



**PARTICIPATION AGREEMENT
For ELECTRONIC HEALTH RECORD TECHNICAL ASSISTANCE**

THIS AGREEMENT, effective _____, 2011, is between _____
_____ (“Provider Organization”), on behalf of itself and
its participating providers (“Providers”), and Quality Insights of Pennsylvania, Inc. d.b.a. Pennsylvania
Regional Extension and Assistance Center for Health Information Technology, West (“PA REACH West”).

I. PA REACH West Services

PA REACH West is the designated Regional Extension Center (“REC”) for certain counties in Pennsylvania under a cooperative agreement with the U.S. Dept. of Health and Human Services (“HHS”). The purpose of the REC is to furnish education, outreach and technical assistance to help providers: (i) select and successfully implement electronic health record (“EHR”) technology that is certified as meeting HHS standards; and (ii) make “meaningful use” of EHRs, as defined by HHS, to improve the quality and value of health care.

Consistent with its cooperative agreement, PA REACH West or a designated subcontractor acting on its behalf will make available to Provider Organization the following services, as applicable:

- a. Education. PA REACH West will disseminate knowledge about effective strategies and practices to select, implement and make meaningful use of certified EHR technology. This will include educational materials and training events.
- b. Vendor selection & group purchasing. PA REACH West will offer assistance in assessing health information technology (“IT”) needs and selecting a vendor of certified EHR systems and related hardware, network infrastructure and IT services. This may include group purchasing options offering volume discounts. Any costs incurred by Provider Organization for hardware, software, other equipment or vendor services in implementing its EHR system are not covered under this Agreement.
- c. Implementation & project management. PA REACH West will offer project management support for the EHR implementation process, including individualized coaching, consultation, troubleshooting and other activities to assist Provider Organization to assess and enhance readiness for health IT, remedy gaps in IT infrastructure, ensure adequate software training for all staff, and track and adhere to implementation timelines to assist the practice to reach meaningful use.
- d. Practice & workflow redesign. PA REACH West will offer support for practice and workflow redesign necessary to achieve meaningful use of EHRs. PA REACH West will work with Provider Organization and its certified EHR vendor to implement and troubleshoot the use of the certified EHR system for the consistent documentation of essential clinical information in structured formats by instituting electronic administrative transactions, electronic prescribing, electronic laboratory ordering and resulting, sharing key clinical data across practice settings, providing patient access to their health information, public health reporting, and policies and practices

- that protect the privacy and security of personal health information.
- e. Functional interoperability & health information exchange (“HIE”). PA REACH West will offer assistance in connecting to available HIE infrastructures, working collaboratively with the Pennsylvania Health Information Exchange.
 - f. Privacy & security best practices. PA REACH West will offer support in implementing best practices to protect the privacy and security of personal health information.
 - g. Progress toward meaningful use. PA REACH West will review Provider Organization’s utilization of EHRs and provide appropriate feedback and support to improve low utilization of features essential for meaningful use. PA REACH West will help Provider Organization understand and implement technology and process changes to attain HHS meaningful use requirements and demonstrate this attainment. PA REACH West does not warranty or guarantee, however, that Provider Organization will successfully implement EHRs, attain meaningful use or qualify for federal or state incentives.

II. Provider Organization Responsibilities

Provider Organization agrees to:

- a. Furnish the demographic information in Exhibit A and/or other information required by HHS or PA REACH West.
- b. Use its best efforts, working in cooperation with PA REACH West, to: (i) adopt certified EHR technology and achieve “go live” status with active quality reporting and electronic prescribing, all as defined by HHS, within 12 months of the effective date of this Agreement; and (ii) attain meaningful use, as defined by HHS, of its certified EHR system within 15 months of the effective date of this Agreement.
- c. Record and submit to PA REACH West documentation of time spent by Provider Organization’s administrative staff and Providers in working with PA REACH West to implement an EHR system and/or attain meaningful use, as set forth in Exhibit B.

III. General Terms

- a. Relationship of parties. The parties to this Agreement are independent contractors. This Agreement may not be construed to establish a relationship of partnership, joint venture, agency or employment.
- b. Termination. Provider Organization may terminate this Agreement without cause upon 30 days written notice. PA REACH West may terminate the Agreement upon 30 days written notice in the event: (i) Provider Organization or Providers fail to comply with this Agreement; (ii) PA REACH West completes its services; or (ii) PA REACH West’s cooperative agreement with or funding from HHS is terminated or suspended.
- c. Assignment. Provider Organization may not assign or otherwise transfer this Agreement or any rights or duties hereunder without the prior written consent of PA REACH West.
- d. Amendment. This Agreement supersedes any prior agreements or representations, express or implied, with respect to the subject matter of this Agreement. Any modification of this Agreement must be in writing and signed by both parties. Provided, however, that PA REACH West may unilaterally amend the Agreement, by providing 30 days written notice to Provider Organization, to comply with any new laws, regulations or HHS requirements.
- e. Applicable law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, excluding its conflict of laws principles.

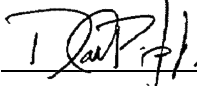
- f. Limitation of liability. In no event shall either party be liable for any indirect, incidental, consequential, punitive or special damages, including but not limited to lost revenues, profits or savings, even if a party has been advised of the possibility of such damages.
- g. Confidentiality. The parties shall protect the privacy and security of protected health information in compliance with the Health Insurance Portability and Accountability Act, as amended (“HIPAA”), and other applicable laws and regulations governing the confidentiality of patient information. The parties hereby enter into the HIPAA Business Associate Addendum attached as Exhibit C and made part of this Agreement.
- h. Indemnification. Each party shall defend, indemnify and hold harmless the other party and its owners, directors, officers, employees, contractors, subcontractors, agents, representatives and affiliates from any claims, actions, liabilities, judgments, settlements, fines, penalties or costs (including court costs and attorneys fees) resulting from the indemnifying party’s acts or omissions, breach of this Agreement or violation of applicable law or regulation.

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

PROVIDER ORGANIZATION

PA REACH EAST

By: _____

By:  _____

Printed
Name: _____

Printed
Name: Daniel P. Jones

Title: _____

Title: Chief Operating Officer

PA REACH WEST PARTICIPATION AGREEMENT - Exhibit A
Provider Organization Demographic Information

Provider Organization Name: _____

Tax ID / EIN: _____

Organization NPI: _____

Organization Primary Address:

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Organization Primary Contact: _____

Email: _____

Total number of sites: ____

Organization Type (check one):

- | | |
|--|--|
| <input type="checkbox"/> Private Practice (1-10) | <input type="checkbox"/> Rural Hospital |
| <input type="checkbox"/> Public Hospital | <input type="checkbox"/> Private Practice (11+) |
| <input type="checkbox"/> FQHC | <input type="checkbox"/> Non-Priority Hospital |
| <input type="checkbox"/> CHC | <input type="checkbox"/> Other: (please explain) _____ |
| <input type="checkbox"/> CAH | |

Percentage of Medicaid Patients Served: _____%

Estimated # unique patients seen annually: _____

Estimated # of annual patient visits: _____

Estimated patient/payer mix: (list percentages - must equal 100%)

_____ Medicaid

_____ Medicare

_____ Private Insurance

_____ Uninsured/sliding fee schedule

_____ Other (specify: _____)

PA REACH WEST PARTICIPATION AGREEMENT - Exhibit A (continued)

Site Locations *(list all – attach additional sheets if needed)*

_____ Site Name: _____
Address 1: _____
Address 2: _____
City: _____
State: _____ Zip: _____
Phone#: _____
Fax#: _____

_____ Site Name: _____
Address 1: _____
Address 2: _____
City: _____
State: _____ Zip: _____
Phone#: _____
Fax#: _____

_____ Site Name: _____
Address 1: _____
Address 2: _____
City: _____
State: _____ Zip: _____
Phone#: _____
Fax#: _____

PA REACH WEST PARTICIPATION AGREEMENT - Exhibit A (continued)

Participating Providers (copy as necessary)

A provider is defined as a primary care provider and/or other health care professional with prescriptive privileges, such as physician assistants, nurse practitioners.

_____ Name: _____
License Type:* _____
Specialty: _____
NPI#: _____
License # and State: _____
Primary
Location:** _____

_____ Name: _____
License Type:* _____
Specialty: _____
NPI#: _____
License # and State: _____
Primary
Location:** _____

_____ Name: _____
License Type:* _____
Specialty: _____
NPI#: _____
License # and State: _____
Primary
Location:** _____

_____ Name: _____
License Type:* _____
Specialty: _____
NPI#: _____
License # and State: _____
Primary
Location:** _____

_____ Name: _____
License Type:* _____
Specialty: _____
NPI#: _____
License # and State: _____
Primary
Location:** _____

_____ Name: _____
License Type:* _____
Specialty: _____
NPI#: _____
License # and State: _____
Primary
Location:** _____

* MD, DO, DDS, etc.

** Primary location must be listed on site level data in this exhibit

PA REACH WEST PARTICIPATION AGREEMENT - Exhibit B
Eligible Providers to be Served and Documentation For In-Kind Match

I. Eligible Priority Primary Care Providers

Under the terms of its cooperative agreement with HHS, PA REACH West is authorized to provide federally-subsidized technical assistance only to primary care providers meeting the HHS definition of “Priority Primary Care Provider” (“PPCP”).

“PPCP” means, in accordance with the requirements of the HITECH Act and HHS guidelines, eligible providers that are primary care providers (physicians and/or other health care professionals with prescriptive privileges, such as physician assistants and nurse practitioners) in any of the following settings:

- individual and small group practices (ten or fewer professionals with prescriptive privileges per practice site or geographic location) primarily focused on primary care;
- public and critical access hospitals;
- community health centers and rural health clinics; and
- other settings that predominantly serve uninsured, underinsured, and medically underserved populations.

Provider Organization will list as participating Providers in Exhibit A only primary care providers meeting the definition of PPCP (unless Provider Organization is requesting services for non-priority providers, pursuant to Section III of this Exhibit B). PA REACH West will provide technical assistance to support these Providers in implementing an EHR system and achieving meaningful use.

II. Documentation of Time by Provider Organization

PA REACH West’s cooperative agreement with HHS includes a cost-sharing requirement. PA REACH West is required to provide a 10% match of cash or in-kind services to 90% federal funding. To enable PA REACH West to satisfy this cost-sharing requirement without charging any fees to Provider Organization, Provider Organization agrees to perform all of the following:

- Record the necessary and reasonable time its PPCP Providers and administrative staff devote to working with PA REACH West or its designated subcontractor to properly and efficiently select, implement and meaningfully use a certified EHR system;
- Use its best efforts to devote sufficient Provider and staff time to working with PA REACH West to equal a value of at least \$600 per PPCP in appropriately-valued in-kind services. Provider Organization should record only time that is reasonable and necessary to select, implement and reach meaningful use of its EHR system;
- Strictly comply with PA REACH West instructions and federal requirements for recording, documenting and valuing such time as donated “in-kind” services; and
- Submit to PA REACH West monthly (or in a timeframe otherwise specified by PA REACH West) all required documentation.

If the documentation required by this Section II is overdue, PA REACH West may suspend services until such documentation is provided.

To the extent the law allows, PA REACH West shall maintain the confidentiality of the documentation submitted by Provider Organization pursuant to this Section II. Such documentation shall be subject to the rights of HHS, other authorized federal agencies, and their designees to inspect and audit records related to the REC cooperative agreement.

III. Non-Priority Providers

This Section III sets forth the fees and other costs to be paid by Provider Organization if its Providers are not PPCPs as defined in Section I of this Exhibit B.

As compensation for the services set forth in Section I of the Agreement, Provider Organization shall pay PA REACH West in accordance with the following fee schedule:

- A. Hourly rate. All services provided by PA REACH West or its designated subcontractor will be billed at an hourly rate of \$100.00 per hour. This includes time spent in necessary travel to and from Provider Organization's facilities.
- B. Travel Expenses. Travel-related expenses will be billed at actual cost. Mileage will be billed at the then-current rate established by the Federal Travel Regulations.
- C. Out-of-Pocket Expenses. Other reasonable and necessary out-of-pocket expenses will be billed at actual cost.
- D. Invoices. PA REACH West will invoice on a monthly basis. Payment by Provider Organization is due within 20 days of receipt. If payment is overdue, PA REACH West may suspend further services until payment is received.

IV. Additional Services

Provider Organization may request or PA REACH West may make available other services from time to time. Before providing such services, PA REACH West will specify the cost in writing and the parties will execute a written amendment or separate agreement memorializing the services to be provided, the cost and any other terms under which such services will be provided.

PA REACH WEST PARTICIPATION AGREEMENT - Exhibit C
Business Associate Addendum

This business associate addendum (“Addendum”) is made by and between Quality Insights of Pennsylvania d/b/a Pennsylvania Regional Extension and Assistance Center for Health Information Technology, West (“Business Associate”), a Regional Extension Center contracting with the Department of Health and Human Services to furnish health care providers technical assistance with implementation of electronic health records, and the health care provider organization (“Provider Organization”) identified in the “Participation Agreement for Electronic Health Record Technical Assistance” to which this Addendum is attached (the “Participation Agreement”). Provider Organization and Business Associate are each a “Party” and together are the “Parties.” This Addendum is incorporated into and made part of the Participation Agreement.

Provider Organization is subject to the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the “HITECH Act”), and the implementing regulations for those Acts (45 C.F.R. Parts 160-164), including any amendments to those regulations (collectively, the “HIPAA Requirements”). Business Associate performs on behalf of Provider Organization functions or activities that involve the Use or Disclosure of Protected Health Information and Business Associate is subject to certain provisions of the HIPAA Requirements. The Parties incorporate this Addendum into the Participation Agreement to comply with the HIPAA Requirements and agree that any ambiguity in the Addendum will be resolved in a manner that permits the Parties to comply with the HIPAA Requirements.

(1) Definitions.

- (A) Terms Not Defined.** Capitalized terms not defined in this section will have the meaning established in 45 C.F.R. §§ 160.103, 164.304, 164.402, and 164.501.
- (B) Terms Defined in Preamble.** The terms “Addendum,” “Business Associate,” “Provider Organization,” “HIPAA,” “HIPAA Requirements,” “HITECH Act,” “Party,” and “Participation Agreement” each have the meaning established in the preamble to this Addendum.
- (C) Protected Health Information.**
 - (i)* *Protected Health Information* has the meaning established in 45 C.F.R. § 160.103, limited to the protected health information that Business Associate creates for or receives on behalf of Provider Organization.
 - (ii)* *Electronic Protected Health Information* has the meaning established in 45 C.F.R. § 160.103, limited to the electronic protected health information that Business Associate creates for or receives on behalf of Provider Organization.
- (D) Required By Law.** *Required By Law* has the meaning established in 45 C.F.R. § 164.103.

- (2) **Permitted Uses and Disclosures.** Business Associate may not Use or Disclose Protected Health Information except as permitted or required by this Addendum. Subject to section (3), Business Associate may Use or Disclose Protected Health Information as follows:
- (A) **On Provider Organization’s Behalf.** Business Associate may Use and Disclose Protected Health Information to perform the functions and activities for which it is responsible under the Participation Agreement and to perform other functions and activities as directed by Provider Organization.
 - (B) **For the Benefit of Third Parties.** Business Associate may Use and Disclose Protected Health Information for the Treatment and Payment activities of a Health Care Provider and the Payment activities of another Covered Entity. Business Associate may Use and Disclose Protected Health Information for another Covered Entity’s Health Care Operations, provided that Provider Organization would be permitted to Use or Disclose the information under 45 C.F.R. § 164.506(c).
 - (C) **As Required By Law.** Business Associate may Use or Disclose Protected Health Information as Required By Law.
 - (D) **Business Associate’s Proper Management and Administration.**
 - (i) *Use of Protected Health Information.* Business Associate may Use Protected Health Information as necessary for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities.
 - (ii) *Disclosure of Protected Health Information.* Business Associate may Disclose Protected Health Information as necessary for Business Associate’s proper management and administration or to carry out Business Associate’s legal responsibilities, provided that (I) Business Associate obtains reasonable written assurances from the person to whom the information will be Disclosed that the information will be held confidentially and Used or further Disclosed only as Required By Law or for the purpose for which the information is Disclosed and (II) the person will notify Business Associate (who will promptly notify Provider Organization) of any confidentiality breach related to the Protected Health Information of which the person becomes aware.
 - (E) **Data Aggregation.** Business Associate may Use and Disclose Protected Health Information to perform Data Aggregation related to Provider Organization’s Health Care Operations.
- (3) **Restrictions on Uses and Disclosures.**
- (A) **Compliance with Privacy Rule.** Notwithstanding sections (2)(A)-(C), Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate the Privacy Rule or the HITECH Act if Provider Organization made the Use or Disclosure, except as permitted by sections 2(D) or (E) above.
 - (B) **Minimum Necessary.** Business Associate shall Use, Disclose, or request Protected Health Information in a “limited data set” (as that term is defined in 45 C.F.R. § 164.514(e)(2)) if practicable. Otherwise, Business Associate shall, in the performance of its functions and

activities on Provider Organization's behalf, make reasonable efforts to Use, to Disclose, or to request of a Covered Entity only the minimum necessary amount of Protected Health Information to accomplish the intended purpose of the Use, the Disclosure, or the request when Provider Organization would be required to do so by 45 C.F.R. § 164.502(b). Business Associate shall determine what constitutes the minimum necessary Protected Health Information to accomplish the intended purpose of any Disclosure and shall not rely on a request from a third party being for the minimum necessary, except as allowed by regulations that interpret the HITECH Act.

(C) **Subcontractors and Agents.** Business Associate may not Disclose to a subcontractor or agent or otherwise allow a subcontractor or agent to access Protected Health Information until the subcontractor or agent agrees in writing to the same restrictions and conditions that apply to Business Associate with respect to Protected Health Information.

(4) **Information Safeguards; Breach of Safeguards**

(A) **Information Safeguards.**

(i) *Privacy.* Business Associate shall use reasonable and appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as permitted or required by this Addendum.

(ii) *Security.* Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information in accordance with the HITECH Act and 45 C.F.R. §§ 164.308, 310, 312, 316.

(B) **Breach of Unsecured Protected Health Information.** Business Associate shall report, following discovery and without unreasonable delay, any "Breach" of "Unsecured Protected Health Information," as these terms are defined in 45 C.F.R. § 164.402. Business Associate shall make an initial report to Provider Organization not more than five (5) days after Business Associate learns of the Breach. Business Associate shall cooperate with Provider Organization in investigating the Breach and in meeting Provider Organization's obligations under the HITECH Act and any other security breach notification law.

(C) **Privacy Obligation Breach.** With respect to any incident not subject to reporting under § 4(B) of this Addendum, Business Associate shall report to Provider Organization any Use or Disclosure of Protected Health Information not permitted by this Addendum or in writing by Provider Organization. Business Associate shall make the report to Provider Organization not more than five (5) days after Business Associate learns of such non-permitted Use or Disclosure.

(D) **Security Incidents.** With respect to any incident not subject to reporting under § 4(B) or § 4(C) of this Addendum, Business Associate shall report to Provider Organization any successful (a) unauthorized Access, Use, Disclosure, modification, or destruction of Provider Organization's Electronic Protected Health Information or (b) unauthorized interference with system operations in Business Associate's Information System, of which Business Associate becomes aware. Business Associate shall make the report to Provider Organization not

more than five (5) days after Business Associate learns of such incident. Business Associate shall, upon Provider Organization's request, report to Provider Organization any attempted, but unsuccessful (a) unauthorized Access, Use, Disclosure, modification, or destruction of Provider Organization's Electronic Protected Health Information or (b) unauthorized interference with system operations in Business Associate's Information Systems, of which Business Associate becomes aware.

(5) **Privacy Right Compliance**

(A) **Access.** Within fifteen (15) days of receiving a notification from Provider Organization of an individual's request for access to records in a Designated Record Set, Business Associate shall furnish Provider Organization any Protected Health Information that Business Associate maintains in a Designated Record Set pertaining to the individual so that Provider Organization may comply with the individual's access rights, pursuant to 45 C.F.R. § 164.524.

(B) **Amendment.** Within fifteen (15) days of receiving notification from Provider Organization of an individual's request to amend records in a Designated Record Set, Business Associate shall amend the records that Business Associate maintains in a Designated Record Set so that Provider Organization may comply with the individual's amendment rights, pursuant to 45 C.F.R. § 164.526.

(C) **Disclosure Accounting.**

(i) *Tracking Disclosures.* Business Associate shall collect for each Disclosure of Protected Health Information for which Provider Organization may be required to account pursuant to 45 C.F.R. § 164.528 all information that 45 C.F.R. § 164.528 requires for Provider Organization's accounting.

(ii) *Accounting for Disclosures.* Within fifteen (15) days of becoming aware of a Disclosure for which Provider Organization may be required to account under 45 C.F.R. § 164.528, Business Associate shall furnish Provider Organization all information that 45 C.F.R. § 164.528 requires for an accounting so that Provider Organization may comply with an individual's Disclosure accounting rights.

(D) **Electronic Health Records.** With respect to Protected Health Information Business Associate Uses or maintains in an "Electronic Health Record" (as defined in the HITECH Act, § 13400(5) (42 U.S.C. § 17921(5))), Business Associate shall:

(i) Make information an individual requests pursuant to his/her access rights under 45 C.F.R. § 164.524 available in electronic format, in the manner and when required by the HITECH Act and the HIPAA Requirements;

(ii) Account for Disclosures for Treatment, Payment, and Health Care Operations in the manner and when required by the HITECH Act and the HIPAA Requirements;

(iii) Provide directly to an individual who requests an accounting of Disclosures pursuant to 45 C.F.R. § 164.528 the required information in the manner and when required by the HITECH Act and the HIPAA Requirements.

- (E) **Restriction Agreements and Confidential Communications.** Business Associate shall Use and Disclose Protected Health Information in compliance with (i) any restriction request to which Provider Organization agrees pursuant to 45 C.F.R. § 164.522(a) and (ii) any confidential communications request that Provider accommodates pursuant to 45 C.F.R. § 164.522(b).
- (6) **Other Requirements.**
- (A) **Inspection of Books and Records.** Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information available to the U.S. Department of Health and Human Services for purposes of determining Provider Organization’s compliance with 45 C.F.R. Part 164, Subpart E.
- (B) **Transactions Rule Compliance.** Business Associate shall use the standard format required by 45 C.F.R. Part 162 (the “HIPAA Transactions Rule”) when using electronic media to conduct on Provider’s behalf any transaction that is subject to the HIPAA Transactions Rule.
- (C) **Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information made in violation of this Addendum.
- (7) **Termination of Addendum.**
- (A) **Termination for Material Breach.** Either Party may terminate this Addendum and the Participation Agreement upon the other Party’s material breach of this Addendum. To exercise its termination right, the non-breaching Party shall provide the breaching Party written notice of the breach, which will include a description of the breach and establish a reasonable cure period, as determined by non-breaching Party. At the end of the cure period, the non-breaching Party may provide the breaching Party notice of termination, which will be effective immediately or at such later date specified by the non-breaching Party, unless the breaching Party has cured the breach.
- (B) **Return or Destruction.** Upon termination, expiration, or other conclusion of this Addendum or the Participation Agreement for any reason, with respect to Protected Health Information that Business Associate and its subcontractors and agents maintain or control, including any copy, compilation, or other documentation (whether in electronic or other form) that (1) is derived from Protected Health Information and (2) has not been de-identified in accordance with 45 C.F.R. § 164.514(b) (“Provider Organization’s PHI”):
- (i) *Return or Destroy Information if Feasible.* Business Associate shall return or, at Provider Organization’s discretion, destroy all of Provider Organization’s PHI that Business Associate does not retain pursuant to section (7)(B)(ii). Business Associate shall complete the return or destruction of Provider Organization’s PHI as promptly as possible, but in any event within thirty (30) days.
- (ii) *Retain Information if Return or Destruction Not Feasible.* Business Associate shall document the nature of any of Provider Organization’s PHI that Business Associate believes cannot feasibly be returned or destroyed and the reason that return or

destruction is not feasible. Business Associate (or its subcontractor or agent) may retain such information, subject to section (7)(C).

- (C) **Continuing Privacy and Security Obligations.** After termination, expiration, or other conclusion of this Addendum or the Participation Agreement for any reason, Business Associate shall (i) extend all protections of this Addendum to any of Provider Organization's PHI that Business Associate, its subcontractors or agents retain and (ii) limit further Uses and Disclosures of the information to those purposes that make return or destruction infeasible for as long as Business Associate maintains the Protected Health Information.

(8) **General Provisions.**

- (A) **Amendment to Addendum.** By furnishing Provider Organization notice of an amendment to the Addendum at least thirty (30) days prior to the amendment's effective date, Business Associate may amend the Addendum to reflect changes to Business Associate's policies for complying with or changes to the HIPAA Requirements or other laws affecting information privacy, security, or transmission. Provider Organization may reject the terms of the amendment by providing written notice of rejection to Business Associate within thirty (30) days of receiving the amendment. If Provider Organization fails to provide such notice, Provider Organization will be deemed to have agreed to the amendment and the amendment will be binding on Provider Organization without signature or other action by Provider Organization.

If Provider Organization rejects the amendment, the Parties shall in good faith attempt to negotiate an amendment that is mutually acceptable. If the Parties cannot reach agreement and Business Associate determines that it cannot remain in compliance with HIPAA Requirements without an amendment, then Business Associate may terminate this Addendum and the Participation Agreement by providing written notice to Provider Organization at least thirty (30) days prior to the effective date of termination.

- (B) **Conflicts.** The terms and conditions of this Addendum will override and control any conflicting term or condition of the Participation Agreement. Any non-conflicting term or condition of the Participation Agreement will remain in full force and effect.