

COLLECTION SERVICES AGREEMENT

This "Collection Services Agreement" (hereinafter "Agreement") is entered into and effective on this the 15th day of January, 2015 by and between **City of Crossville, TN** (hereinafter "Client") and Pioneer Credit Recovery, Inc., a Delaware corporation (hereinafter "Consultant").

-RECITALS-

Whereas, Tenn. Code Ann. § 40.24.105 allows the Client to engage the services of a collection agency or a private attorney to collect any fine or installment of a fine and

Whereas, the Client, upon evaluation of various collection services utilized by the Client in the State of Tennessee and in accordance with Tenn. Code Ann. § 40.24.105 does hereby retain the Consultant to furnish collection services for all court related collections.

1. General Requirements

- A. Scope. Collection Services are sought by the Client for delinquent accounts owed by violators or defendants (hereinafter "Debtor") for court related collections.
- B. Initial Transmission. Initial transmission of information to the Consultant from the Client will include dates to be determined and agreed upon by the Client and Consultant.
- C. Data Format. Format for information transmitted by the Client and information transmitted by the Consultant to the Client should be in the agreed format.
- D. Information Communicated to Debtor. The Client may review and provide comments regarding the content of all written collection notices to Debtors. The Consultant shall remain solely responsible for including debtor collection language required by State and Federal law on all written notices and verbal communications.
- E. Transmission of Payments by Consultant. The Consultant will electronically remit all full and partial payment information in the agreed format (see Article 3) once payment is received and verified. Payment information totals on the statement must match the ACH transactions to the Client's bank account or by payment in the form of a check. The Consultant will retain the collection fee on those accounts paid (see Article 3) and report this amount with the payment information. In addition, Consultant will be required to report the most recent mailing address of the Debtor and include this information in the daily transmission to the Client.
- F. Client Warranties. Client warrants that each account placed with Pioneer is legally owed and collectible in the jurisdiction at issue.

G. Initiation of Lawsuit. The Consultant shall not institute any judicial proceeding or action for the collection of fine and costs in relation to scope of this Agreement without the prior written consent of the Client.

2. **Effective Date, Initial Term & Extended Terms.**

A. Effective Date. This Agreement shall become effective on the day and year as specified above or upon execution of both parties.

B. Initial Term. The initial term of this Agreement shall be for a period commencing with the Effective Date and continue through December 31, 2015.

C. Subsequent Extensions: At the expiration of the Initial Term, if this Agreement is in full force and the parties have performed all terms and conditions thereof, and provided the Client has not given prior written notice to Consultant of its intention not to extend this Agreement, this Agreement shall be automatically extended upon the same terms and conditions as herein provided, for successive one (1) year terms until notice of termination or non-renewal is given as provided in this Agreement. Consultant agrees to give the Client ninety (90) days notice prior to the renewal.

3. **Compensation.** Consultant's total compensation for services rendered hereunder shall be the collection fee authorized under Tenn. Code Ann. § 40.24.105(e).

A. Subject to the terms hereof, Consultant shall be entitled to assess and collect this fee, which shall:

I. Be in addition to the court related collection for all fines and costs owed by the defendant/debtor.

II. Equal 25 % of court related collections referred to Consultant, hereinafter "Consultant's fee".

III. Represent all services performed by Consultant, including but not limited to, all expenses incurred by Consultant for its collection processes, and

IV. Be considered a monetary obligation owed by the Debtor to Consultant, and shall under no circumstances be deemed an obligation of the Client.

B. The Consultant's fee shall be allocated and retained by Consultant as follows:

I. On receipt of payment in full Consultant shall remit the full amount of the original debt to the Client retaining the Consultant's Fee as defined by Article 3 Paragraph A Section II,

- II. On partial payments received from a Debtor the payments shall be distributed to the Client until such time the Client's fee has been satisfied in full. The Consultant shall not be entitled to the Consultant's fee as defined in 3.A until the Debtor has satisfied the debt in full.
4. **Assignment.** The assignment hereunder of delinquent accounts by the Client to Consultant is a limited, conditional revocable assignment. As such, the Client retains full authority to revoke any account assignments at any time during the collection process in accordance with the conditions set forth in this Agreement.
5. **Revocation of Assignment - Conditions.**
 - A. Without Cause - No Monies Yet Paid to Consultant. On accounts for which no money has been paid to Consultant, the Client may in his sole discretion and without cause, revoke the assignment of an account by providing written notice pursuant to (Article 12 Paragraph L) of this Agreement titled "Notices". Upon receipt by Consultant of Client notice of revocation of account assignment, Consultant shall promptly:
 - I. Cease all collection efforts on the revoked account,
 - II. Not retain any subsequent payments on that account,
 - III. Any unpaid collection fee amount due to Pioneer from Client may be charged a late charge of one and one-half (1½) percent per month. This charge would automatically be computed beginning on the thirty-first (31st) day after the payment is due. Any unpaid remittances aging 90 days or greater may be offset from current months payments received, unless otherwise mutually agreed upon by both parties.
 - IV. Further, Pioneer reserves the right to return the account to Client for litigation or regulatory purposes.
 - B. For Cause - Erroneous Assignment or Court Action. Any error in data transmitted by the Client may result in revocation of an assignment. In addition, if the Court takes action on a citation resulting in dismissal of the charges, or if the court takes other action for which the Client deems account revocation becomes necessary, the assignment will be revoked. Written notice pursuant to (Article 12 Paragraph L) of this Agreement titled "Notices". Upon receipt by Consultant of Client notice of revocation of account assignment, Consultant shall promptly:
 - I. Cease all collection efforts on the revoked account,

- II. Not continue to retain any subsequent payments on that account,
- III. Return the account to the Client, and
- IV. Not charge or require the Debtor to pay any collection fee(s) on the revoked account, and return to the payor all monies, if any, retained by Consultant as its collection fee or any part thereof. However, the Client shall be responsible for returning to payor all monies, if any, transmitted to the Client by Consultant for payment of the court-related financial obligations where appropriate.

6. Direct Payment to the Client

Once Consultant has received account, the Client shall direct Defendant/debtor to Consultant to remit payment. If a Defendant/Debtor attempts to make payment at an office of the Client, the Client shall collect the total balance due, to include the 25 % Consultant's fee and shall remit payment of the Consultant's fee within 30 days of receipt.

7. Records Management.

- A. Consultant understands that the information pertaining to delinquent Debtors, which Consultant will receive from the Client, is a public record, and will permit public access to same in accordance with the laws of the State of Tennessee. Further, Consultant represents that it neither asserts nor retains any proprietary or other interest in any of such information received hereunder. Consultant further understands that the Client remains the official custodian of these records.
- B. Consultant recognizes that integrity of the records to which its employees, agents and subcontractors will have access under this Agreement is of paramount importance. Accordingly, Consultant ensures that its employees, agents and subcontractors will not do anything to destroy, alter or compromise the records transferred to it by the Client.
- C. Consultant shall maintain and retain all books, records, data via hardcopy or in electronic files and other related and relevant documentation related to this Agreement and the services performed hereunder for a minimum of three (3) years after the expiration of this Agreement or any extension thereof. Consultant shall make such records available to Client during regular business hours for inspection and copying.

8. Indemnification.

Consultant agrees to indemnify, defend and save the Client harmless from and against any and all claims, demands, damages, liabilities and costs incurred by the Client, including reasonable attorney's fees arising out of the willful or gross negligence of

Consultant or its employees during the performance of its duties required pursuant to this contract. The Consultant also agrees to indemnify the Client for all claims, demands, liabilities, and cost arising from the negligence of the Consultant during its performance for which it has liability insurance coverage as required elsewhere in this instrument.

The Client agrees, subject to the limits of any applicable state or federal law including but not limited to, the limits of liability for governmental entities found in the Tennessee Governmental Tort Liability Act (T.C.A. §29-20-101 et seq.), to indemnify, defend and save Consultant (including its officers, agents and employees) harmless from and against any and all claims, demands, damages, liabilities and costs incurred by the Consultant, including reasonable attorney's fees arising out of the willful or gross negligence of the Client or its employees during the performance of its duties required pursuant to this contract.

The indemnified party shall be permitted to participate in the defense and settlement of any lawsuit at no cost to the indemnified party. The indemnified party may retain, in its sole discretion and at its expense, separate counsel to represent the indemnified party. In the event of any conflict of interest necessitating separate defense counsel for the indemnified party and the indemnifying party, the indemnifying party shall remain responsible for payment of all reasonable fees and costs of the law firm representing the indemnified party; the indemnified and indemnifying parties shall agree to a mutually acceptable billing arrangement for such law firm. The indemnified party shall not compromise or settle any such claim or litigation without the prior written consent of the indemnifying party, which consent will not be unreasonable withheld; provided, however, that if the indemnified party shall have any potential liability with respect to, or may be adversely affected by, such claim or litigation, the indemnifying party shall not settle or compromise such claim or litigation without the prior written consent of the indemnified party.

9. Insurance Requirements.

For all periods during which this Agreement is in effect, Consultant shall maintain insurance coverage in the forms and minimum coverage amounts set forth below:

- A. Errors and Omissions/Professional Liability - Coverage must be afforded under an "occurrence" form policy or "claims made" form in limits not less than \$1,000,000.00. It is required that "Errors and Omissions/Professional Liability" Insurance coverage be provided for all acts and omissions that occur during the term of the Collection Services Agreement. If this coverage is written on a claims made form, proof of extended reporting period coverage is required.
- B. Commercial General Liability - Coverage must be afforded, under a per occurrence form policy, including Premise Operations, Independent Contractors, Products and

Completed Operations, Broad Form Property Damage Endorsement, for limits not less than \$500,000/general aggregate; \$500,000/products - completed operations (aggregate) \$500,000/personal injury-advertising liability; \$500,000/each occurrence; \$25,000/fire damage legal; \$5,000 medical payments. Coverage at the herein-specified limits for tort claims shall include, but not be limited to, personal injury or property damage/loss related to libel, false arrest and slander.

C. Certificate of Insurance - Certificates of all insurance required from the Consultant shall be filed with the Client as the certificate holder, before operations are commenced. The insurance indicated on the certificate shall be subject to its approval for adequacy and protection. The certificate will state the types of coverage provided, limits of liability and expiration dates.

The Consultant shall provide to the Client a certificate of Insurance naming the Client as additional named insured for the Commercial General Liability coverage. If the certificate of insurance is cancelled the Consultant will notify the Client within forty-five (45) days from the notice of cancellation. The certificate should also indicate if coverage is provided under a "claims made" or "per occurrence" form. If any coverage is provided under a claims made form, the certificate will show a retroactive date, which shall be the same date of this Collection Services Agreement.

If the initial insurance expires prior to the completion of the work, renewal certificates and/or required copies of policies shall be furnished by Consultant to the Client within thirty (30) days of coverage expiration.

10. Termination.

This contract shall become effective as of the date of signing and shall continue in effect until such time as the contract is terminated by either party. This contract may be terminated by either party with thirty (30) days written notice to the other party.

- I. Additional 120-Day Collection Period. In the event of such termination, Consultant may continue collection activity on previously assigned accounts for a period of 120 days from receipt of Client's notice of termination.
- II. Ongoing Procedures and Reports. All procedures for money transmittal and reports related to these accounts shall remain operative:
 - A. During this 120 day period, and
 - B. For all times subsequent to the expiration of this 120 day period in the event Consultant receives post-termination payments.
- III. Expiration of 120-Day Period. Upon the expiration of this 120 day period, Consultant shall:

- A. Cease all collection efforts and no longer be due collection fees on accounts assigned as a result of this Agreement,
- B. Forward to the Client any monies received at that time for accounts which had been assigned hereunder,
- C. Forward to the Client any monies received subsequently for accounts which had been assigned hereunder, and
- D. Return to the Client all assigned accounts.

IV. Final Accounting. Within 30 days following the expiration of this 120 day period, Consultant shall submit to the Client a final accounting of all assigned accounts for which a fine/court cost balance remains due.

V. Under no circumstances will any damages be paid as a result of termination hereunder, unless damages are sustained as a result of a party's breach or default per this agreement.

11. **Default.** The failure of either party to comply with any provision of this Agreement shall place that party in default.

- A. Notice. In the event of a default, the non-defaulting party shall notify the defaulting party in writing. Such notification shall make specific reference to the event, act or omission, which gave rise to the default, as well as the provision of this Agreement to which such default pertains.
- B. Cure. The defaulting party shall be given seven (7) business days from receipt of such notification in which to cure the default.
- C. Termination. If the default is not cured within the allotted time, the non-defaulting party may terminate this Agreement. In the event of such termination, the provisions of Article 10 of this Agreement shall be followed.
- D. Non-waiver of Rights. The failure of either party to exercise any right hereunder shall not be considered a waiver of such right in the event of any further default or non-compliance.

12. **Miscellaneous Provisions.**

- A. ENTIRE AGREEMENT; MODIFICATION; SEVERABILITY. This agreement supersedes all previous agreements, communications and understandings, oral or written, between the parties with respect to the subject hereof, except to the extent incorporated herein.

- B. Amendments. The provisions of this Agreement may not be amended, supplemented, waived or changed orally. Amendments, supplements, changes and waivers shall be deemed effective and binding only if accomplished by a written instrument signed by both parties hereto.
- C. Assignment. No party may assign its duties or obligations under this Agreement, without written consent of the other party, to any person or entity, in whole or in part. In the event of an agreed-upon assignment, the parties understand that Consultant shall remain liable for performance of the contractual provisions of this Agreement.
- D. Authority. The parties have all necessary legal capacity, right, power and authority to enter into, execute, deliver and be bound by this Agreement.
- E. Compliance with Laws.
Consultant shall comply with all applicable Federal and State laws, ordinances, regulations and requirements applicable to the work contemplated by this Agreement. Consultant is familiar with all applicable federal, state and local laws, ordinances, code rules and regulations that may in any way affect the work hereunder.
- F. Compromise and Settlement. Consultant shall not compromise or settle any delinquent account for less than the full amount owed or enter into installment payment plans with Debtors, unless otherwise directed in writing by the Client. If Consultant receives only a portion of the debt due, it shall promptly remit upon request such partial payment to the Client in accordance with Article 3 of this Agreement.
- G. Expenses. Unless otherwise provided for in this Agreement, any expenses incurred by Consultant, its employees, agents, and subcontractors including but not limited to air or other travel fare, automobile travel mileage, and food and lodging expenses are the responsibility of Consultant.
- H. Governing Law. This Agreement and all transactions contemplated by this Agreement and all Exhibits thereto shall be governed by, and construed and enforced in accordance with, the laws of the State of Tennessee.
- I. No Legal Actions. There is no demand, claim, suit, action, arbitration or other proceeding pending or threatened (or for which any basis exists) that in any way questions or jeopardizes (or could question or jeopardize) the ability of either party to enter to this Agreement or perform any of said party's obligations hereunder.
- J. No Waiver. The failure or delay of either party at any time to require performance by the other of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by either party of any breach of any provision of

this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement.

- K. Performance. The parties' execution and delivery of this Agreement and performance by each party of said party's respective obligations under this Agreement do not breach, and will not result in a breach or violation of, any agreement, lien, security interest or understanding or obligation to which said party is a party or by which said party is bound.
- L. Notices. All notices, requests and other communications required under this Agreement shall be in writing and shall be faxed or mailed to the following:

CLIENT

City of Crossville, Tennessee
Attn: Police Chief
99 Municipal Ave
Crossville, TN 38555
By Facsimile:

CONSULTANT

Pioneer Credit Recovery, Inc.
Attn: Contracts Manager
26 Edward Street
Arcade, NY 14009
By Facsimile: (585) 492-3484

- M. Permits Laws & Regulations. The Consultant shall obtain and pay for all necessary permits, permit application fees, licenses or any fees required.
- N. Relationship of Parties. In the performance of this Agreement, the Consultant will be acting in the capacity of an independent contractor, and not as an agent, employee, partner, joint venture, or associate of the Client. The Consultant shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by the Consultant in the full performance of this Agreement. Neither consultant nor any of its employees, officers, agents or any other individual directed to act on behalf of the Consultant for any act related to this Agreement, shall represent, act, purport to act, or be deemed to be the employee of the Client.
- O. Severability. If any provision of this Agreement or any other agreement entered into pursuant to this Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement shall not be invalidated thereby and shall be given full force and effect so far as possible.
- P. Subcontractors. Consultant shall not subcontract, in whole or in part, its duties or obligations under this Agreement without prior written consent of the Client. In the event of an agreed-upon subcontract, the parties understand that Consultant shall remain liable for performance of the contractual provisions of this Agreement.

Q. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performance under this contract, other than for delay in the payment of money due and payable hereunder, to the extent said failures or delays are proximately caused by causes beyond the party's reasonable control and occurring without its fault or negligence, including but not limited to, failure to perform any term or condition of the contract as a result of acts of civil or military authorities, national emergencies, acts of God, insurrection, and war, provided that, as a condition to the claim of no liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon, and provided the party experiencing difficulty provide, formulates and implements an interim plan of service or plan to resume its performance of the contract, and provided that the party experiencing the difficulty provides dates by which performance obligations are scheduled to be resumed and met.

IN WITNESS WHEREOF, the parties have caused this Collection Services Agreement between the Client and Pioneer Credit Recovery, Inc. to be executed for the uses and purposes therein expressed on the day and year first above-written.

CITY OF CROSSVILLE, TENNESSEE

By: James Mayberry
Name: JAMES S. MAYBERRY
Title: Mayor
Witness: Sally Coffey

PIONEER CREDIT RECOVERY, INC.

By: Jack Frazier Jr.
Name: Jack Frazier Jr.
Title: President, Pioneer Credit Recovery, Inc.

By: KRD
Name: Kenneth R Duncan
Title: Regional Account Manager

Memorandum Of Understanding

DATE: 01/01/2015

To David Beaty, Police Chief

FROM Jack Frazier Jr.,
President, Pioneer Credit Recovery, Inc.

SUBJECT City of Crossville, TN Secure Remote Access to PCR

For the purpose of conducting audits of Crossville's data, City of Crossville has requested and PCR will grant Crossville read-only secure remote access to Crossville's data on PCR Collections Platform in our environment. This provisional approval will be reassessed periodically and is contingent upon the strict adherence to the requirements set forth below.

Crossville personnel will be provided with a PCR approved two-factor authentication mechanism that allows them to utilize PCR's secure remote access to Crossville's data on PCR's Collections Platform located at PCR facilities. Additionally, City of Crossville must comply with the following requirements in order to allow this access:

- Each Crossville personnel member will have an individually assigned PCR credential and not share it with others and are responsible for properly safeguarding their credential.
- Promptly notify PCR within 24 hours of a personnel change whereby an individual no longer requires authentication credentials to PCR system(s).
- Crossville personnel shall exercise restraint with their access privileges to PCR and not use their access for anything other than the intended purpose.
- Sign off by Jack Frazier Jr.

Signature:

David S. Beaty

Printed Name:

DAVID E. BEATY

Title:

CHIEF OF POLICE

Date:

01/21/2018

Renewed 1/14/2020

