



REDWOOD MEDNET, INC.

**HEALTH INFORMATION EXCHANGE ORGANIZATION  
PARTICIPATION AGREEMENT**

REDWOOD MEDNET, INC.

**HEALTH INFORMATION EXCHANGE ORGANIZATION  
PARTICIPATION AGREEMENT**

THIS PARTICIPATION AGREEMENT (“Agreement”) is made and entered into as of the Effective Date set forth on the signature page hereof (“Effective Date”), by and between REDWOOD MEDNET, INC., a California nonprofit public benefit corporation (Health Information Exchange Organization, or “HIO”), and the participant named on the Signature Page (“Participant”).

IN CONSIDERATION of the covenants, conditions and promises herein contained, and for other valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Redwood MedNet and the Participant hereby agree as follows:

1. Terms and Conditions. The Participant shall participate in HIO’s program of electronic health information exchange services (the “Services”) as described in and in accordance with the Redwood MedNet, Inc. Terms and Conditions for Health Information Exchange Organization Participation Agreement (the “Terms and Conditions”), which are attached hereto as Schedule 1 and incorporated herein by this reference. Consistent with the express terms and conditions of this Agreement, HIO and the Participant shall comply with the Terms and Conditions. All terms, including without limitation capitalized terms not expressly defined in this Agreement, shall have the meanings given to them pursuant to the Terms and Conditions.
2. Participant Type and Services. The Participant shall act as a Data Provider and/or a Data Recipient, as set forth on Schedule 2 to this Agreement, which is attached hereto and incorporated herein by reference. The Participant’s Participant Type is set forth on Schedule 2. The Participant may use some or all of the Services described on Schedule 2.
3. Addendum(s). *[Optional additional agreements between HIO and Participant may be appended as appropriate.]*

REDWOOD MEDNET, INC.

**HEALTH INFORMATION EXCHANGE ORGANIZATION  
PARTICIPATION AGREEMENT**

Signature Page

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date set forth below.

Effective Date: \_\_\_\_\_, 201\_

“Redwood MedNet”

“Participant”

REDWOOD MEDNET, INC., a California  
nonprofit public benefit corporation

*[Insert name of Participant], [Insert type of  
corporate entity or proprietor]*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address for purposes of notice:  
216 W. Perkins Street, #206  
Ukiah, CA 95482

Address for purposes of notice:  
\_\_\_\_\_  
\_\_\_\_\_



REDWOOD MEDNET, INC.

Schedule 1

**TERMS AND CONDITIONS FOR  
HEALTH INFORMATION EXCHANGE ORGANIZATION  
PARTICIPATION AGREEMENT**

REDWOOD MEDNET, INC.

Schedule 1

TERMS AND CONDITIONS FOR HEALTH INFORMATION EXCHANGE ORGANIZATION PARTICIPATION AGREEMENT

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REDWOOD MEDNET, INC.

**TERMS AND CONDITIONS FOR  
HEALTH INFORMATION EXCHANGE ORGANIZATION  
PARTICIPATION AGREEMENT**

**Section 1**

**INTRODUCTORY AND GENERAL PROVISIONS**

1.1 Introduction. These applicable provisions of these Terms and Conditions (the “Terms and Conditions”) are incorporated by reference into the Health Information Exchange Organization Participation Agreement (each, a “Participation Agreement”) entered into by and between Redwood MedNet, Inc., a California nonprofit public benefit corporation (a Health Information Exchange Organization or “HIO”), and a Participant, as defined herein.

1.2 Effective Date. The Effective Date of these Terms and Conditions is \_\_\_\_\_, 201\_.

1.3 Nature of Organization. HIO is organized and operated for the purpose of facilitating the secure and appropriate sharing of electronic health files and clinical data among health care providers and other participants in California for treatment, payment, operations, public health, research-related and other lawful purposes, in an atmosphere of transparency and mutual trust and in a manner that complies with all applicable laws and regulations, including without limitation those protecting the privacy and security of health information. HIO may in the future participate in other regional and national electronic health information exchanges, such as the eHealth Exchange (formerly known as the nationwide health information network initiative operated by the Office of the National Coordinator for Health Information Technology).

1.4 Description of Services. HIO provides or arranges for the provision of data transmission and related services to Participants to enable unidirectional or bidirectional electronic clinical data supply chain services. HIO’s services enable a Participant to send Patient Data to another Participant or to receive Patient Data from another Participant, allow Participants to query for Patient Data and to retrieve Patient Data identified by those queries, and allow Participants to respond to queries for Patient Data and to enable a qualified query to retrieve Patient Data via network services that facilitate the sharing of Patient Data among disparate Participants. HIO’s services include establishing and applying standards for such exchange of Patient Data. HIO has access to and/or is responsible to maintain the integrity of some or all of such Patient Data in the performance of HIO’s services. HIO’s Services and standards are described in detail in the Policies and Procedures.

1.5 Definitions. For the purposes of the Participation Agreement, the following terms shall have the meanings set forth below.

1.5.1 “Additional Services” means products and/or services not expressly described in these Terms and Conditions that the HIO offers to certain Participants from time to time, as described in the Policies and Procedures and/or the applicable Participation Agreement.



1.5.2 “Associated Hardware” and “Associated Software” shall have the meanings described in Section 8.1 (Description of Associated Hardware and/or Associated Software).

1.5.3 “Authorized User” means an individual Participant or an individual designated to use the Services on behalf of the Participant, including without limitation, an employee of the Participant and/or a credentialed member of the Participant’s medical staff.

1.5.4 “Breach of Privacy or Security” is a use or disclosure of Patient Data other than in compliance with these Terms and Conditions that either (a) pursuant to applicable laws or regulations, must be reported to affected individuals and/or government officials, including without limitation federal or state data breach notification rules, or (b) adversely affects (i) the viability of HIO; (ii) the trust among Participants; or (iii) the legal liability of HIO or any Participant.

1.5.5 “CMIA” means the California Confidentiality of Medical Information Act, California Civil Code Section 56 *et. seq.*

1.5.6 “Data Provider” means a Participant that is registered to provide information to HIO for use through the Services.

1.5.7 “Data Recipient” means a Participant that uses the Services to receive health information.

1.5.8 “Effective Date” means the Effective Date of these Terms and Conditions specified pursuant to Section 1.2 (Effective Date).

1.5.9 “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder at 45 CFR Parts 160 and 164.

1.5.10 “Other HIO” means a person or entity with which HIO has entered into a legally binding agreement pursuant to which HIO and that person or entity have agreed to arrange for their respective Participants to share data through HIO’s and the person’s or entity’s respective systems and services.

1.5.11 “Participant” means a party that entered into a Participation Agreement with HIO to act as a Data Provider and/or as a Data Recipient.

1.5.12 “Participant Type” means the category(ies) of Participant to which a particular Participant is assigned by HIO based upon that Participant’s role in the health care system, as more specifically described in Section 2.4.3 (Participant Type).

1.5.13 “Participation Agreement” means a legally binding agreement between HIO and a party pursuant to which that party acts as a Participant in accordance with, and agrees to comply with, these Terms and Conditions.

1.5.14 “Patient Data” means information provided, or made available for exchange, by a Data Provider through HIO’s System and Services pursuant to Section 7.2 (Provision of Data).

1.5.15 “Policies and Procedures” means, collectively, the policies and procedures adopted by HIO for the operation and use of the System and the Services, including without limitation any operations manual, privacy and/or security policies, and technical specifications for the System and/or the Services.

1.5.16 “Services” means the health information exchange and related services described in Section 1.4 (Description of Services) for which the Participant registers as described in Section 2.4.1 (Participation Agreement Required).

1.5.17 “System” means the technology provided by HIO as a part of HIO’s Services, as described in the Policies and Procedures.

1.5.18 “Terms and Conditions” means the terms and conditions set forth in this document that apply to the Participant, as amended, repealed, and/or replaced from time to time as described herein.

## Section 2

### DEVELOPMENT AND ADMINISTRATION OF PARTICIPATION AGREEMENTS

2.1 Development and Dissemination of Terms and Conditions and Policies and Procedures; Amendments. HIO is solely responsible for the development of the Terms and Conditions and the Policies and Procedures, and may amend, or repeal and replace, the Terms and Conditions and/or the Policies and Procedures as described in 2.3 (Changes to Terms and Conditions and/or Policies and Procedures).

2.2 Relationships Between Terms and Conditions and Policies and Procedures.

(a) The Policies and Procedures, in effect from time to time, are incorporated into these Terms and Conditions, and HIO and each Participant shall be required to comply with the applicable provisions of the Policies and Procedures as described in Section 2.4.5 (Effect of Terms and Conditions Upon Participation Agreements).

(b) HIO may have agreed to participate in such Other HIOs as shall be identified in the Policies and Procedures, and to comply with such Other HIOs' policies and procedures affecting the privacy and security of health information, as they are in effect on the Effective Date ("Other HIO Policies and Procedures"), which are incorporated by reference into these Terms and Conditions. HIO shall not agree to participate in any Other HIO if and to the extent that the provisions of such Other HIO's Policies and Procedures affecting the privacy and/or security of Patient Data do not meet or exceed the standards set forth in the Policies and Procedures. Subject to the foregoing, these Terms and Conditions are intended to, and shall be construed to, comply with such Other HIOs' Policies and Procedures. If and when an Other HIO's Policies and Procedures change following the Effective Date, HIO shall determine whether it is appropriate to amend these Policies and Procedures to incorporate those changes pursuant to Section 2.3 (Changes to Terms and Conditions and Policies and Procedures).

2.3 Changes to Terms and Conditions and Policies and Procedures. Subject to Section 3.2 (Participant's Termination of Participation Agreement Based on Objection to Change), HIO may amend, repeal and replace these Terms and Conditions and/or the Policies and Procedures at any time, and shall give Participants notice of such changes not less than forty five (45) days prior to the implementation of those changes. However, if the change is required in order for HIO and/or Participants to comply with applicable laws or regulations, HIO may implement the change within a shorter period of time as HIO determines is appropriate under the circumstances. Any such change to the Terms and Conditions and/or Policies and Procedures shall automatically be incorporated by reference into each Participation Agreement, and be legally binding upon HIO and the Participant, as of the effective date of the change.

2.4 Development and Administration of Participation Agreements.

2.4.1 Participation Agreement Required. Only persons who enter into Participation Agreements with HIO shall be permitted to access the System and use the Services. A Participant may act as a Data Provider or as a Data Recipient, or as both, as described in this Section 2 (Development and Administration of Participation Agreements). A Participant may use some or all of the Services, as specified in Schedule 2 to that Participant's Participation Agreement. By

using the System and/or the Services to act as a Data Provider or a Data Recipient, the Participant shall thereby agree to be bound by those provisions of these Terms and Conditions applicable to Data Providers and Data Recipients, respectively.

2.4.2 Execution of Participation Agreements. A person may become a Participant by entering into a written Participation Agreement with HIO. Each such Participation Agreement shall describe:

- (a) The Participant's Participant Type, as described in Section 2.4.3 (Participant Type);
- (b) Which of the Services the Participant may use; and
- (c) Such other terms and conditions as HIO and the Participant shall agree.

2.4.3 Participant Type. Each Participation Agreement shall specify the Participant Type of the Participant, in accordance with the list of Participant Types set forth in the Policies and Procedures.

2.4.4 Approval and Disapproval of Applications for Participation Agreements. Any party may apply to HIO to enter into a Participation Agreement, subject to the applicable terms of the Policies and Procedures. HIO shall review each application and shall approve or disapprove each in accordance with the Policies and Procedures and as HIO determines in its sole discretion is appropriate. HIO shall not be required to approve any application to be a Participant.

2.4.5 Effect of Terms and Conditions and Policies and Procedures Upon Participation Agreements. Each Participation Agreement shall incorporate by reference, and require that the Participant agree to comply with, these Terms and Conditions and the Policies and Procedures. HIO may make exceptions to this Section 2.4.5 (Effect of Terms and Conditions Upon Participation Agreements), provided that such exceptions, either individually or in the aggregate, do not materially reduce the obligations of the Participant to HIO or other Participants, or provide that the Participant is not subject to those provisions of the Terms and Conditions and the Policies and Procedures regarding the privacy and security of Patient Data.

2.5 Change or Termination of Services. HIO may cease to participate in any Other HIO, or may reduce the functionality, or make any other change to, the System and/or the Services, or may cease providing the Services, at any time in its sole discretion upon not less than thirty (30) days prior notice to Participants.

### Section 3

#### TERM AND TERMINATION OF PARTICIPATION AGREEMENTS; REDUCTION AND/OR SUSPENSION OF SERVICES

3.1 Term of Participation Agreements. Each Participation Agreement shall take effect upon the date specified therein, and shall remain in force and effect until terminated by either the Participant or HIO, as provided in these Terms and Conditions.

3.2 Participant's Termination of Participation Agreement Based on Objection to Change. Notwithstanding Section 2.3 (Changes to Terms and Conditions and Policies and Procedures), the HIO shall not make any change to the Terms and Conditions and/or the Policies and Procedures that either (a) materially reduces the rights or increases the obligations of a Participant, (b) materially reduces the obligations of the HIO, or (c) substantially changes the provisions of the Terms and Conditions or Policies and Procedures regarding the privacy or security of Patient Data, without providing to the Participant the right to terminate its Participation Agreement by giving HIO written notice thereof not more than thirty (30) days following HIO's notice of the change. Such termination of a Participation Agreement shall be effective as of the effective date of the change to which the Participant objects; provided, however, that any change to the Terms and Conditions or Policies and Procedures that HIO determines is required to comply with any federal, state, or local law or regulation shall take effect as of the effective date HIO determines is required, and the termination of any Participant's Participation Agreement based on the Participant's objection to the change shall be effective as of HIO's receipt of the Participant's notice of termination.

3.3 Participant's Termination of Participation Agreement Without Cause. A Participant may terminate its Participation Agreement at any time without cause effective as of the next anniversary of the effective date of the Participant's Participation Agreement, by giving not less than ninety (90) days prior notice to HIO.

3.4 Participant's Termination of Participation Agreement Upon Uncured Breach. Without limiting the obligations of HIO pursuant to Section 11.1 (HIO's Performance of Obligations, Generally), a Participant may terminate its Participation Agreement upon HIO's failure to perform a material responsibility arising out of the Participant's Participation Agreement, and that failure continues uncured for a period of sixty (60) days after the Participant has given HIO notice of that failure and requested that HIO cure that failure.

3.5 Participant's Termination of Participation Agreement Upon Breach of Privacy or Security. A Participant may terminate its Participation Agreement upon a Breach of Privacy or Security, as described in Section 9.2 (Reporting of Breaches and Security Incidents), when such Breach of Privacy or Security continues uncured for a period of sixty (60) days after the Participant has given HIO notice of that failure and requested that HIO cure that breach.

3.6 Participant's Termination of Participation Agreement Upon Breach of Business Associate Contract. Notwithstanding any other provision of Section 2 (Development and Administration of Participation Agreements) to the contrary, the Participant may terminate its Participation Agreement based upon HIO's breach of its Business Associate Contract, as set forth in HIO's Business Associate Contract as described in Section 10 (Business Associate Contract).

3.7 HIO's Termination of Participation Agreement Without Cause. Except as provided otherwise in the applicable Participation Agreement, HIO may terminate any Participant's Participation Agreement without cause by giving notice of that termination to the Participant; provided, however, that HIO shall not terminate the Participation Agreement of any Participant without cause except incident to HIO's termination of the Participation Agreements of all Participants of the same Participant Type described in Section 2.4.3 (Participant Type).

3.8 HIO's Termination of Participation Agreement, or Reduction or Suspension of Service, Upon Uncured Breach. Without limiting the obligations of the Participant pursuant to Section 5.1 (Participant's Performance of Obligations, Generally), HIO may take any one (1) or more of the following actions upon the Participant's failure to perform a material responsibility arising out of the Participant's Participation Agreement, including without limitation a failure of any of the Participant's Authorized Users to comply with the provisions of these Terms and Conditions and/or the Policies and Procedures applicable to such Authorized User's conduct, and that failure continues uncured for a period of sixty (60) days after HIO has given the Participant notice of that failure and requested that the Participant cure that failure:

(a) Reduce or suspend the availability of the System and/or the Services to the Participant, as and to the extent HIO determines in its discretion to be necessary to cure or prevent that failure;

(b) Reduce or suspend the availability of the System and/or the Services to one (1) or more of the Participant's Authorized Users, as and to the extent HIO determines in its discretion to be necessary to cure or prevent that failure; and/or

(c) Terminate the Participant's Participation Agreement.

3.9 Effect of Termination of Participation Agreement. Upon any termination of a Participant's Participation Agreement, that party shall cease to be a Participant and thereupon and thereafter neither that party nor its Authorized Users shall have any rights to use the System or the Services.

3.10 Survival of Provisions. The following provisions of the Terms and Conditions shall survive any termination of a Participant's Participation Agreement: Section 4.5 (Responsibility for Conduct of Participant and Authorized Users), Section 9 (Privacy and Security of Patient Data), Section 10 (Business Associate Contract), Section 13 (Proprietary and Confidential Information), Section 14.8 (Limitation on Liability) and Section 15.2 (Indemnification).

## Section 4 AUTHORIZED USERS

4.1 Identification of Authorized Users. Each Participant shall provide HIO with a list in a medium and format approved by HIO identifying all the Participant's Authorized Users, together with the required information described in the Policies and Procedures concerning "Required Information for Authorized Users," to enable HIO to establish a unique identifier for each Authorized User. The Participant shall update such list whenever an Authorized User is added or removed by reason of termination of employment or otherwise, in accordance with the processes described in the Policies and Procedures.

4.2 Certification of Authorized Users. At the time that a Participant identifies an Authorized User to HIO pursuant to Section 4.1 (Identification of Authorized Users), the Participant shall certify to HIO that the Authorized User:

(a) Has completed a training program conducted by Participant in accordance with Section 5.6 (Training);

(b) Will be permitted by Participant to use the Services and the System only as reasonably necessary for the performance of Participant's activities as the Participant Type under which Participant is registered with HIO pursuant to Section 2.4.3 (Participant Type);

(c) Has agreed not to disclose to any other person any passwords or other security measures described in the Policies and Procedures issued to the Authorized User pursuant to Section 4.3 (Passwords and Other Security Mechanisms); and

(d) Has acknowledged in writing that his or her failure to comply with the Terms and Conditions may result in the withdrawal of privileges to use the Services and the System and may constitute cause for disciplinary action by Participant.

4.3 Passwords and Other Security Mechanisms. Based on the information provided by the Participant pursuant to Section 4.1 (Identification of Authorized Users), HIO shall issue a user name and password and/or other security measures described in the Policies and Procedures to each Authorized User that shall permit the Authorized User to access the System and use the Services. HIO shall provide each such user name and password and/or other security measure to the Participant and the Participant shall be responsible to communicate that information to the appropriate Authorized User. When the Participant removes an individual from its list of Authorized Users pursuant to Section 4.1 (Identification of Authorized Users), HIO shall deactivate the user name and password and/or other security measure of such individual with respect to the Participant. HIO shall also cancel and de-activate the user name and password and/or other security measure of such individual if that individual is as a result of such removal no longer an Authorized User of any Participant.

4.4 No Use by Other than Authorized Users. The Participant shall restrict access to the System and, if applicable, use of the Services, only to the Authorized Users the Participant has identified to HIO in accordance with Section 4.1 (Identification of Authorized Users).

4.5 Responsibility for Conduct of Participant and Authorized Users. The Participant shall be solely responsible for all acts and omissions of the Participant and/or the Participant's Authorized Users, and all other individuals who access the System and/or use the Services either through the Participant or by use of any password, identifier or log-on received or obtained, directly or indirectly, lawfully or unlawfully, from the Participant or any of the Participant's Authorized Users, with respect to the System, the Services and/or any confidential and/or other information accessed in connection therewith, and all such acts and omissions shall be deemed to be the acts and omissions of the Participant.

4.6 Supervision of Authorized Users. The Participant shall require that all of its Authorized Users use the System and the Services only in accordance with these Terms and Conditions, including without limitation those governing the privacy and security of protected health information. The Participant shall discipline appropriately any of its Authorized Users who fail to act in accordance with the Terms and Conditions in accordance with the Participant's disciplinary policies and procedures.



## Section 5 GENERAL OBLIGATIONS OF PARTICIPANTS

5.1 Participant's Performance of Obligations, Generally. The Participant shall, in accordance with the terms of its Participation Agreement, diligently perform all of its obligations arising under the Terms and Conditions and the Policies and Procedures and shall, promptly following notice of any material breach thereof by HIO, cure such breach.

5.2 Compliance with Laws and Regulations. Without limiting any other provision of these Terms and Conditions relating to the parties' compliance with applicable laws and regulations, the Participant shall perform in all respects as contemplated by these Terms and Conditions in compliance with applicable federal, state, and local laws, ordinances and regulations.

5.3 System Security. The Participant shall implement security measures with respect to the System and the Services in accordance with the Policies and Procedures.

5.4 Software and Hardware Provided by Participant. Except as provided in Section 8 (Associated Hardware and Software to be Provided by HIO), if applicable, each Participant shall be responsible for procuring all equipment and software necessary for it to access the System, use the Services, and provide to HIO all information required to be provided by the Participant ("Participant's Required Hardware and Software"). Each Participant's Required Hardware and Software shall conform to HIO's then-current specifications, as set forth in the Policies and Procedures. As part of the Participant's obligation to provide Participant's Required Hardware and Software, the Participant shall be responsible for ensuring that all the Participant's computers to be used to interface with the System are properly configured, including but not limited to the operating system, web browser, and Internet connectivity.

5.5 Malicious Software, Viruses, and Other Threats. The Participant shall use reasonable efforts to ensure that its connection to and use of the System, including without limitation the medium containing any data or other information provided to the System, does not include, and that any method of transmitting such data will not introduce, any program, routine, subroutine, or data (including without limitation malicious software or "malware," viruses, worms, and Trojan Horses) which will disrupt the proper operation of the System or any part thereof or any hardware or software used by HIO in connection therewith, or which, upon the occurrence of a certain event, the passage of time, or the taking of or failure to take any action will cause the System or any part thereof or any hardware, software or data used by HIO or any other Participant in connection therewith, to be destroyed, damaged, or rendered inoperable.

5.6 Training. The Participant shall provide appropriate and adequate training to all of the Participant's personnel, including without limitation Authorized Users, in the requirements of applicable laws and regulations governing the privacy and security of protected health information, including without limitation requirements imposed under HIPAA.

## **Section 6**

### **DATA RECIPIENT'S USE OF SYSTEM AND SERVICES**

If, pursuant to the applicable Participation Agreement, the Participant is a Data Recipient, the terms of this Section 6 (Data Recipient's Use of System and Services) shall apply to that Participant.

#### **6.1 Grant of Rights to Use System and Services.**

6.1.1 Grant by HIO. HIO grants to each Data Recipient, and each Data Recipient shall be deemed to have accepted, a non-exclusive, personal, nontransferable, limited right to have access to and to use the System and the Services to be provided to that Data Recipient pursuant to the applicable Participation Agreement, subject to the Data Recipient's full compliance with the Terms and Conditions and the Data Recipient's Participation Agreement. HIO retains all other rights to the System and all the components thereof. No Data Recipient shall obtain any rights to the System except for the limited rights to use the System expressly granted by the Terms and Conditions.

6.1.2 Applicable Policies and Procedures. All issues concerning the ownership and rights in the System and the Services, and data and information obtained therefrom, shall be as set forth in the Policies and Procedures.

6.2 Permitted Purposes for Use of System and Services. A Data Recipient may use the System and the Services only for the permitted purposes described in the applicable Policies and Procedures.

6.3 Permitted Degree of Access to Patient Data. A Data Recipient shall use the System and the Services to access only that amount of Patient Data that the Data Recipient is permitted to request pursuant to applicable laws and regulations.

6.4 Compliance With Applicable Laws. Without limiting the generality of Section 6.2 (Permitted Uses of System and Services), the Data Recipient shall in its use of the System and the Services comply with all applicable laws and regulations, including without limitation HIPAA and the CMIA.

6.5 Prohibited Uses of System and Services. A Data Recipient shall not use or permit the use of the System or the Services for any prohibited use described in the Policies and Procedures or by applicable laws or regulations.

6.6 Permitted and Prohibited Uses and Disclosures of Patient Data. A Data Recipient may use and disclose Patient Data acquired through the use of the System and the Services as and to the extent permitted by law; provided, that the Participant shall not use or disclose Patient Data in any manner prohibited pursuant to Section 7.5 (Limitations on Use of Patient Data).

6.7 Effect of Termination on Data Recipient. Upon any termination of a Data Recipient's Participation Agreement, the Data Recipient shall cease to be a Participant and thereupon and thereafter shall have no right to, and shall not be permitted to, acquire Patient Data through the use of the System and the Services.

## **Section 7**

### **DATA PROVIDERS' USE OF SYSTEM AND SERVICES**

If, pursuant to the applicable Participation Agreement, the Participant is a Data Provider, the terms of this Section 7 (Data Providers' Use of System and Services) shall apply to that Participant.

#### **7.1 Grant of Rights by HIO.**

7.1.1 Grant by HIO. HIO grants to each Data Provider, and each Data Provider shall be deemed to have accepted, a non-exclusive, personal, nontransferable, limited right to have access to and to use the System for the purposes of complying with the obligations described in this Section 7 (Data Provider's Use of System and Services), subject to the Data Provider's full compliance with the Terms and Conditions and the Data Provider's Participation Agreement. HIO retains all other rights to the System and all the components thereof. No Data Provider shall obtain any rights to the System except for the limited rights to use the System expressly granted by the Terms and Conditions.

7.1.2 Applicable Policies and Procedures. All issues concerning the ownership and rights in HIO's System shall be as set forth in the Policies and Procedures, which are incorporated herein by reference.

7.2 Provision of Data. The Data Provider shall participate in and maintain its connection to the System and provide through the System the Patient Data described in the Policies and Procedures as required for the Participant Type of the Participant pursuant to Section 2.4.3 (Participant Type).

7.3 Measures to Assure Accuracy of Data. Each Data Provider shall, in accordance with the Policies and Procedures, use reasonable and appropriate efforts to assure that all of the Patient Data it provides through the System is accurate, free from serious error, reasonably complete, and provided in a timely manner, as specified in the Policies and Procedures.

7.4 Grant of License to Use Patient Data. Subject to Section 7.5 (Limitations on Use of Patient Data), the Data Provider grants to HIO a perpetual, fully-paid, non-exclusive, royalty-free right and license (i) to license and/or otherwise permit others to access through the System and use all Patient Data provided by the Data Provider in accordance with the Policies and Procedures and these Terms and Conditions, (ii) to use such Patient Data to perform the Other Activities HIO performs pursuant to Section 11.9 (Other Activities), and (iii) to use such Patient Data to carry out HIO's duties under the Policies and Procedures and these Terms and Conditions, including without limitation system administration, testing, problem identification and resolution, management of the System, data aggregation activities as permitted by applicable state and federal laws and regulations, and otherwise as HIO determines is necessary and appropriate.

7.5 Limitations on Use and Disclosure of Patient Data. Notwithstanding Section 7.4 (Grant of License to Use Patient Data by Data Provider), Patient Data provided by a Data Provider shall

not be used or disclosed for (a) any use or disclosure that is prohibited by the Policies and Procedures and (b) any use or disclosure that is prohibited by applicable laws.

7.6 Limitations on Data Provider's Provision of Patient Data. The Data Provider shall provide Patient Data only to the extent permitted by, and in accordance with the applicable requirements of, the Policies and Procedures.

7.7 Effect of Termination Upon Data Provider. Upon any termination of a Data Provider's Participation Agreement, that Data Provider shall cease to be a Participant and thereupon and thereafter shall have no obligation to provide Patient Data through the System and the Services. Without limiting Section 10 (Business Associate Contract), if and to the extent that HIO maintains any Patient Data on the Data Provider's behalf, the HIO shall not, from and after the effective date of the termination of the Data Provider's participation, provide or make that information available to Data Recipients. and thereupon and thereafter neither that party nor its Authorized Users shall have any rights to use the System or the Services.

## Section 8

### ASSOCIATED HARDWARE AND SOFTWARE TO BE PROVIDED BY HIO

If, pursuant to the applicable Participation Agreement, the Participant has agreed to receive Associated Hardware and/or Associated Software from the HIO, the terms of this Section 8 (Associated Hardware and Software to be Provided by HIO) shall apply to that Participant.

8.1 Description of Associated Software and Associated Hardware. HIO shall provide or arrange for the provision of the software and/or hardware required to access the System and use the Services the Participant has agreed to receive pursuant to its Participation Agreement, as more particularly described on Schedule 2 attached to the applicable Participation Agreement (the “Associated Software” and “Associated Hardware,” respectively). The vendor or vendors of the Associated Software and/or Associated Hardware shall be responsible for the provision of, and the performance of, the Associated Software and Associated Hardware provided in accordance with the applicable license or subscription or other agreements described in Section 8.3 (Third Party Software, Hardware and/or Services).

8.2 Grant of License. HIO grants to the Participant a non-exclusive, personal, nontransferable, limited license to use the Associated Software and the Associated Hardware for access to or use of the System and, if the Participant is a Data Recipient, for the purpose of obtaining the Services (the “Associated Software”).

8.3 Third-Party Software, Hardware, and/or Services.

8.3.1 Licenses, Subscription, and/or Other Agreements. The Associated Software may include certain third-party software, hardware, and services, which may be subject to separate licenses or subscription or other agreements or may require that a Participant enter into such agreements with third-party vendors. The Participant shall execute such agreements as may be required for the use of such software, hardware or services, and to comply with the terms of any applicable license or other agreement relating to third-party products included in Associated Software.

8.3.2 Standards and Warranties. The specifications, service standards and/or warranties to be provided by the vendor or vendors of the Associated Software and/or the Associated Hardware shall be described in the applicable agreements for those third-party products.

**Section 9**  
**PRIVACY AND SECURITY OF PATIENT DATA**

9.1 Compliance with Policies and Procedures. HIO and each Participant shall comply with the standards for the privacy and security of patient health information, including without limitation protected health information described in HIPAA and medical information described in the CMIA, as provided in the Policies and Procedures.

9.2 Reporting of Breaches and Security Incidents. HIO and Participant shall report to the other any use or disclosure of Patient Data not provided for by these Terms and Conditions of which HIO or Participant becomes aware, any security incident concerning electronic Patient Data and any Breach of Privacy or Security.

**Section 10**  
**BUSINESS ASSOCIATE CONTRACT**

If, pursuant to the applicable Participation Agreement, the HIO is to act as the business associate (as defined by HIPAA) of the Participant, then the terms of HIO's Business Associate Contract, as then in effect from time to time, shall apply to the HIO and the Participant.

## **Section 11**

### **HIO'S OPERATIONS AND RESPONSIBILITIES**

11.1 Performance of Obligations, Generally. HIO shall, in accordance with the terms of the Participation Agreement, diligently perform all of its obligations arising under the Terms and Conditions and the Policies and Procedures and shall, promptly following notice from any Participant of a material breach thereof, cure that breach.

11.2 Participation Agreements. HIO shall require that all Participants enter into a Participation Agreement or another legally binding agreement to comply with the Terms and Conditions in accordance with Section 2.4.5 (Effect of Terms and Conditions and Policies and Procedures Upon Participation Agreements).

11.3 Monitoring of Participants. HIO shall regularly monitor Participant's compliance with the requirements for participation set forth in the Policies and Procedures.

11.4 Maintenance of System. HIO shall maintain the functionality of the System and the Services in accordance with the Policies and Procedures, and shall provide such service, security, and other updates as HIO determines are appropriate from time to time.

11.5 Training. HIO shall provide training to each Participant regarding the Participant's rights and obligations under its Participation Agreement and the Terms and Conditions, and the access and use of the System and Services, including such user manuals and other resources HIO determines appropriate to support the System and Services, including without limitation training for new or additional Authorized Users when added by the Participant.

11.6 Telephone and/or E-Mail Support. HIO shall provide, by telephone and/or e-mail, during normal business hours, support and assistance in resolving difficulties in accessing and using the System and the Services.

11.7 Audits and Reports. HIO shall perform such audits and provide such reports to Participants that are described in the Policies and Procedures.

11.8 Access to Patient Data. HIO shall permit access to Patient Data maintained by HIO only by Participants and other parties authorized by the Data Provider that provided that Patient Data, and only in compliance with the Policies and Procedures.

11.9 Other Activities. HIO shall perform the other activities, including without limitation any additional services or functions involving the System, the Services and/or Patient Data, whether performed for Participants and/or other parties, as and to the extent described in the Policies and Procedures.



## **Section 12** **FEES AND CHARGES**

12.1 Agreed-Upon Fees. If the Participant's Participation Agreement describes the fees and charges to be paid by the Participant, the terms and conditions of that Participation Agreement with respect to the payment of fees and charges shall apply. If the Participant's Participation Agreement does not describe such fees and charges, the other provisions of this Section 12 (Fees and Charges) shall apply.

12.2 Service Fees. Unless the Participant's Participation Agreement provides otherwise, each Participant shall pay Service Fees to HIO, in accordance with the Fee Schedule set forth in the Policies and Procedures.

12.3 Changes to Fee Schedule. HIO may change its Fee Schedule at any time in accordance with Section 2.3 (Changes to Terms and Conditions and Policies and Procedures).

12.4 Miscellaneous Charges. Unless the Participant's Participation Agreement provides otherwise, the Participant also shall pay HIO's charges for all goods or services that HIO provides at the Participant's request that are not specified in HIO's then-current Fee Schedule ("Miscellaneous Charges").

12.5 Payment. The Participant shall pay all Service Fees and any Miscellaneous Charges within thirty (30) days following the date of invoice by HIO sent to the Participant's address as shown in HIO's records or e-mailed in accordance with the Participant's Participation Agreement.

12.6 Late Charges. Service Fees and Miscellaneous Charges not paid to HIO within thirty (30) business days following the due date therefor are subject to a late charge of five percent (5%) of the amount owing and interest thereafter at the rate of one and one-half percent (1 ½%) per month on the outstanding balance, or the highest amount permitted by law, whichever is lower.

12.7 Suspension of Service. Failure to pay Service Fees and Miscellaneous Charges within thirty (30) days following the due date therefor may result in suspension of the Participant's access to the System and/or use of the Services on ten (10) days prior notice.

12.8 Reconnection Fee. A reconnection fee may be assessed to re-establish connection after any suspension or reduction of service or any termination due to non-payment made by HIO pursuant to these Terms and Conditions, in accordance with HIO's then-current Fee Schedule.

12.9 Taxes. All Service Fees and Miscellaneous Charges shall be exclusive of all federal, state, municipal, or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future, and the Participant shall pay any tax (excluding taxes on HIO's net income) that HIO may be required to collect or pay now or at any time in the future and that are imposed upon the sale or delivery of items and services provided pursuant to the Terms and Conditions.

12.10 Other Charges and Expenses. The Participant shall be solely responsible for any other charges or expenses the Participant may incur to access the System and use the Services, including without limitation, data connection and/or transmission and equipment charges, and fees charged by third-party vendors of products and services.

## **Section 13**

### **PROPRIETARY AND CONFIDENTIAL INFORMATION**

13.1 Scope of Proprietary and Confidential Information. In the performance of their respective responsibilities pursuant to the Terms and Conditions, HIO and Participants may come into possession of certain Proprietary and Confidential Information of the other. For the purposes hereof, “Proprietary and Confidential Information” means all trade secrets, business plans, marketing plans, know-how, data, contracts, documents, scientific and medical concepts, member and customer lists, costs, financial information, profits and billings, and referral sources, existing or future services, products, operations, management, pricing, financial status, goals, strategies, objectives, and agreements of HIO or the Participant, as the case may be, whether written or verbal, that are confidential in nature; provided, however, that Proprietary and Confidential Information shall not include any information that:

- (a) Is in the public domain;
- (b) Is already known or obtained by any other party other than in the course of the other party’s performance pursuant to the Terms and Conditions, and without breach of any confidentiality, nondisclosure or other agreement by such other party;
- (c) Is independently developed by any other party;
- (d) Becomes known from an independent source having the right to disclose such information and without similar restrictions as to disclosure and use and without breach of the Terms and Conditions, or any other confidentiality or nondisclosure agreement by such other party; and/or
- (e) Is Patient Data that is subject to the privacy protections described in Section 9 (Privacy and Security of Patient Data).

13.2 Nondisclosure of Proprietary and Confidential Information. HIO and the Participant each (i) shall keep and maintain in strict confidence all Proprietary and Confidential Information received from the other, or from any of the other’s employees, accountants, attorneys, consultants, or other agents and representatives, in connection with the performance of their respective obligations under the Terms and Conditions; (ii) shall not use, reproduce, distribute or disclose any such Proprietary and Confidential Information except as permitted by the Terms and Conditions; and (iii) shall prevent its employees, accountants, attorneys, consultants, and other agents and representatives from making any such use, reproduction, distribution, or disclosure.

13.3 Equitable Remedies. All Proprietary and Confidential Information represents a unique intellectual product of the party disclosing such Proprietary and Confidential Information (the “Disclosing Party”). The unauthorized disclosure of said Proprietary and Confidential Information would have a detrimental impact on the Disclosing Party. The damages resulting from said detrimental impact would be difficult to ascertain but would result in irreparable loss. It would require a multiplicity of actions at law and in equity in order to seek redress against the receiving party in the event of such an unauthorized disclosure. The Disclosing Party shall be entitled to equitable relief in preventing a breach of this Section 13 (Proprietary and Confidential

Information) and such equitable relief is in addition to any other rights or remedies available to the Disclosing Party.

13.4 Notice of Disclosure. Notwithstanding any other provision hereof, nothing in this Section 13 (Proprietary and Confidential Information) shall prohibit or be deemed to prohibit a party hereto from disclosing any Proprietary and Confidential Information (or any other information the disclosure of which is otherwise prohibited hereunder) to the extent that such party becomes legally compelled to make such disclosure by reason of a subpoena or order of a court, administrative agency or other governmental body of competent jurisdiction, and such disclosures are expressly permitted hereunder; provided, however, that a party that has been requested or becomes legally compelled to make a disclosure otherwise prohibited hereunder by reason of a subpoena or order of a court, administrative agency or other governmental body of competent jurisdiction shall provide the other party with notice thereof within five (5) calendar days, or, if sooner, at least three (3) business days before such disclosure will be made so that the other party may seek a protective order or other appropriate remedy. In no event shall a party be deemed to be liable hereunder for compliance with any such subpoena or order of any court, administrative agency or other governmental body of competent jurisdiction.

## Section 14

### DISCLAIMERS, EXCLUSIONS OF WARRANTIES, AND LIMITATIONS OF LIABILITY

14.1 Carrier Lines. By using the System and the Services, each Participant shall acknowledge that access to the System is to be provided over various facilities and communications lines, and information will be transmitted over local exchange and Internet backbone carrier lines and through routers, switches, and other devices (collectively, “carrier lines”) owned, maintained, and serviced by third-party carriers, utilities, and Internet service providers, all of which are beyond HIO’s control. HIO assumes no liability for or relating to the integrity, privacy, security, confidentiality, or use of any information while it is transmitted on the carrier lines, or any delay, failure, interruption, interception, loss, transmission, or corruption of any data or other information attributable to transmission on the carrier lines. Use of the carrier lines is solely at user’s risk and is subject to all applicable local, state, national, and international laws.

14.2 No Warranties. Except as described on Schedule 8, or in the applicable third-party agreement described in Section 8.3.1 (Licenses, Subscriptions and/or Other Agreements), access to the System, use of the Services, and the information obtained by a Data Recipient pursuant to the use of those services are provided “as is” and “as available” without any warranty of any kind, expressed or implied, including but not limited to, the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. The Participant is solely responsible for any and all acts or omissions taken or made in reliance on the System or the information in the System, including inaccurate or incomplete information. It is expressly agreed that in no event shall HIO be liable for any special, indirect, consequential, or exemplary damages, including but not limited to, loss of profits or revenues, loss of use, or loss of information or data, whether a claim for any such liability or damages is premised upon breach of contract, breach of warranty, negligence, strict liability, or any other theories of liability, even if HIO has been apprised of the possibility or likelihood of such damages occurring. HIO disclaims any and all liability for erroneous transmissions and loss of service resulting from communication failures by telecommunication service providers or the System.

14.3 Other Participants. By using the System and the Services, each Participant shall acknowledge that other Participants have access to the System and Services, and that other parties have access to the information contained in the System through their participation in an Other HIO. Such other Participants have agreed to comply with the Policies and Procedures concerning use of the information; however, the actions of such other parties are beyond the control of HIO. Accordingly, HIO does not assume any liability for or relating to any impairment of the privacy, security, confidentiality, integrity, availability, or restricted use of any information on the System resulting from any Participant’s actions or failures to act.

14.4 Participant’s Actions. The Participant shall be solely responsible for any damage to a computer system, loss of data, and any damage to the System caused by that Participant or any person using a user ID assigned to the Participant or a member of the Participant’s workforce.

14.5 Unauthorized Access; Lost or Corrupt Data. HIO is not responsible for unauthorized access to the Participant’s transmission facilities or equipment by individuals or entities using the System or for unauthorized access to, or alteration, theft, or destruction of the participant’s data files, programs, procedures, or information through the System, whether by accident, fraudulent

means or devices, or any other method. The Participant is solely responsible for validating the accuracy of all output and reports and protecting the Participant's data and programs from loss by implementing appropriate security measures, including routine backup procedures. The Participant waives any damages occasioned by lost or corrupt data, incorrect reports, or incorrect data files resulting from programming error, operator error, equipment or software malfunction, security violations, or the use of third-party software. HIO is not responsible for the content of any information transmitted or received through HIO's provision of the Services.

14.6 Inaccurate Data. All Patient Data originates from Data Providers and/or other parties and not from HIO. The Services include certain measures to prevent, and/or to detect and correct, certain errors in Patient Data and its delivery into Data Recipients' systems, as more particularly described in the Policies and Procedures. Nevertheless, HIO and the Services may not be able to prevent, and/or detect and correct, all errors in data received from Data Providers. In addition, all such data is subject to change arising from numerous factors, including without limitation, changes to patient health information made at the request of the patient, changes in the patient's health condition, the passage of time and other factors. Without limiting any other provision of the Terms and Conditions, HIO shall have no responsibility for or liability related to the accuracy, content, currency, completeness, content, or delivery of any data either provided by a Data Provider, or used by a Data Recipient, pursuant to the Terms and Conditions.

14.7 Patient Care. Without limiting any other provision of the Terms and Conditions, the Participant and the Participant's Authorized Users shall be solely responsible for all decisions and actions taken or not taken involving patient care, utilization management, and quality management for their respective patients and clients resulting from or in any way related to the use of the System or the Services or the data made available thereby. No Participant or Authorized User shall have any recourse against, and through the Participation Agreements that apply thereto, each shall waive, any claims against HIO for any loss, damage, claim, or cost relating to or resulting from its own use or misuse of the System and/or the Services or the data made available thereby.

14.8 Limitation of Liability. Notwithstanding anything in the Terms and Conditions to the contrary, to the maximum extent permitted by applicable laws, the aggregate liability of HIO, and HIO's officers, directors, employees, and other agents, to any Participant with respect to the subject of these Terms and Conditions, regardless of theory of liability, shall be limited to the aggregate fees actually paid by the Participant in accordance with the Terms and Conditions for the six- (6) month period preceding the event first giving rise to the claim.

## **Section 15**

### **INSURANCE AND INDEMNIFICATION**

15.1 Insurance. The Participant shall obtain and maintain insurance coverage in accordance with the Policies and Procedures, which is incorporated herein by reference. Without limiting the generality of the foregoing, the Participant shall obtain and maintain insurance coverage for general and professional liability with coverage limits that are reasonable and customary for a party engaged in the activities of the Participant in California. If any policy of such insurance is issued on a “claims made” basis, then upon the termination of any such policy, the Participant shall procure extended reporting (“tail”) coverage for such policy for the longest extended reporting period that is commercially available.

#### 15.2 Indemnification.

15.2.1 Indemnification, Generally. HIO and each Participant (each, an “Indemnifying Party”) each shall hold the other and, if the Participant is the Indemnifying Party, the other Participants (the “Indemnified Party”) free of and harmless from all liability, judgments, costs, damages, claims, or demands, including reasonable attorneys' fees, net of the proceeds of insurance, arising out of the act or omission of the Indemnifying Party or any of the Indemnifying Party's Authorized Users, members, agents, staff, or employees, including the Indemnifying Party's failure to comply with or perform its obligations under the applicable Participation Agreement. Nothing in the Terms and Conditions or any Participation Agreement shall limit HIO's or a Participant's respective legal and equitable obligations to each other and to other Participants arising out of the doctrines of equitable indemnity, comparative negligence, contribution or other common law bases of liability.

15.2.2 Specific Indemnities. Notwithstanding Section 15.2.1 (Indemnification, Generally), HIO and each Participant (each, an “Indemnifying Party”) each shall hold the other (the “Indemnified Party”) free of and harmless from all liability, judgments, costs, damages, claims, or demands, including reasonable attorneys' fees, net of the proceeds of insurance, arising out of any Breach of Privacy or Security arising out of the act or omission of the Indemnifying Party or any of the Indemnifying Party's Authorized Users, members, agents, staff, or employees or out of Data Provider's provision of any Patient Data that is inaccurate, incomplete, or defamatory.

15.2.3 Rules for Indemnification. Any indemnification made pursuant to the Terms and Conditions shall include payment of all costs associated with defending the claim or cause of action involved, whether or not such claims or causes of action are meritorious, including reasonable attorneys' fees and any settlement by or judgment against the party to be indemnified. In the event that a lawsuit is brought against the party to be indemnified, the party responsible to indemnify that party shall, at its sole cost and expense, defend the party to be indemnified, if the party to be indemnified demands indemnification by written notice given to the indemnifying party within a period of time wherein the indemnifying party is not prejudiced by lack of notice. Upon receipt of such notice, the indemnifying party shall have control of such litigation but may not settle such litigation without the express consent of the party to be indemnified, which consent shall not be unreasonably withheld, conditioned or delayed. The indemnification obligations of the parties shall not, as to third parties, be a waiver of any defense or immunity

otherwise available, and the indemnifying party, in indemnifying the indemnified party, shall be entitled to assert in any action every defense or immunity that the indemnified party could assert on its own behalf.



## Section 16

### TRANSPARENCY, OVERSIGHT, ENFORCEMENT AND ACCOUNTABILITY

16.1 Transparency. HIO may develop, implement and conduct measures to provide Participants information concerning the ongoing operations of the System and the Services, including, without limitation, the efficiency, effectiveness, and security thereof, and the uses and disclosures of Patient Data made by and among Participants pursuant to their use thereof, as described in the Policies and Procedures.

16.2 Oversight. HIO may, as shall be described in the Policies and Procedures, review and prepare periodic reports to HIO and Participants concerning the ongoing operations of and other information regarding the System and the Services. Such reports shall include without limitation information regarding the efficiency, effectiveness, and security of the System and the Services, and the accesses to and uses and disclosures of Patient Data made by and among Participants pursuant to their use thereof, including without limitation Participants' adherence to the Terms and Conditions and /or Policies and Procedures regarding the privacy and security of Patient Data.

16.3 Enforcement and Accountability. HIO may, either independently or upon the request of a Participant, review the uses and disclosures of Patient Data by any Participant, including without limitation the Participant's adherence to the Terms and Conditions and/or Policies and Procedures, and take action with respect thereto as described in the Terms and Conditions or the Policies and Procedures. Any action taken by HIO shall be taken only in accordance with the Terms and Conditions and the Policies and Procedures, and HIO shall provide the Participant an opportunity to provide information regarding the matter(s) involved in any such action to the HIO before any action is taken.

**Section 17**  
**MISCELLANEOUS PROVISIONS**

17.1 Applicable Law. The interpretation of the Terms and Conditions and the resolution of any disputes arising under the Terms and Conditions and Participants' Participation Agreements shall be governed by the laws of the State of California. If any action or other proceeding is brought on or in connection with the Terms and Conditions or a Participation Agreement, the venue of such action shall be exclusively in Mendocino County, in the State of California.

17.2 Non-Assignability. No rights of the Participant under its Participation Agreement may be assigned or transferred by the Participant, either voluntarily or by operation of law, without the prior written consent of HIO, which it may withhold in its sole discretion.

17.3 Third-Party Beneficiaries. There shall be no third-party beneficiaries of any Participation Agreement.

17.4 Supervening Circumstances. Neither the Participant nor HIO shall be deemed in violation of any provision of a Participation Agreement if it is prevented from performing any of its obligations by reason of: (a) severe weather and storms; (b) earthquakes or other natural occurrences; (c) strikes or other labor unrest; (d) power failures; (e) nuclear or other civil or military emergencies; (f) acts of legislative, judicial, executive, or administrative authorities; or (g) any other circumstances that are not within its reasonable control. This Section 17.4 (Supervening Circumstances) shall not apply to obligations imposed under applicable laws and regulations or obligations to pay money.

17.5 Severability. Any provision of the Terms and Conditions or any Participant Participation Agreement that shall prove to be invalid, void, or illegal, shall in no way affect, impair, or invalidate any other provision of the Terms and Conditions or such Participation Agreement, and such other provisions shall remain in full force and effect.

17.6 Notices. Any and all notices required or permitted under the Terms and Conditions shall be sent by United States mail, overnight delivery service, or facsimile transmission to the address provided by the Participant to HIO or such different addresses as a party may designate in writing. If the Participant has supplied HIO with an electronic mail address, HIO may give notice by email message addressed to such address; provided that if HIO receives notice that the email message was not delivered, it shall give the notice by United States mail, overnight delivery service, or facsimile.

17.7 Waiver. No provision of the Terms and Conditions or any Participant Participation Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

17.8 Complete Understanding. With respect to any Participant Participation Agreement made pursuant to the Terms and Conditions, that Agreement and the Terms and Conditions together contain the entire understanding of the parties, and there are no other written or oral understandings or promises between the parties with respect to the subject matter of any

Participation Agreement other than those contained or referenced in that Participation Agreement. All modifications or amendments to any Participation Agreement shall be in writing and signed by all parties.



REDWOOD MEDNET, INC.

Schedule 2

**PARTICIPANT TYPE AND SERVICES FOR  
HEALTH INFORMATION EXCHANGE ORGANIZATION  
PARTICIPATION AGREEMENT**

REDWOOD MEDNET, INC.

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PARTICIPATION AGREEMENT**

1. The Participant Type is [*per definitions in Redwood MedNet Policies and Procedures*].
2. The Participant is a [*Data Provider, Data Recipient or both*].
3. The Participant is registered to use the following Services: [*list or specify none*].
4. The Participant shall receive the following Associated Hardware and/or Software: [*list or specify none*].