

**UNITED STATES OF AMERICA  
THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Edith Ramirez, Chairwoman**  
                                 **Julie Brill**  
                                 **Maureen K. Ohlhausen**  
                                 **Joshua D. Wright**

_____ )	
<b>In the Matter of</b> )	
_____ )	<b>DOCKET NO. C-</b>
<b>ACCRETIVE HEALTH, INC.</b> )	
_____ )	<b>AGREEMENT CONTAINING</b>
_____ )	<b>CONSENT ORDER</b>

The Federal Trade Commission (“Commission”) has conducted an investigation of certain acts and practices of Accretive Health, Inc. (“Accretive Health” or “proposed respondent”). Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

**IT IS HEREBY AGREED** by and between Accretive Health, Inc. by its duly authorized officers, and counsel for the Federal Trade Commission that:

1. Proposed respondent Accretive Health, Inc. is a Delaware Corporation with its principal executive office located at 401 North Michigan Avenue, Suite 2700, Chicago, Illinois.
2. Proposed respondent neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in this order. Only for purposes of this action proposed respondent admits the facts necessary to establish jurisdiction.
3. Proposed respondent waives:
  - a. Any further procedural steps;
  - b. The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law; and
  - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either

withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceedings.

5. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address, as provided to the Commission by the proposed respondent, by any means specified in Section 4.4(a) of the Commission's Rules, shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

6. Proposed respondent has read the draft complaint and consent order.

## **ORDER**

### **I.**

#### **DEFINITIONS**

For purposes of this Order, the following definitions shall apply:

1. Unless otherwise specified, "respondent" shall mean Accretive Health, and its successors and assigns.

2. **"Personal Information"** means individually identifiable information from or about an individual consumer, including but not limited to: (a) a first and last name; (b) a home or other physical address; (c) an email address or other online contact information, such as instant messaging user identifier or a screen name; (d) a telephone number; (e) a Social Security number; (f) a driver's license or other state-issued identification number; (g) a financial institution account number; (h) an insurance account number or other insurance information; (i) credit or debit card information; (j) a persistent identifier, such as a customer number held in a "cookie," a static Internet Protocol ("IP") address, or a processor serial number; or (k) any information that is combined with any of (a) through (j) above.

3. **"Commerce"** shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

### **II.**

**IT IS ORDERED** that respondent shall, no later than the date of entry of this Order, establish and implement, and thereafter maintain, or continue to maintain a comprehensive information security program reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. Such program, the content and implementation of which must be fully documented in writing, shall contain administrative, technical, and physical safeguards appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the personal information collected from or about consumers, including:

1. The designation of an employee or employees to coordinate and be accountable for the information security program;

2. The identification of material internal and external risks to the security, confidentiality and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and the assessment of the sufficiency of any safeguards in place to control the risks. At a minimum, this risk assessment should include consideration of the risks in each relevant area of operations, including but not limited to: (a) employee training and management; (b) information systems, including network and software design, information processing, storage, transmission, and disposal; and (c) prevention, detection, and response to attacks, intrusions, and other system failures;

3. The design and implementation of reasonable safeguards to control the risks identified through risk assessment and regular testing and monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;

4. The development and use of reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from respondent, and requiring service providers by contract to implement and maintain appropriate safeguards; and

5. The evaluation and adjustment of the information security program in light of the results of the testing and monitoring required by Paragraph 3 of this Section, any material changes to operations or business arrangements, or any other circumstances that Defendant knows or has reason to know may have material impact on the effectiveness of the information security program.

### **III.**

**IT IS FURTHER ORDERED** that, in connection with its compliance of Section II of the Order, respondent shall obtain initial and biennial assessments and reports ("Assessments") of respondent from a qualified, objective, independent third-party professional who uses procedures and standards generally accepted in the profession. Professionals qualified to prepare such Assessments shall be: (a) a person qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA); (b) a person holding Global Information Assurance Certification (GIAC) from the System Administrator, Audit,

Network, Security (SANS) Institute; or (c) a similarly qualified person or organization approved by the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The reporting period for the Assessments shall cover (i) the first one hundred and eighty (180) days after service of the Order for the Initial Assessment and (ii) each two (2) year period thereafter for twenty (20) years after service of the Order for the biennial Assessments. Each Assessment shall:

1. Set forth the specific administrative, technical, and physical safeguards that respondent has implemented and maintained during the reporting period;
2. Explain how such safeguards are appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the personal information collected from or about consumers;
3. Explain how the safeguards that have been implemented meet or exceed the protections required by Section II of the Order; and
4. Certify that Respondent's security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and has so operated throughout the reporting period.

Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Respondent shall provide the initial Assessment to the Associate Director of Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be retained by Respondent until the Order is terminated and provided to the Associate Director of Enforcement within ten (10) days of request. Unless otherwise directed by a representative of the Commission, initial and biennial Assessments shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, with the subject line *FTC v. Accretive Health, Inc.*, FTC File Number 1223077. *Provided, however*, that in lieu of overnight courier, an Assessment may be sent by first class mail, but only if an electronic version of such Assessment is contemporaneously sent to the Commission at DEBrief@ftc.gov.

#### IV.

**IT IS FURTHER ORDERED** that Respondent shall maintain and, upon request, make available to the Commission for inspection and copying:

1. For a period of three (3) years after the date of preparation of each Assessment required under Section III of the Order, all materials relied upon to prepare the Assessment, whether prepared by or on behalf of respondent, including but not limited to, all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, and any other materials relating to Respondent's compliance with Section II of this order, for the compliance period covered by such Assessment;

2. Unless covered by IV.1, for a period of five (5) years from the date of preparation or dissemination, whichever is later, a print or electronic copy of each document relating to compliance with this Order, including but not limited to documents, whether prepared by or on behalf of Respondent, that contradict, qualify, or call into question compliance with the Order.

#### V.

**IT IS FURTHER ORDERED** that respondent shall deliver a copy of this order to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of this order. Respondent shall deliver this order to such current subsidiaries and personnel within thirty (30) days after service of this order, and to such future subsidiaries and personnel within thirty (30) days after the person assumes such position or responsibilities. For any business entity resulting from any change in structure set forth in Part VI, delivery shall be at least ten (10) days prior to the change in structure. Respondent must secure a signed and dated statement acknowledging receipt of this order, within thirty (30) days of delivery, from all persons receiving a copy of the order pursuant to this section.

#### VI.

**IT IS FURTHER ORDERED** that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including, but not limited to: a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation(s) about which respondent learns fewer than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the matter of Accretive Health, Inc.*, FTC File No. 1223077. Provided, however, that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at [Debrief@ftc.gov](mailto:Debrief@ftc.gov).

#### VII.

**IT IS FURTHER ORDERED** that Respondent, within sixty (60) days after the date of service of this Order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its compliance with this Order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

#### VIII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

1. Any part in this Order that terminates in less than twenty (20) years; and
2. this order's application to any respondent that is not named as a defendant in such complaint; and
3. This order if such complaint is filed after the order has terminated pursuant to this part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order as to such respondent will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**ACCRETIVE HEALTH, INC.**

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

Stephen Schuckenbrock  
President  
Chief Executive Officer  
Accretive Health, Inc.

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

Andrew B. Clubok  
Marimichael O. Skubel  
Nina Frant  
Kirkland & Ellis LLP  
Counsel for Accretive Health, Inc.

**FEDERAL TRADE COMMISSION**

By:

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Allison Lefrak  
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Counsel for the Federal Trade Commission

**APPROVED**

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