associate agrees to immediately report to the Covered Entity any security incident of which Business Associate becomes aware within 24 hours of discovery of the improper use or disclosure, or, if CE's offices are closed, at the earliest moment following discovery.

E. TERM AND TERMINATION

1. Term. The Term of its Agreement shall be effective as of January 1, 2014, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
2. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - (b) Immediately terminate this Agreement and the Contract if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - (c) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
3. Effect of Termination.
 - (a) Except as provided in paragraph (b) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon discovering that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

F. MISCELLANEOUS

1. Indemnification.

(a) To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief, elements of recovery or damages recognized by law (including, without limitation, attorney's fees, defense costs, and equitable relief) for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate or its agents in connection with the performance of Business Associate's or its agents' duties under this Agreement. This indemnity shall apply even if Covered Entity is alleged to be solely or jointly negligent or otherwise solely or jointly at fault; provided, however, that a trier of fact finds Covered Entity not to be solely or jointly negligent or otherwise solely or jointly at fault. This indemnity shall not be construed to limit Covered Entity's rights, if any, to common law indemnity.

(b) Covered Entity shall have the option, at its sole discretion, to employ attorneys selected by it to defend any such action, the costs and expenses of which shall be the responsibility of Business Associate. Covered Entity shall provide Business Associate with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist Business Associate in establishing a defense to such action.

(c) These indemnities shall survive termination of this Agreement, and Covered Entity reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.

2. Mitigation. If Business Associate violates this Agreement or the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such breach, and bear any such related costs.
3. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.
4. Survival. The respective rights and obligations of Business Associate under Section (Effect of Termination) of this Agreement shall survive the termination of this Agreement.
5. Notices. Any notices pertaining to this Agreement shall be given in writing and shall be deemed duly given when personally delivered to a Party or a Party's authorized representatives as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

If to Covered Entity:

Los Angeles Fire Department
Attention: Fire Chief
200 N. Main St., Room 1800
Los Angeles, California 90012
(213) 978-3838
(213) 978-3814 Fax

And:

Los Angeles Fire Department
Attention: Fire Administrator
200 N. Main St., Room 1630
Los Angeles, California 90012
(213) 978-3731
(213) 978-3414 Fax

If to Business Associate:

Harris & Harris, Ltd.
Attention: President
111 W. Jackson Blvd., Suite 400
Chicago, IL 60604
(312) 423-7400
(312) 803-0020 Fax

6. Amendments. This Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Agreement from time to time as necessary, in order to allow Covered Entity to comply with the requirements of the HIPAA Rules.
7. Choice of Law. This Agreement and the rights and the obligations of the Parties hereunder shall be governed by and construed under the laws of the State of California, without regard to applicable conflict of laws principles.
8. Assignment of Rights and Delegation of Duties. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns. However, neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary; however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any City department or office in a manner consistent with the HIPAA Rules. Assignments made in violation of this provision are null and void.
9. Nature of Agreement. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the Parties or any of their affiliates, (ii) any fiduciary duty owed by one Party to another party or any of its affiliates, or (iii) a relationship of employer and employee between the Parties.
10. No Waiver. Failure or delay on the part of either Party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either Party except by a writing signed by an authorized representative of the Party making the waiver.
11. Equitable Relief. Any disclosure of misappropriation of PHI by Business Associate in violation of this Agreement will cause Covered Entity irreparable

harm, the amount of which may be difficult to ascertain. Business Associate therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining Business Associate from any such further disclosure or breach, and for such other relief as Covered Entity shall deem appropriate. Such rights are in addition to any other remedies available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate, and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

12. Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.
13. No Third Party Beneficiaries. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not party to this Agreement nor imposing any obligations on either Party hereto to persons not a party to this Agreement.
14. Headings. The descriptive headings of the articles, sections, subsections of this Agreement are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.
15. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA rules and any applicable state confidentiality laws. The provisions of this Agreement shall prevail over the provisions of any other agreement that exists between the Parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Rules.
16. Regulatory References. A citation in this Agreement to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.

<<< Signature Page Follows >>>

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

Dated: _____

For: THE CITY OF LOS ANGELES

By: _____
JAMES G. FEATHERSTONE
Interim Fire Chief
Los Angeles Fire Department

Dated: _____

For: Business Associate

By: _____
Arnold Harris

Approved as to Form:

ATTEST:

MICHAEL N. FEUER, City Attorney

HOLLY L. WOLCOTT, Interim City Clerk

By: _____
Judith D. Thompson
Deputy City Attorney

By: _____
Deputy City Clerk

Date: _____

Date: _____

Agreement Number: