

Hospital Vendor Contract – Summary Sheet

1. ☐ Existing Vendor ☒ New Vendor
2. **Name of Contract:** Participation Agreement and Quote
3. **Contract Parties:** MyHealth Access Network and Mangum City Hospital Authority
4. **Contract Type Services:** Health information exchange services
 - a. **Impacted hospital departments:**
 - IT
 - Compliance

5. **Contract Summary:**

According to the new Medicaid managed care bill, SB 1337, and the statewide health information exchange (HIE) bill, SB1369, all health care providers are required to be connected to the state-designated HIE (MyHealth Access) by July 2023.

MyHealth helps providers better monitor and improve care coordination, improve patient experience by making their whenever and wherever their care occurs, and improve quality care. With the statewide HIE, the state can vastly improve public health, care coordination, records exchange, and address care fragmentation and care gaps for providers.

By connecting to the MyHealth platform, the hospital will be able to meet the state-wide mandate.

6. **Cost:** ☒

MyHealth	Implementation one-time fees	
	MyHealth	CPSI (Hospital EMR)
\$758.92/month	\$0.00 (\$10,000 integration cost removed at this time. MyHealth recent proposed a Bill requesting the State to pay for the integration cost for all facilities in Oklahoma).	\$0.00 (\$10,000 implementation fee waived due to Cohesive corporate agreement with CPSI.)

7. **Prior Cost:** None.
8. **Termination Clause:** Written notification within 60 days prior to ending term.
 - a. **Term:** 1 year and auto-renews each year.
9. **Other:**



Order Form

Exhibit 1

P.O. Box 56
Tulsa, OK 74101
(918) 236-3434
MyHealth@MyHealthAccess.net

TO:

Mangum Regional Medical Center
1 Wickersham Drive
Mangum Oklahoma 73554

Monthly Participant Fee

Product	Description	Rate Basis	Rate	Units	Total
Base Participation Fee	Health Information Exchange Statute "Utilization" compliant product - Securely access patient records during and/or in support of patient treatment or health care operations. - Unlimited User Accounts to a live, secure, web-based portal available 24/7 with summary medical record on Oklahoma patients – as allowed by the MyHealth Access Network - Network Policies	Adjusted Patient Days	\$ 0.10588	7,168	\$ 758.92
Recurring Monthly Base Fee					\$ 758.92

Product	Description	Rate Basis	Rate	Units	Total
Queue: EMR Integrations with the state designated entity for HIE	Health Information Exchange Statute " Send data to" compliant product - Establish a direct, secure connection between the organizations EMR and the state designated entity for HIE - Receive data in the form and format as defined on the Office of the State Coordinator for HIE website. MyHealth's Integrations Queue allows you to elect to be added to our queue for data feed integration services without any upfront costs allowing you to capture any future funding that may become available. You will not be charged until it's your turn to start the integration process, at which time we will provide a quote for the feed build. No work will begin until an order form has been executed, giving you complete control and transparency over the process.	Per EMR Instance	Quote to be provided	Quote to be provided	Quote to be provided

Total Recurring Monthly Cost	\$ 758.92
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Notes:

- Services may be discontinued and removed from Order Form with sixty (60) days advance notice in writing by Participant Organization to MyHealth of its intent to do so.
- The Term of Order Form shall begin on order form execution date and shall last until Participating Organization or MyHealth provides sixty (60) days advance notice in writing of its intent to terminate.
- Units used to calculate the base membership fee and analytics products elected will be recalculated annually. +/- 5% change in units will result in updated invoicing
- Analytics allowance cannot be redeemed for cash back. Credit Allowance only applied to the subscription of analytics products. .
- Fees quoted on this Order Form are guaranteed for 30 days.

Approved by (MyHealth):

Signature	Print Name	Date
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To accept this quotation, sign here and return:

Signature	Print Name	Date
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MyHealth Access Network Participation Agreement

This Participation Agreement, made as of _____, by and between the **MyHealth Access Network, Inc.** ("MyHealth") and _____ ("Participant Organization"), makes Participant Organization a Participant in the MyHealth Access Network, and obligates both parties to comply with the MyHealth Participation Terms and Conditions ("Terms and Conditions") and the MyHealth Privacy and Security Policies and Procedures, as they may be amended from time to time.

Participant Organization hereby acknowledges that it has received and reviewed a copy of the Terms and Conditions and the MyHealth Privacy and Security Policies and Procedures, and recognizes and acknowledges its rights and obligations as specified therein.

The Term of this Participation Agreement shall begin on Agreement's effective date, and shall last until MyHealth or the Participant provides written notice of its intent not to continue in accordance Terms and Conditions.

MyHealth shall provide the MyHealth Services listed in Exhibit 1 ("Order Form") to this Participation Agreement, with the corresponding fee schedules listed therein. This Exhibit is an essential part of this Participation Agreement. Exhibit 1 will be amended as requested in writing by Participant Organization, and as agreed in writing by MyHealth under the following terms:

- Additional services from Schedule 1.3 of the Terms and Conditions may become Selected Services in Exhibit 1 at any time with accompanying fees from Schedule 13.2, or as agreed upon in writing by both Parties, with accompanying agreed-upon service terms.
- Services may be discontinued and removed from Exhibit 1 with sixty (60) days advance notice in writing by Participant Organization to MyHealth of its intent to do so.
- MyHealth core subscription service shall not be considered optional, and may only be terminated with the termination of this Participation Agreement in accordance with the Terms and Conditions.

This Participation Agreement and the Terms and Conditions, together with any exhibits to either of them, shall represent the entire agreement between the Participant Organization and MyHealth, and shall supersede all previous negotiations and agreements, whether written or oral.

This Participation Agreement may be executed in any number of counterparts, each of which will be an original, but all of which taken together will constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Participation Agreement as of the dates indicated below:

**MYHEALTH ACCESS NETWORK, Inc.
("MyHealth")**

PO Box 56
Tulsa, Oklahoma, 74101

By: _____

Print Name: Mike Reeves, COO

Date: _____

Notice:

If to the Business Associate:

MyHealth Access Network
P.O. Box 56
Tulsa, Oklahoma 74101
Attn: Compliance Officer

Email: privacy@myhealthaccess.net

Phone: 918-236-3434

PARTICIPANT ORGANIZATION

(Organization or Practice Name)

(Address)

(City, State, Zip)

By: _____

Print Name: _____

Date: _____

Notice:

If to Covered Entity:

Attn: _____

Email: _____

Phone: _____

MyHealth Participation Terms and Conditions

v1.4

Contents

1.	INTRODUCTION.....	6
1.1	Nature of Organization.....	6
1.2	Purposes.....	6
1.3	Description of Services.	7
1.4	Inter-Network Exchanges and Change or Termination of Services.....	7
2.	DEFINITIONS.....	7
2.1	Authorized User.	7
2.2	Business Associate.....	7
2.3	Covered Entity.....	7
2.4	Data Supplier.....	8
2.5	Data Recipient.	8
2.6	Effective Date.	8
2.7	Healthcare Operations.	8
2.8	HIPAA.	8
2.9	Individual.....	8
2.10	Limited Data Sets.....	8
2.11	MyHealth.....	8
2.12	MyHealth Services.....	8
2.13	MyHealth System.	8
2.14	Network.....	8
2.15	Payment.	8
2.16	Participant.	8
2.17	Participation Agreement	9
2.18	Policies and Procedures.....	9
2.19	Protected Health Information (“PHI”).	9
2.20	Reserved.....	9
2.21	Research.....	9
2.22	State.	9
2.23	Treatment.	9

2.24	Trusted Holder.	9
2.25	Workforce.	9
3.	POLICIES AND PROCEDURES.....	9
3.1	Generally.	9
3.2	Development and Dissemination; Amendments.	10
4.	PARTICIPATION REQUIREMENTS.....	10
4.1	Application Required.	10
4.2	Application for Participation.....	10
4.3	Review of Applications.	11
4.4	Acceptance of Application.....	11
4.5	Compliance with Policies and Procedures.	11
4.6	Changes to Policies and Procedures.	11
4.7	Request for Reconsideration or Termination Based on Objection to Change.	11
5.	AUTHORIZED USERS.	12
5.1	Participant’s Authorized Administrator.	12
5.2	Passwords.....	12
5.3	No Use by Other than Authorized Users.....	12
5.4	Responsibility for Conduct of Participant, MyHealth, and Authorized Users.	12
6.	DATA RECIPIENTS’ RIGHTS AND OBLIGATIONS.....	12
6.1	Grant of Rights.	12
6.2	Permitted Uses.....	12
6.3	Prohibited Uses.	12
7.	DATA SUPPLIERS’ RIGHTS AND OBLIGATIONS.....	13
7.1	Grant of Rights by MyHealth.	13
7.2	Provision of Data.	13
7.3	Measures to Assure Accuracy of Data.	14
7.4	License and Limitations on Use of PHI.....	14
8.	ACCESS PROVIDED BY MyHealth.	14
8.1	Description.	14
8.2	Grant of License.....	14
8.3	Copying.....	14
8.4	Modifications; Derivative Work.....	15
8.5	Third-Party Software and/or Services.....	15

8.6	Open-Source Software.	15
8.7	Infringement Indemnity.	15
9.	CREATING, USING, AND DISCLOSING PHI FOR RESEARCH	16
9.1	Review of Research Requests.	16
9.2	Research By MyHealth or Third Parties.	17
9.3	Guidelines for Using and Disclosing PHI.	19
9.4	Involvement of Participant Investigator in Research.	20
9.5	Access to Network by Researchers.	20
9.6	Cooperation by Participants' in Network Evaluations.	20
10.	CONFIDENTIALITY AND PHI.	20
10.1	Compliance with HIPAA and Policies and Procedures.	20
10.2	Additional Requirements.....	20
10.3	Business Associate Agreement.	20
10.4	Liability.	26
11.	OTHER OBLIGATIONS OF PARTICIPANTS.	26
11.1	System Security	26
11.2	Software and/or Hardware Provided by Participant	26
11.3	Viruses and Other Threats.....	26
11.4	Training	27
12.	MyHealth'S OPERATIONS AND RESPONSIBILITIES.	27
12.1	Compliance with Policies and Procedures	27
12.2	Use of Contractors.....	27
12.3	Training	28
12.4	Telephone and/or E-Mail Support.....	28
12.5	Audits and Reports Access Reporting to Participants	28
12.6	Governing Body and Participant Council.	28
12.7	Addition of New Participants.....	28
13.	SERVICES, FEES AND CHARGES.	28
13.1	Agreed-Upon Fees.....	28
13.2	Service Fees.....	29
13.3	Changes to Service and Fee Schedules	29
13.4	Miscellaneous Charges	29
13.5	Payment	29

13.6	Late Charges	29
13.7	Suspension of Service	29
13.8	Taxes	29
13.9	Other Charges and Expenses	30
14.	PROPRIETARY INFORMATION.....	30
15.	DISCLAIMERS, EXCLUSIONS OF WARRANTIES, AND LIMITATIONS OF LIABILITY.....	30
15.1	Carrier Lines	30
15.2	No Warranties; Limitation of Liability.....	30
15.3	Participant’s Actions.....	31
15.4	MyHealth’s Actions	31
15.5	Unauthorized Access; Validation of Data; Lost or Corrupt Data	31
15.6	Inaccurate Data	31
15.7	Patient Care.....	31
15.8	Limitation of Liability	32
15.9	Exclusions	32
16.	INSURANCE.	32
16.1	Required Coverage	32
16.2	Evidence of Coverage	32
16.3	Commercial or Self-Insurance	32
17.	TERM AND TERMINATION OF PARTICIPATION AGREEMENT.....	33
17.1	Term.	33
17.2	Termination Without Cause.	33
17.3	Participant’s Right to Terminate for Cause.....	33
17.4	MyHealth’s Right to Terminate Participation Agreement.	33
17.5	Effect of Termination.....	34
17.6	Survival Provisions.....	34
18.	DISPUTE RESOLUTION.	34
18.1	Scope.....	34
18.2	Informal Conference.....	35
18.3	Mediation.....	35
18.4	Jurisdiction and Venue of Disputes	35
19.	GENERAL PROVISIONS.....	35
19.1	Applicable Law	35

19.2	Changes in Law	35
19.3	Regulatory References	36
19.4	Survival	36
19.5	Interpretation, Amendments and Conflicts.	36
19.6	Third Party Beneficiaries.....	36
19.7	Supervening Circumstances	36
19.8	Severability.....	36
19.9	Waiver	36
19.10	Schedules and Exhibits	36
19.11	Complete Understanding	37
19.12	Counterpart Signatures.	37
19.13	Succession and Assignment.....	37
19.14	Compliance.....	37
19.15	Independent Contractors.	37
19.16	Notice of Legal Claims.	37
19.17	Notice.....	38
EXHIBIT A: MyHealth INSURANCE PROGRAM		39
1.	INSURANCE TO BE MAINTAINED BY MyHealth	39
1.1.	Commercial General Liability.....	39
1.2	Automobile Liability	39
1.3	Workers' Compensation & Employers' Liability.....	39
1.4.	Umbrella Liability	39
1.5	Technology Errors and Omissions and Cyber Liability	39
1.6.	Technology Errors and Omissions and Cyber Liability Excess	39
1.7.	Financial Rating of Insurers	40
1.8.	Notice of Cancellation, etc.	40
1.9.	Evidence of Insurance	40
1.10.	Adequacy of Insurance	40

1. INTRODUCTION.

1.1 Nature of Organization.

MyHealth Access Network, Inc. ("MyHealth"), is an Oklahoma nonprofit corporation organized and operated exclusively for one or more purposes recognized as exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

1.2 Purposes.

- a. MyHealth seeks to reduce the cost and improve the quality and efficiency of health care provided by the Participants through the electronic management and exchange of health information acquired or generated by them in providing, paying for, and reporting on patient care items and services.
- b. MyHealth is a health information exchange organization, which means it fulfills the goal to facilitate the electronic transmission, storage, and sharing of health information among participating providers of health care services, third-party payers for health care services, and other interested parties in a manner that complies with all applicable laws and regulations, including without limitation those protecting the privacy and security of health information.
- c. MyHealth supports various initiatives directed towards the development of cooperative, nationwide health information sharing. MyHealth pursues opportunities for building and strengthening health information technology infrastructure to increase the quality of care, and slow the growth of health care spending. MyHealth may continue to pursue projects to design and implement projects to develop community-wide clinical data sharing by developing a clinical information data exchange and projects supporting transitions of care, clinical decision support, and community-wide analytics. MyHealth may also choose to directly receive funding through grant contracts or awards from private foundations, the federal government, and others in support of its purposes identified in these terms.
- d. The intent of MyHealth and its Participants is to share information for purposes described in Section 1.3. Specifically, this Participation Agreement is intended to provide a collaborative framework consistent with HIPAA and other applicable law through which: (i) the parties can share information for treatment purposes of individuals seeking healthcare; (ii) MyHealth can conduct its operations as provided in this Agreement; and (iii) the parties can use the information for other purposes which have been authorized in compliance with Section 9. Any expansion beyond the purposes identified in this Section 1.2(d) must be approved by the Governing Body (see Section 12.6). Participants authorize MyHealth to use and disclose data generated and received for all such approved purposes in accordance with Section 10 herein. Consistent with these purposes, the goal of MyHealth is to receive data

from Data Suppliers (see Section 4.2) and provide access to such data to Data Recipients (see Section 4.2).

- e. As of March 2022, MyHealth contracted with the Oklahoma Health Care Authority to provide services necessary to facilitate the efficient implementation, operation, and administration of the statewide HIE network, and to serve as the state designated entity for health information exchange, as defined in 63 O.S. Section 1-133. This contract is renewable each year and it is MyHealth's intent to retain this status.

1.3 Description of Services.

MyHealth shall establish and operate a health information exchange and record locator service to assist the Participants in locating and sharing patient information ("MyHealth System" or "Network"). MyHealth shall make certain information-sharing and related services ("MyHealth Services") available to Participants as may be agreed upon between MyHealth and each Participant in the Participation Agreement Order Form described in Section 4.

1.4 Inter-Network Exchanges and Change or Termination of Services.

MyHealth may choose to participate in national networks such as eHealth Exchange, or link with other regional networks with approval of the Governing Body in accordance with Network Policies. Such decisions are subject to a Participant's right to terminate for objection as set forth in Section 4.7 and in the Network Policies. MyHealth may change, add, or discontinue one or more MyHealth Services, at any time in its sole discretion. Change or discontinuation of a services in use requires thirty (30) days advance written notice to the Participants utilizing such service.

2. DEFINITIONS.

2.1 Authorized User.

The term "Authorized User" shall mean an individual who has been authorized by a Participant, or by MyHealth in the case of MyHealth Workforce, to access PHI via MyHealth. See Section 5.1.

2.2 Business Associate.

The term "Business Associate" shall mean MyHealth Access Network, Inc. when, in accordance with the terms of this Participation Agreement, it engages in any activity or function that is regulated or restricted by the HIPAA, and involves the storage, utilization, or disclosure of PHI, including data analysis, utilization review, quality assurance, claims processing or administration, billing services, benefits management, research, and practice management services; and when it provides actuarial, consulting, management, administrative, accreditation or data aggregation, as that term is defined at 45 CFR §164.501.

2.3 Covered Entity.

The term "Covered Entity" shall mean the entity that is entering into this Agreement with MyHealth. In Section 10, the Covered Entity is the Participant.

2.4 Data Supplier.

The term “Data Supplier” shall mean a Participant approved to provide information to MyHealth for use through the MyHealth System by entering into a Participation Agreement with MyHealth. See Section 7.1.

2.5 Data Recipient.

The term “Data Recipient” shall mean a Participant approved to use the MyHealth System to obtain information by entering into a Participation Agreement with MyHealth, or an organization approved by the Governance Body who has entered into an appropriate agreement with MyHealth, in accordance with Policies and Procedures. See Section 6.1.

2.6 Effective Date.

The term “Effective Date” is defined in each Participant’s Participation Agreement.

2.7 Healthcare Operations.

The term “Healthcare Operations” shall have the meaning set forth in 45 CFR 164.501.

2.8 HIPAA.

The term “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder at 45 CFR Parts 160, 162, and 164 and any amendments thereto.

2.9 Individual.

The term “Individual” shall mean the same as the term “individual” as defined in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

2.10 Limited Data Sets.

The term “Limited Data Set” shall mean PHI that excludes all direct identifiers of an Individual or of all relatives, employers, or household members of the Individual that are required to be removed pursuant to 45 CFR §164.514(e).

2.11 MyHealth.

The term “MyHealth” is defined in Section 1.1 and means MyHealth Access Network, Inc.

2.12 MyHealth Services.

The term “MyHealth Services” is defined in Section 1.3.

2.13 MyHealth System.

The term “MyHealth System” is defined in Section 1.3.

2.14 Network.

The term “Network” is defined in Section 1.3.

2.15 Payment.

The term “Payment” shall have the meaning ascribed to it by 45 CFR 164.501.

2.16 Participant.

The term “Participant” shall mean an organization approved to act as a Data Supplier and/or as a Data Recipient by entering into a Participation Agreement with MyHealth.

2.17 Participation Agreement

The term “Participation Agreement”, means the document signed by an organization and by MyHealth, which incorporates these Terms and Conditions, and that establishes an organization as a Participant. Similarly, the term “Agreement” means the document signed by an organization and by MyHealth which is approved by the Governing Body under the Policies and Procedures that authorizes the organization to send and/or receive data through the Network.

2.18 Policies and Procedures.

The term “Policies and Procedures” shall mean the policies and procedures created and maintained by MyHealth as described in Section 3 of this Agreement.

2.19 Protected Health Information (“PHI”).

The term "Protected Health Information" and the abbreviation "PHI" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the individually identifiable health information created or received by Business Associate from or on behalf of Covered Entity. This term shall include Electronic Protected Health Information ("EPHI"), which is further defined as PHI that is transmitted by "electronic media" (as that term is defined at 45 CFR § 160.103) or that is maintained in any form of electronic media.

2.20 Reserved.

2.21 Research.

The term “Research” shall mean a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

2.22 State.

The term “State” shall mean the State of Oklahoma.

2.23 Treatment.

The term “Treatment” shall have the meaning ascribed to it by 45 CFR 164.501.

2.24 Trusted Holder.

The term “Trusted Holder” shall mean the role of MyHealth when it is the holder of information for the purpose of storing it on behalf of Participants and when it is not the legal owner of the information. See Section 10.3.b.iv.

2.25 Workforce.

The term “Workforce” shall mean employees, students/trainees, volunteers, contractors, and other individuals under the direct control of a Party, whether or not they are paid and whether their access to the MyHealth System is temporary or long-term.

3. POLICIES AND PROCEDURES.

3.1 Generally.

The Policies and Procedures shall apply to the operation of the MyHealth System, the provision of MyHealth Services, and the relationships among MyHealth and Participants. MyHealth and each Participant agrees to comply with all Policies and Procedures applicable to it.

3.2 Development and Dissemination; Amendments.

MyHealth is solely responsible for the development of the Policies and Procedures, and may amend, or repeal and replace, the Policies and Procedures at any time through the Governing Body processes referenced in Section 12.6. Each Participant will have the right to request reconsideration of a change and/or terminate its Participation Agreement as provided in Section 4.7 (Reconsideration or Termination). MyHealth shall provide written notice to all Participants of any changes to the Policies and Procedures consistent with the notice provisions provided in this document at least thirty (30) days prior to the effective date of the change. However, if the change is required in order for MyHealth and/or Participants to comply with applicable laws or regulations, MyHealth may implement the change within a shorter period of time as MyHealth determines appropriate under the circumstances. MyHealth shall notify Participants immediately in the event of a change required to comply with applicable laws and regulations. Policies and Procedures will be posted on the MyHealth website and will be updated from time to time.

4. PARTICIPATION REQUIREMENTS.

4.1 Application Required.

Only organizations approved by the Governance Body in accordance with Policies and Procedures shall be permitted to access MyHealth Systems and use MyHealth Services. A Participant may participate as a Data Supplier, a Data Recipient, or as both, as described in this Section. A Participant may be permitted to use some or all MyHealth Services, as approved pursuant to that Participant's Participation Agreement.

4.2 Application for Participation

Before an organization or individual may enter into a Participation Agreement, it must be invited by the MyHealth Governing Body, or submit a written application for participation ("Application") as described in this Section 4.2. A Participation Application shall include:

- a. Organization's or individual's identifying information (name, address, officers, business description), status with regards to participating in government programs and contractual arrangements, service population and service area;
- b. Whether the Participant would be a Data Supplier, a Data Recipient, or both (subject to options available to the Participant under the Policies and Procedures corresponding to its Participant Type as referenced in Section 4.3 below);
- c. If the Participant is registered as a Data Recipient, which of MyHealth Services the Participant wishes to use; and
- d. Such other information as MyHealth may deem appropriate under its Policies and Procedures.

4.3 Review of Applications.

MyHealth shall review each Application, conduct any related evaluation activities, and approve or disapprove each Application in accordance with the Policies and Procedures and as MyHealth determines in its sole discretion, in compliance with applicable law, and under the direction of the Governing Body.

4.4 Acceptance of Application.

An applicant shall not be permitted to access MyHealth System and use MyHealth Services until it has entered into a Participation Agreement with MyHealth or has been otherwise approved by the Governance Body in accordance with Policies and Procedures..

4.5 Compliance with Policies and Procedures.

MyHealth and each Participant shall comply with all applicable provisions of the Policies and Procedures in effect from time to time as applicable to them. MyHealth may make exceptions to the Policies and Procedures with respect to a Participant at MyHealth's sole discretion, as long as any such exceptions do not otherwise conflict with the terms of the Agreement and are approved through the Governing Body processes referenced in Section 12.6.

4.6 Changes to Policies and Procedures.

MyHealth may amend or repeal and replace the Policies and Procedures at any time upon notice to the Participants as provided in Section 3.2 (Development and Dissemination; Amendments). Subject to Section 4.7 below, and applicable law, any such change to the Policies and Procedures shall be legally binding upon MyHealth and Participants, as of the effective date of the change.

4.7 Request for Reconsideration or Termination Based on Objection to Change.

If a change to the Policies and Procedures described in Section 4.6 affects a material right or obligation of a Participant under that Participant's Participation Agreement, and the Participant objects to that change, that Participant may, within thirty (30) days following MyHealth's notice of the change to Participant, (a) make request to the Governing Body for reconsideration noting the reasons for the Participant's objection; or (b) terminate its Participation Agreement by giving MyHealth written notice thereof. The change objected to will not be implemented with respect to the objecting Participant prior to resolution of a requested reconsideration or to the effective date of termination under this section, unless such change was required in order for MyHealth and/or Participants to comply with applicable laws or regulations.

a. Request for Reconsideration.

In the event of a request for reconsideration, the Governing Body shall review the request and make a determination thereon within thirty (30) days of its receipt of the request. The determination must be finalized and shall be conveyed in writing to the Participant within five (5) business days of becoming final.

b. Termination Based on Objection.

If Participant chooses not to request reconsideration, or is still unsatisfied after reconsideration, it may terminate its Participation Agreement by giving MyHealth written notice of termination pursuant to this Section 4.7. Such termination will be effective upon receipt of the notice.

5. AUTHORIZED USERS.

5.1 Participant's Authorized Administrator.

In accordance with the Policies and Procedures, Participant shall designate an Authorized Administrator which may be an individual, a group of individuals, or MyHealth. The Authorized Administrator is responsible for administering Authorized User accounts for that Participant. Each Authorized Administrator shall establish a unique identifier for each Authorized User, then determine and maintain associated roles for each Authorized User based on the responsibilities of that Authorized User. The Authorized Administrator is also responsible for terminating Authorized User access when an Authorized User leaves the Participant's Workforce.

5.2 Passwords.

The Authorized Administrator is responsible for enforcing the Participant's policies with respect to the frequency of password changes and password complexity. Authorized Users' accounts for accessing the MyHealth System will be subject to the security requirements established in the Policies and Procedures.

5.3 No Use by Other than Authorized Users.

Participant agrees to restrict access to the MyHealth System and, if applicable, use of MyHealth Services, to only Authorized Users.

5.4 Responsibility for Conduct of Participant, MyHealth, and Authorized Users.

To the extent allowed by law, Participants are responsible for acts and omissions of the Participant and its Workforce, and MyHealth is responsible for the acts and omissions of MyHealth and its Workforce. To the extent allowed by law, each Party shall be responsible for the acts or omissions of all other individuals who access the MyHealth System and/or use MyHealth Services either through the Party or by use of any password, identifier, mechanism, or log-on received or obtained from the Party or any of the Party's Authorized Users.

6. DATA RECIPIENTS' RIGHTS AND OBLIGATIONS.

6.1 Grant of Rights.

MyHealth grants to each Data Recipient, and each Data Recipient by entering into the Participation Agreement accepts, a non-exclusive, nontransferable (except as permitted herein), limited right to access and use, and allow its Authorized Users to access and use, MyHealth System and MyHealth Services consistent with the Data Recipient's Participation Agreement, subject to the Data Recipient's full compliance with the Participation Agreement. MyHealth retains all other rights to MyHealth System and all components thereof. No Data Recipient shall obtain any rights to MyHealth System except for the limited rights to use MyHealth System expressly granted by the Participation Agreement.

6.2 Permitted Uses.

A Data Recipient may use MyHealth System and MyHealth Services only for the permitted uses described in the Participation Agreement.

6.3 Prohibited Uses.

Without limiting the prohibition against any use not permitted under Section 6.2 above, a Data Recipient shall specifically not use or permit the use of MyHealth System or MyHealth Services

for any prohibited use described in the Agreement, the Policies and Procedures, or described below.

a. No Services to Third Parties.

Data Recipient agrees to limit its use of MyHealth System and MyHealth Services only for the Data Recipient's own needs, and shall not allow access to any third parties, except Authorized Users, or use any part of MyHealth System or MyHealth Services to provide separate services or sublicenses to any third party, including without limitation providing any service bureau services, data processing services, or equivalent services to a third party.

b. No Use for Comparative Studies.

Data Recipient shall not use the data of other Participants (i) to compare or analyze the performance of other Participants, or (ii) otherwise utilize data of other Participants for purposes not expressly approved under the Agreement or by the Governing Body.

Access to datasets containing PHI on multiple Individuals will only be provided in accordance with one or several policies approved by the Governing Body that identify relationships between Individuals and Participants with their Workforces.

c. Marketing.

Data Recipient shall not use MyHealth System or any MyHealth Services for purposes of marketing health services or products as defined in 45 CFR 164.501.

7. DATA SUPPLIERS' RIGHTS AND OBLIGATIONS.

7.1 Grant of Rights by MyHealth.

MyHealth grants to each Data Supplier, and each Data Supplier by entering into the Participation Agreement accepts a non-exclusive, nontransferable (except as permitted herein), limited right to have access to and to use, and for its Authorized Users to have access to and to use, MyHealth System for the purpose of complying with the obligations described in this Section 7 (Data Supplier's Rights and Obligations), subject to the Data Supplier's full compliance with this Participation Agreement. MyHealth retains all other rights to MyHealth System and all the components thereof. No Data Supplier shall obtain any rights to MyHealth System except for the limited right to use MyHealth System expressly granted by the Participant's Participation Agreement.

7.2 Provision of Data.

Each Participant may provide the data described in and required by its Participation Agreement. To the extent permitted by law, each Participant represents and warrants that, to the best of its knowledge, storing data, including without limitation PHI, on MyHealth System does not violate any rights, including, without limitation, copyrights of any third parties. MyHealth and Participant acknowledge that each Participant continues to own its data, that MyHealth holds the data on behalf of each Participant as a Trusted Holder, and that MyHealth has no ownership

rights in the data. Notwithstanding, in the event a Participant's participation in the MyHealth System terminates for any reason, the terminating Participant acknowledges that any Participant who properly accessed any such data in accordance with the terms of its Participation Agreement, may retain such data after termination.

7.3 Measures to Assure Accuracy of Data.

Each Data Supplier shall use reasonable efforts to ensure that all data, including (without limitation) PHI, it provides to MyHealth System is accurate, free from serious error, reasonably complete, and provided in a timely manner.

7.4 License and Limitations on Use of PHI.

The Data Supplier grants to MyHealth a fully-paid, worldwide, non-exclusive, royalty-free right and license (a) to sub-license and/or otherwise permit other Participants to access through MyHealth System and use all PHI provided by the Data Supplier pursuant to the Participation Agreement and corresponding Governing Body direction, and (b) to the extent permitted by HIPAA, other applicable laws and the Agreement, to use such PHI to carry out MyHealth's duties under the Participation Agreement, including without limitation system administration, testing, problem identification and resolution, management of MyHealth System, research in compliance with Section 9, and otherwise as MyHealth determines is necessary and appropriate to comply with and carry out its obligations under all applicable federal, state and local laws and regulations and grant agreements. MyHealth shall also have such right and license with respect to data other than PHI submitted by Participants, subject to any express limitations pertaining to such data contained in the Participation Agreement.

8. ACCESS PROVIDED BY MyHealth.

8.1 Description.

MyHealth shall provide to each Participant access to the MyHealth System via a web browser in accordance with the Policies and Procedures established by MyHealth from time to time.

8.2 Grant of License.

MyHealth grants to each Participant a non-exclusive, personal, nontransferable, limited license to use MyHealth System and, if the Participant is a Data Recipient, for the purpose of obtaining MyHealth Services. To the extent MyHealth's license or rights in any software are subject to an agreement with or grant from any third party, the license and rights received by the Participant are expressly subordinate and limited to the extent of such license and rights of MyHealth received from the third party. If, for any reason, the license or rights of MyHealth provided by a third party are limited or terminated, the rights of the Participant shall also be so limited or terminated. MyHealth represents and warrants that it will have an appropriate valid license with such third party and authority to sublicense to Participant. MyHealth will notify Participant in writing if any of Participant's rights regarding access is limited or terminated.

8.3 Copying.

The Participant shall not, without MyHealth's prior written consent, copy any of the software.

8.4 Modifications; Derivative Work.

Participant shall not modify, reverse engineer, decompile, disassemble, re-engineer or otherwise create or permit or assist others to create or access the MyHealth System, or to create any derivative works from the MyHealth System. The Participant shall not modify the MyHealth System or combine the MyHealth System with any other software or services not provided or approved by MyHealth.

8.5 Third-Party Software and/or Services.

The MyHealth System may include certain third-party software and services, which may require that a Participant wishing to utilize the software or services enter into separate subscription, licensing or other agreements with third-party vendors, or which may be open-source. Each Participant wishing to utilize the software or services shall execute such agreements approved by the Governing Body and reasonably acceptable to Participant as may be required for the use of such software or services, and to comply with the terms of any license or other agreement held by MyHealth from third parties, and any open-source or similar licenses, relating to third-party products. Nothing in this provision shall prevent MyHealth from entering into any agreement approved by the MyHealth Governing Body, provided such agreement is consistent with these Terms and Conditions.

8.6 Open-Source Software.

Nothing in the Policies and Procedures shall be construed to limit any use of open-source software in accordance with the applicable open-source software license (if any).

8.7 Infringement Indemnity.

a. Infringement Indemnity.

MyHealth shall indemnify, defend and hold Participant harmless against all threatened or actual claims, causes of action, disputes, damages, costs, charges and expenses, including attorneys' fees and costs arising from or related to any third party claim that the MyHealth System and/or MyHealth Services infringe a patent, copyright, trade secret or other intellectual or proprietary right of any third party. Participant shall (a) promptly notify MyHealth in writing of the claim; (b) grant MyHealth sole control of the defense and settlement of the claim (Participant may, at its own expense, assist in the defense if it so chooses, subject to MyHealth's control or defense and settlement negotiations); and (c) provide MyHealth, at MyHealth's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

b. Exclusions.

MyHealth will have no liability for any infringement or misappropriation claim of any kind to the extent it results from: (a) modification of any MyHealth System product or any MyHealth Services made by any party other than MyHealth; (b) the combination, operation or use of the MyHealth System or MyHealth Services with software, equipment or devices not supplied or authorized by MyHealth; (c) Participant's failure to use updated or modified MyHealth System or MyHealth

Services provided by MyHealth to avoid a claim; or (d) MyHealth's compliance with designs, plans or specifications furnished by or on behalf of Participant.

c. **Sole Remedy.**

The foregoing provisions of this Section 8.7 set forth MyHealth's sole and exclusive obligations, and Participant's sole and exclusive remedies, with respect to infringement or misappropriation of intellectual property rights of any kind, unless otherwise provided by law.

9. CREATING, USING, AND DISCLOSING PHI FOR RESEARCH

9.1 *Review of Research Requests.*

- a. MyHealth, from time to time, may act as Participants' Business Associate for purposes of reviewing requests for the use and disclosure of data submitted to MyHealth for research purposes. When MyHealth reviews a research proposal or project for the use of PHI, MyHealth will verify the identity of the person or entity requesting the PHI and also verify the authority under which the request for PHI is made.
- b. Any research proposal that MyHealth reviews that proposes to use all or any subset of the PHI must contain at least: (a) the name(s) of the sponsor(s) of the research and the name(s) of any institution(s) under whose auspices the sponsor(s) is working; (b) the specific question to be addressed by the research (no researcher shall be permitted to access the PHI without identifying a targeted goal for the research); (c) the PHI to which access is requested; (d) the proposed use of said PHI; (e) whether the research will require the identification of specific patients; (f) whether the research will require the identification of specific Participants; (g) any proposed publication of the results of the research; and (h) the means for protecting the confidentiality of the PHI.
- c. MyHealth shall require third parties to warrant that research publications arising from the use of PHI under this Section 9 will contain only aggregate data and will not directly or indirectly identify any patient whose PHI is received pursuant to this Agreement unless a specific authorization to do so is obtained from a patient.
- d. In no event will MyHealth allow PHI to be disclosed for research projects that have the effect of comparing the Participants (such as individual Participant outcomes, Participant financial information, or charges to patients or third-party payors and similar reimbursement data) without specific written approval from each of the institutions involved or unless such comparisons are an implicit component of a research project that complies with the provisions of Section 9.2(a).

9.2 *Research By MyHealth or Third Parties.*

- a. *General Rule - Approvals Required.* Except as otherwise provided below in this Section 9.2, any use or disclosure of the PHI (whether in identified or de-identified form) for research shall be proposed to MyHealth and approved by: (1) an Institutional Review Board designated or approved by MyHealth and (2) the Research Subcommittee (except as provided below). Prior to allowing the use of PHI of a Participant supplied to MyHealth for research purposes, a Participant may require that the project be subjected to the review of an Institutional Review Board of its own choice. A Participant may decline to allow PHI it supplied to be used for a particular study, but that shall not preclude the use or disclosure of the remaining Participants' submitted PHI for such project. At the request of the Governing Body, the Research Subcommittee shall provide reports of the research disclosures approved by the Research Subcommittee pursuant to this Section; however, the reports provided by the Research Subcommittee to the Governing Body are for informational purposes only. The Parties agree that PHI may be used and disclosed, consistent with the appropriate Institutional Review Board approval, after approval by the Research Subcommittee which shall be organized and administered as follows:
 - i. Each Participant will be entitled to be represented by an individual on the Research Subcommittee. Each Participant shall specifically identify the individual it desires to represent it on the Research Subcommittee and this individual shall be known as the Participant's Designated Research Representative. Such Designated Research Representative shall have full authority to act on behalf of the Participant with regard to duties assigned to the Research Subcommittee. MyHealth shall also be represented by an individual to serve on the Research Subcommittee. All research proposals or requests shall be provided to the Research Subcommittee and voted on by the Designated Research Representatives. The Research Subcommittee will meet or confer from time to time, in person or electronically (at its discretion), to consider and render a decision as to any research proposals presented to MyHealth. MyHealth shall be able to fully rely on the actions and representations of a Participant's Designated Research Representatives or any proxy representative that the Participant chooses to send to a meeting or communicate with MyHealth, and shall be fully protected in such reliance.
 - ii. Each Participant and MyHealth shall be entitled to exercise one vote through its Designated Research Representative on decisions facing the Research Subcommittee. If the Research Subcommittee approves a research proposal, the research proposal shall be proposed to the Governing Body for approval. If a proposal is approved by the Governing Body, the Participants whose submitted PHI must be used in the research proposal retain the right to exercise control over the use or nonuse of Participant's PHI.

- b. *No Further Approvals Required - Independent Agreements Between Participants and MyHealth.* If MyHealth has entered into, or enters into, any other agreement with one or more Participants that complies with HIPAA with regard to the research uses and disclosures of the Participant's own PHI stored in MyHealth, the provisions of such an agreement shall govern the use and disclosure of that Participant's PHI and the approvals required by Section 9.2(a) shall not be required.
- c. *No Further Approvals Required - Preparatory to Research and Decedents' Research.* MyHealth (as Participants' Business Associate) may, and the Participants (as Covered Entities) hereby delegate the authority to MyHealth to, authorize the use or disclosure of PHI (whether in identified or de-identified form) for research projects without further approval from Participants under Section 9.2(a), if the research projects meet the following criteria (provided that all HIPAA requirements regarding research have been met, including, but not limited to, the guidelines set forth in Section 9.3):
 - i. MyHealth may use or disclose identifiable PHI for reviews preparatory to research (consistent with 45 CFR § 164.512(i)(1)(ii); and
 - ii. MyHealth may use and disclose identifiable PHI for research on decedent's information (consistent with 45 CFR § 164.512 (i)(l)(iii).

MyHealth reserves the right to require a waiver of authorization from an Institutional Review Board acceptable to MyHealth. At the request of a Participant, MyHealth shall provide reports of the research disclosures made pursuant to this Section.

- d. *No Further Approvals Required - Certain Disclosures of De-identified Information and Limited Data Sets.* MyHealth (as Participants' Business Associate) may, and the Participants (as Covered Entities) hereby delegate the authority to MyHealth to, authorize the use or disclosure of PHI that has been de-identified in accordance with HIPAA or Limited Data Sets to any entity that has obtained an approval from an Institutional Review Board acceptable to MyHealth for the use of PHI that has been de-identified in accordance with HIPAA or Limited Data Sets in connection with a research project. Further, MyHealth may use or disclose PHI that has been de-identified in accordance with HIPAA or Limited Data Sets without further approval from a Participant if such PHI that has been de-identified in accordance with HIPAA or Limited Data Sets are included in classes or categories of queries that are approved by the Governing Body or an Institutional Review Board acceptable to MyHealth. At the request of a Participant, MyHealth shall provide reports of the research disclosures made pursuant to this Section.

9.3 *Guidelines for Using and Disclosing PHI.*

When a research project has been approved pursuant to Section 9.2, MyHealth shall act as the Participants' Business Associate for purposes of disclosing the PHI to the researchers. MyHealth shall use the following guidelines when using or disclosing PHI or de-identified data:

- a. *Initial Determination of Scope of PHI To Be Disclosed.* For each research project, MyHealth shall make a threshold determination of whether the minimum necessary use or disclosure of PHI to comply with the request involves the use or disclosure of identifiable PHI, a Limited Data Set, or PHI that has been de-identified in accordance with HIPAA. In making this threshold determination and when further disclosing PHI in connection with the research project, MyHealth may rely on and adopt the determination of an Institutional Review Board as to the scope of the minimum necessary disclosure for the research project. If a research disclosure is made pursuant to an Individual's authorization, the scope of the authorization shall constitute the minimum necessary disclosure. In the event MyHealth determines it is necessary to disclose the entire subset of PHI on the Network concerning an Individual to comply with the research request, MyHealth will document the justification for releasing the entire subset of PHI. An Institutional Review Board's determination that the entire subset of PHI on the Network is necessary, or an Individual's authorization, shall constitute such documentation.
- b. *Conditions For Disclosing Individually Identifiable Health Information.* If PHI is requested for a research project, MyHealth shall not use or disclose the PHI unless: (A) authorizations that comply with the HIPAA allowing the use or disclosure of the PHI for the specific research purpose are obtained or have obtained from all Individuals whose Information will be used or disclosed; or (B) a waiver of the authorization is obtained from an appropriate Institutional Review Board or Privacy Board in accordance with 45 CFR § 164.512(i). Notwithstanding the foregoing, MyHealth may use or disclose identifiable PHI for reviews preparatory to research (consistent with 45 CFR § 164.512(i)(1)(ii) and for research on decedent's information (consistent with 45 CFR § 164.512 (i)(1)(iii) without an authorization or the waiver thereof; provided that the use or disclosure of the PHI is consistent with the minimum necessary standard of the HIPAA. This Section 9.4(b) shall not apply to information in a Limited Data Set or de-identified information.
- c. *Conditions For Disclosing Limited Data Sets.* If a Limited Data Set is requested for a research project, MyHealth shall not use or disclose the PHI unless MyHealth, on behalf of the affected Covered Entity Participants, obtains a "Data Use Agreement" from the individual or entity using the Limited Data Set or to which the Limited Data Set will be disclosed, which is acceptable to the Covered Entity Participants. Such Data Use Agreement shall comply with the requirements of 45 CFR § 164.514(e). MyHealth further agrees to maintain copies of all Data Use Agreements related to Covered Entity Participants' submitted PHI and to forward same to the Covered Entity upon request.

- d. *Conditions For Disclosing PHI that Has Been De-Identified.* If PHI that has been de-identified in compliance with HIPAA is to be used or disclosed, MyHealth shall act as Covered Entities' Business Associate for purposes of de-identifying the PHI and shall ensure that no health data that is used or disclosed identifies an Individual and that there is no reasonable basis to believe that the de-identified information can be used to identify an Individual. All de-identification of PHI shall be conducted in compliance with 45 CFR § 164.514(a)-(c).

9.4 Involvement of Participant Investigator in Research.

As a condition of approval of a research project not conducted by MyHealth, any sponsor of research using all or any subset of the PHI shall be required to invite an investigator from any Participant whose PHI is used in the research and an investigator from MyHealth to participate in the research project.

9.5 Access to Network by Researchers.

No researcher, other than MyHealth, shall have direct access to PHI on the Network (although access to de-identified information and Limited Data Sets may be permitted if allowed under Section 9.2 and 9.3). PHI that is requested by researchers other than MyHealth shall be retrieved by representatives of MyHealth. Any use of the PHI for research by MyHealth shall be limited to the purpose of the research as approved or allowed by Section 9.2.

9.6 Cooperation by Participants' in Network Evaluations.

The Participants agree to cooperate in studies conducted from time to time by the MyHealth related to various issues surrounding the Network, including, but not limited to, the efficacy and usefulness of the Network. Such cooperation by the Participants may include, but not be limited to, participation in interviews, the completion of surveys, and the submission of other written or oral evaluations.

10. CONFIDENTIALITY AND PHI.

10.1 Compliance with HIPAA and Policies and Procedures.

MyHealth and each Participant shall comply with all applicable standards for the confidentiality, security, and use of PHI under HIPAA, the Policies and Procedures, any related requirements under other applicable federal, state, and local law and under such Participant's own policies.

10.2 Additional Requirements.

MyHealth and each Participant agree to enforce the confidentiality provisions of the Agreement by appropriately disciplining individuals within each Participant's organization who violate the confidentiality of PHI pursuant to each Participant's respective confidentiality and disciplinary policies.

10.3 Business Associate Agreement.

- a. *Additional Definitions.* When used in this Section 10, the following words shall have the meanings set forth below:

- i. "BAA" shall mean this Section 10.3 (Business Associate Agreement) of the Terms and Conditions of the Agreement, including this Section in all its parts, and any related or subservient agreements thereto;
 - ii. "Designated Record Set" shall refer to a collection of records, maintained by Business Associate at the direction, and subject to the criteria of, the Covered Entity. Such a collection shall consist of either: (i) the collected medical and billing information for patients of a covered healthcare provider, as maintained by or for that provider; (ii) a health plan's records of case management, claims review and adjudication, beneficiary enrollments, payment negotiations and issuances, and healthcare management; or (iii) a collection of those records that the Covered Entity has used, in whole or in part, to make medical, financial, and/or other decisions, with regard to specific individuals.
 - iii. "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A of the American Recovery and Reinvestment Act of 2009, and the regulations promulgated thereunder and any amendments thereto.
 - iv. "Party" or "Parties" shall mean the Covered Entity, the Business Associate, or both.
 - v. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
 - vi. "Secretary" shall mean the Secretary of the Department of Health and Human Services or designee.
 - vii. "Software Vendor" shall refer to any specified entity with which Business Associate may contract to provide hardware, software, technological support, and such other services as may be related to the development of the Network and the use, storage and disclosure of data by and between Members.
 - viii. "Unsecured Protected Health Information" shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary. (45 CFR 164.402).
- b. Obligations and Activities of Business Associate (MyHealth).
- i. Business Associate shall comply with 45 CFR §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards) and 164.316 (documentation requirements) and relevant provisions of Subtitle D of the HITECH Act and its related regulations, as such provisions and regulations

become effective and as applicable to business associates, as defined by 45 CFR § 160.103.

- ii. Business Associate agrees to not use or disclose PHI other than as permitted or required by 45 CFR § 164.504(e), the Agreement or as Required By Law, provided that any such use, storage, or disclosure of PHI would not violate HIPAA if performed by the Covered Entity. Any use, storage, or disclosure, of PHI by Business Associate will comply with the minimum necessary standard set forth in HIPAA.
- iii. Business Associate agrees to use appropriate administrative, technical, and physical safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement and 45 CFR § 164.504(e), and that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information in accordance with 45 CFR Part 164, Subpart C.
- iv. Business Associate agrees to report to Covered Entity any use, storage, disclosure, or requested disclosure of PHI, not provided for by this Agreement, and any Security Incident as defined by HIPAA of which it becomes aware. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- v. Business Associate agrees to report to the Covered Entity, in writing, within ten (10) business days of the Business Associate's discovery, or as promptly thereafter as the information becomes available, of any "Breach", as such term is defined in 45 CFR § 164.402 , as may be amended from time to time. The notification to Covered Entity of a Breach will include: (1) a description of what happened, including the date of the Breach, date of the discovery of the Breach, and affected Individuals; (2) a description of the types of unsecured PHI that were involved in the Breach; (3) suggested steps affected Individuals should take to protect themselves from potential harm resulting from the Breach; and (4) a brief description of what Business Associate is doing to investigate the Breach, mitigate potential harm, and to protect against future Breaches
- vi. If it is determined that a Breach is the result of the willful misconduct or negligent acts of one of the Parties, then that Party shall bear the costs associated with making notification of the Breach as required by state and federal law, as well as any costs related to additional remedies that the Covered Entity determines are necessary and appropriate to be provided to Individuals impacted by the Breach.
- vii. Business Associate will require that any agent or subcontractor who receives PHI from Business Associate, or who receives PHI created or received by

Business Associate on Covered Entity's behalf, signs a written agreement through which that agent or subcontractor agrees to the same restrictions, conditions and requirements that apply through this Agreement or otherwise to Business Associate with respect to such information.

- viii. Business Associate agrees to provide access, at the request of the Covered Entity which submitted the PHI, and in the time and manner reasonably requested by such Covered Entity, to PHI in a Designated Record Set, to Covered Entity in order to meet the requirements under 45 CFR § 164.524 that requires the Covered Entity to provide an Individual with access to the Individual's PHI. Business Associate shall not respond directly to requests for access to PHI from Individuals, but shall direct such persons to the Covered Entity to whom the PHI belongs. The Parties agree that, before it requests PHI access from Business Associate, Covered Entity will make a good faith effort to retrieve any requested PHI from its own records and data sources.
- ix. Business Associate agrees to allow Covered Entity to make any amendments that Covered Entity agrees to make to an Individual's PHI pursuant to 45 CFR §164.526, and to otherwise comply with Covered Entity's obligations under that section. Business Associate will not respond directly to any Individual requesting that amendments be made to his/her PHI, but will instead refer such Individual to the Covered Entity to which the PHI belongs.
- x. To the extent a request is made by the Covered Entity for Business Associate to respond to any request by the Secretary or any other Federal or State authority, Covered Entity shall be responsible for paying for all services related to Business Associate responding to such inquiry and all reasonable costs associated with such response. In addition, to the extent Business Associate is asked or directed to carry out an obligation of Covered Entity under the HIPAA regulations, Business Associate shall comply with the same requirements of the HIPAA regulations that apply to Covered Entity in the performance of such obligation.
- xi. To the extent a request is made by the Secretary, Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining its compliance with HIPAA.
- xii. Business Associate will document information related to PHI disclosures in a manner that will allow Covered Entity to respond to a request for an accounting of disclosures as required by 45 CFR §164.528. This documented information will include: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI and, if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably states the basis for the disclosure. Such

information shall be provided in a timely manner to a requesting Covered Entity to permit Covered Entity to respond to an Individual's request for an accounting of disclosures. Business Associate will not respond directly to any requests by an Individual for an accounting of disclosures of PHI. Any Individuals making such a request will be referred to Covered Entity for an appropriate response.

- xiii. If Business Associate is asked to make a disclosure that is required by law, Business Associate will forward that request to the Covered Entity that originated the PHI covered by the request in a timely manner so the Covered Entity may evaluate the request and provide an appropriate response.
 - xiv. Business Associate agrees not to sell PHI or use or disclose PHI for marketing or fundraising purposes, except as permitted by HIPAA and provided that MyHealth first obtains the express written permission of the owner of the PHI and approval of the MyHealth Governing Body.
- c. Permitted Uses and Disclosures by Business Associate.
- i. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity to develop the Network, provided that such use or disclosure would not violate the HIPAA if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
 - ii. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
 - iii. Except as otherwise limited by law or by the terms of this Agreement, any disclosures of PHI that Business Associate may make in furtherance of its managerial and administrative obligations must either be required by law, or be made subject to Business Associate's receipt of reasonable assurances from the receiving entity or individual that the PHI will be kept in confidence, and will not be used or further disclosed except in support of the purpose of the disclosure, or as may be required by law, and that the receiving entity or individual will notify Business Associate if it becomes aware that the confidentiality of the disclosed PHI has been breached.
 - iv. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).
 - v. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

- vi. Business Associate may use and disclose PHI for research provided Business Associate complies with Section 9 of these Terms and Conditions.
- d. Obligations of the Participants.
 - i. Covered Entity shall only provide to Business Associate and its subcontractors, that PHI that it is authorized or legally permitted to provide. To the best of its knowledge and belief, Covered Entity's submission of its PHI to Business Associate and its subcontractors, for the purposes set forth in this Agreement, does not violate the rights of any third party, including as applicable, any third party's intellectual property rights.
 - ii. Covered Entity shall notify Business Associate of any limitation(s) in the Covered Entity's notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - iii. Covered Entity shall promptly notify Business Associate of any alteration or withdrawal of an Individual's authorization for the use and disclosure of his/her PHI, to the extent that such alteration or withdrawal may affect Business Associate's use or disclosure of the affected PHI, or of its performance of its obligations under this Agreement. Upon granting an individual's request to alter or withdraw the applicable authorization, Covered Entity shall notify Business Associate, and shall work with Business Associate to determine whether Business Associate, as limited by the structural parameters of the Network, is capable of complying with the alterations or withdrawal of the individual's authorization, as granted by the Covered Entity. If Business Associate is unable to comply with the granted request, then Covered Entity shall withhold or withdraw such information from Business Associate. Business Associate is not responsible for any use or disclosure that fails to comply with any alteration or withdrawal of authorization of which it is unaware.
- e. Permissible Requests by Participant.

Covered Entity will not knowingly request that Business Associate make any use or disclosure of PHI that, if done by Covered Entity, would be impermissible under the HIPAA.
- f. Protection of Exchanged Information in Electronic Transactions.

If Business Associate conducts any standard transactions for or on behalf of the Covered Entity, Business Associate shall comply, and shall require any subcontractor or agent conducting such standard transactions to comply, with each applicable requirement of 45 CFR Part 162.
- g. Miscellaneous.

This BAA shall terminate upon expiration or termination of these Terms and Conditions and Business Associate shall comply with Section 17.5.

10.4 Liability.

To the extent allowed by law, each Party shall be responsible for costs and damages caused by its own negligence, misconduct or violations of law, and the negligence, misconduct or violations of law of its Workforce committed within the scope of employment or agency. The foregoing notwithstanding, nothing in this Participation Agreement is intended, nor shall be construed, as a limitation on the types or amounts of either Party's liabilities or responsibilities in relation to this Agreement, and the Parties agree that each Party shall be entitled to pursue any remedies available to it under the law, none of which are waived under the terms and conditions of this Participation Agreement.

11. OTHER OBLIGATIONS OF PARTICIPANTS.

11.1 System Security

Each Participant and MyHealth shall implement or cause to be implemented reasonable security measures with respect to MyHealth System and MyHealth Services. Each Participant shall also adopt and implement at least the minimum security measures provided in the Policies and Procedures which shall be no less stringent than those set forth in HIPAA.

11.2 Software and/or Hardware Provided by Participant

Each Participant shall be responsible for procuring and maintaining all equipment and software (other than that referenced in Section 8.1) necessary for it to access MyHealth System, use MyHealth Services and provide to MyHealth 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 MyHealth's then-current specifications contained in the Policies and Procedures; provided, however, that methods used to achieve conformity may vary. MyHealth may propose changes to the specifications from time to time and will provide Participants a reasonable opportunity to comment on their ability to implement the proposed changes prior to MyHealth making a final decision to proceed with the change. If MyHealth decides to implement the change, it shall provide reasonable prior notice to each Participant affected by the change. 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 MyHealth System are properly configured and maintained, including but not limited to the operating system, web browser(s), and Internet connectivity.

11.3 Viruses and Other Threats

- a. In providing any data to the MyHealth System, the Participant shall use reasonable efforts to ensure that the medium containing such data does not include, and that any method of transmitting such data will not introduce, any program, routine, subroutine, or data which will disrupt the proper operation of the MyHealth System or any part thereof or any hardware or software used by MyHealth 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 MyHealth System or any part

thereof or any hardware, software, or data used by MyHealth or any other Participant in connection therewith, to be destroyed, damaged, or rendered inoperable. Participant shall further use reasonable efforts to prevent unauthorized access to its computers used to access the MyHealth System; which efforts shall include, without limitation, the use of access appropriate identification and security measures and the prompt installation of all software vendor-recommended security updates (subject to Participant's standard acceptance testing).

- b. In providing the services described in this Participation Agreement, MyHealth shall use reasonable efforts to ensure that the MyHealth System will not introduce any program, routine, subroutine, or data which will disrupt the proper operation of the MyHealth System or Participant or any part thereof or any hardware or software used by MyHealth or Participant 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 MyHealth System or Participant or any part thereof or any hardware, software, or data used by MyHealth or any Participant in connection therewith, to be destroyed, damaged, or rendered inoperable. MyHealth shall further use reasonable efforts to prevent unauthorized access to its computers used to access the MyHealth System; which efforts shall include, without limitation, the use of access appropriate identification and security measures and the prompt installation of all software vendor-recommended security updates (subject to MyHealth's standard acceptance testing).

11.4 Training

The Participant shall provide appropriate and adequate training to all of the Authorized Users to familiarize them with their obligations pursuant to their use of the MyHealth System and MyHealth Services. In addition, Participant represents that it has trained its workforce in the requirements of applicable laws and regulations governing the confidentiality, privacy, and security of health information, including without limitation requirements imposed under HIPAA.

12. MyHealth'S OPERATIONS AND RESPONSIBILITIES.

12.1 Compliance with Policies and Procedures

MyHealth shall require that all Participants enter into the Participation Agreement and shall comply with the Policies and Procedures in such form as MyHealth determines is appropriate.

12.2 Use of Contractors

MyHealth shall administer the MyHealth System and MyHealth Services and may delegate responsibilities related to such to one or more subcontractors. Consistent with its obligations under Section 10, MyHealth shall obtain written assurances from its subcontractors that only specifically authorized representatives of the subcontractor shall be granted access to the MyHealth System in connection with the subcontractor's responsibilities. The Participants acknowledge and agree that access to data (including aggregate data) shall be granted to

MyHealth and its subcontractors for purposes of performing MyHealth's functions and obligations under this Participation Agreement, including without limitation for purposes of complying with grant agreements requirements to the extent permitted by HIPAA and other applicable law.

12.3 Training

MyHealth shall provide to Participants training materials MyHealth determines appropriate to support the MyHealth System and MyHealth Services. MyHealth shall provide training services that may be requested by a Participant as part of the Participation Agreement. MyHealth will employ a trainer who will interact with Participants with regards to training strategies.

12.4 Telephone and/or E-Mail Support

MyHealth shall provide, by telephone, e-mail, and/or other means, support and assistance in resolving difficulties in accessing and using the MyHealth System and MyHealth Services during regular business hours. After hours, on-call staff with MyHealth will be available.

12.5 Audits and Reports Access Reporting to Participants

Upon request, Participant will be provided with copies of monthly reports relating to operations as prepared by MyHealth or its subcontractors. The foregoing summaries shall be provided at no cost. Additional detail about a Participant's own PHI may be obtained by a Participant as made available by MyHealth under the Policies and Procedures. Other usage and audit trail reports will be delivered as defined in the Policy and Procedures.

12.6 Governing Body and Participant Council.

Composition. MyHealth's Governing Body is its Board of Directors. MyHealth shall create and maintain a Participant Council, which shall act as a resource to MyHealth's Governing Body, consistent with Policies and Procedures. The composition of the Participant Council shall be determined by the Governing Body of MyHealth in accordance with the Bylaws of MyHealth. Actions taken by the Participant Council must be ratified by the CEO of MyHealth and are subject to amendment or revocation by the Governing Body of MyHealth.

Meetings and Responsibilities of Participant Council. The Participant Council shall meet not less than quarterly to consider and resolve various issues pertaining to MyHealth System and MyHealth Services.

12.7 Addition of New Participants

The Participants acknowledge that additional Participants may be added to this Agreement upon approval of the CEO of MyHealth, in accordance with Section 4. Subsequent Participants shall be required to execute a counterpart of this Agreement, as it may have been amended from time to time, with an effective date corresponding to the new Participant's Agreement.

13. SERVICES, FEES AND CHARGES.

13.1 Agreed-Upon Fees

The terms of each Participant's Participation Agreement with respect to the payment of fees and charges shall apply.

13.2 Service Fees

Unless the Participant's Participation Agreement provides otherwise, each Participant shall pay to MyHealth service fees for those MyHealth Services for which the Participant has registered. Standard fees schedules are approved through the Finance Committee of MyHealth, and by the Governing Body of MyHealth. MyHealth will provide applicable fee schedules for Participants upon request.

13.3 Changes to Service and Fee Schedules

MyHealth may change schedules related to existing services and fees at any time upon thirty (30) days prior written notice to Participants consistent with the provisions of Section 3.2. New optional services and corresponding fees may be added with Governing Body approval and Participant notification.

13.4 Miscellaneous Charges

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

13.5 Payment

The Participant shall pay all Service Fees and any Miscellaneous Charges within forty-five (45) days following the documented date of mailing of invoice by MyHealth sent to the Participant's address as shown in MyHealth's records.

13.6 Late Charges

Service Fees and Miscellaneous Charges not paid to MyHealth within forty-five (45) days following the due date are subject to a late charge of five percent (5%) of the amount owed and interest thereafter at the rate of one and one-half percent (1½%) per month on the outstanding balance, or the highest amount permitted by law, whichever is lower.

13.7 Suspension of Service

Failure to pay Service Fees and Miscellaneous Charges within forty-five (45) days following the due date may result in suspension or termination of the Participant's access to MyHealth System and/or use of MyHealth Services. A reconnection fee set by MyHealth from time to time may be assessed to re-establish connection after suspension or termination due to non-payment.

13.8 Taxes

All services provided under this Participation Agreement are exempt from sales tax in accordance with Title 68, Article 13, Oklahoma State Statutes (2001). All Service Fees and Miscellaneous Charges shall be exclusive of federal, state, municipal, or other government excise, sales, use, occupational, or similar taxes existing as of the date of this Agreement or enacted in the future. Participant shall pay any tax (excluding taxes on MyHealth's net income) that MyHealth 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 or services provided pursuant to the Policies and Procedures, to the extent allowed by law.

13.9 Other Charges and Expenses

Participant shall be solely responsible for any other charges or expenses Participant incurs in connection with MyHealth System or MyHealth Services, including without limitation, telephone and equipment charges, and fees charged by third-party vendors of products and services.

14. PROPRIETARY INFORMATION

MyHealth and Participant shall comply with the Policies and Procedures and shall not disclose confidential and proprietary information of MyHealth and of Participants.

The use any name, logo, or acronym of any Participant or any of its affiliates or subsidiaries or any variation or adaptation of those names, in any advertising, promotional, or sales literature requires the prior written approval of the owning Participant. Standard listings of MyHealth Participants shall not require separate approval.

15. DISCLAIMERS, EXCLUSIONS OF WARRANTIES, AND LIMITATIONS OF LIABILITY.

15.1 Carrier Lines

Participant acknowledges that in connection with use of the MyHealth System and receipt of MyHealth Services, access to MyHealth 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 owned, maintained, and serviced by third-party carriers, utilities, and internet service providers, and which are beyond MyHealth's control (collectively, "carrier lines"). MyHealth 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 Participant's risk and is subject to all applicable local, state, national, and international laws.

15.2 No Warranties; Limitation of Liability.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 15, AND UNLESS OTHERWISE PROVIDED BY LAW, ACCESS TO MYHEALTH SYSTEM, USE OF MYHEALTH SERVICES AND THE INFORMATION OBTAINED BY A DATA RECIPIENT PURSUANT TO THE USE OF THOSE SERVICES AND SOFTWARE 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 OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 15, IT IS EXPRESSLY AGREED THAT TO THE EXTENT ALLOWED BY LAW, AND WITH THE EXCEPTION OF THE EXCLUSIONS SET FORTH IN SECTION 15.9, IN NO EVENT SHALL MYHEALTH AND THE PARTICIPANTS 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 MYHEALTH HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES

OCCURRING. MYHEALTH AND THE PARTICIPANTS DISCLAIM ANY AND ALL LIABILITY FOR ERRONEOUS TRANSMISSIONS AND LOSS OF SERVICE RESULTING FROM COMMUNICATION FAILURES BY TELECOMMUNICATION SERVICE PROVIDERS OR OTHER THIRD PARTIES. THE FOREGOING SHALL NOT APPLY TO A BREACH OF SECTIONS 10 OR 14 OF THIS PARTICIPATION AGREEMENT.

15.3 Participant's Actions

To the extent allowed by law, Participant shall be responsible for any damage to another Participant's computer system, loss of data, and any damage to MyHealth System caused by Participant, an Authorized User of Participant, or any person using a user ID assigned to Participant or Participant's employees, contractors, subcontractors or agents.

15.4 MyHealth's Actions

MyHealth shall be responsible for any damage to Participant's computer system, loss of data and any damage to MyHealth System caused by MyHealth or its employees, contractors, subcontractors or agents.

15.5 Unauthorized Access; Validation of Data; Lost or Corrupt Data

MyHealth is not responsible for unauthorized access to Participant's transmission facilities or equipment by individuals or entities using MyHealth System or for unauthorized access to, or alteration, theft, or destruction of Participant's data files, programs, procedures, or information through MyHealth System, whether by accident, fraudulent means or devices, or any other method, except to the extent such resulted from negligent acts or omissions of MyHealth. Participant is solely responsible for validating the accuracy of all output and reports and protecting Participant's data and programs from loss by implementing appropriate security measures, including routine backup procedures. To the extent allowed by law, Participant waives the right to seek or recover any damages against MyHealth occasioned by lost or corrupt data, incorrect reports, or incorrect data files, except to the extent such damages resulted from acts or omissions of MyHealth.

15.6 Inaccurate Data

All patient data to which access is made through MyHealth System and/or MyHealth Services originates or is derived from data supplied by Participants, and not from MyHealth. All such patient 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 time, and other factors. Without limiting any other provision of the Policies and Procedures, MyHealth shall have no responsibility for or liability related to the accuracy, content, currency, completeness, or delivery of any data either provided by a Data Supplier, or used by a Data Recipient, pursuant to this Participation Agreement, except to the extent negligent acts or omissions of MyHealth result in MyHealth failing to correctly format or display information to Data Recipients as it was received by MyHealth from Data Suppliers.

15.7 Patient Care

Without limiting any other provision of the Policies and Procedures, Participant and 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 MyHealth System or MyHealth Services or the data made available thereby, except to the extent that negligence of MyHealth results in MyHealth failing to correctly present information to Data Recipients. Unless otherwise provided by law, no Participant or Authorized User shall have any recourse against, and each hereby waives, any claims against MyHealth for any loss, damage, claim, or cost relating to or resulting from its own use or misuse of MyHealth System and/or MyHealth Services or the data made available thereby, except to the extent that negligence of MyHealth results in MyHealth failing to correctly present information to Data Recipients.

15.8 Limitation of Liability

Notwithstanding anything in the Policies and Procedures to the contrary, to the maximum extent permitted by applicable laws and with the exception of the exclusions set forth in Section 15.9, the aggregate liability of MyHealth, and MyHealth's officers, directors, employees and other agents, under the Participation Agreement, regardless of theory of liability, shall be limited to the greater of \$1,000,000 or limits of applicable insurance coverage.

15.9 Exclusions

The limitations of liability set forth in this Section 15 shall not apply to, or limit the liability of MyHealth for gross negligence, fraud, or willful or intentional misconduct, including such grossly negligent, fraudulent, or willful acts or intentional misconduct that involve a breach of confidentiality.

16. INSURANCE.

16.1 Required Coverage

MyHealth shall maintain, throughout the term of this Participation Agreement, at its sole expense, the insurance described in Exhibit A, as well as such professional and general liability insurance coverage as it deems reasonable and necessary to insure itself and its officers, directors, and employees against any third party claim or cause of action arising out of the performance of this Participation Agreement. Each Participant shall maintain, throughout the term of this Participation Agreement, at its sole expense, such professional and general liability insurance coverage as it deems reasonable and necessary to insure itself and its officers, directors, and employees against any third party claim or cause of action arising out of the performance of this Participation Agreement. In the event of termination of this Agreement for any reason, MyHealth and each Participant either shall maintain its insurance coverage called for under this Section for a period of not less than three (3) years, or shall provide an equivalent extended reporting endorsement ("tail policy").

16.2 Evidence of Coverage

MyHealth and each Participant shall provide proof of such required coverage upon request.

16.3 Commercial or Self-Insurance

The insurance coverage required under this Participation Agreement may be provided through one or more commercial insurance policies through a self-insurance fund, or through a combination of commercial and self-insurance.

17. TERM AND TERMINATION OF PARTICIPATION AGREEMENT.

17.1 Term.

The term of the Participation Agreement shall begin on the Effective Date set forth in the Participant Agreement signed by the Participant and MyHealth and shall terminate upon the Parties' termination of the Participation Agreement by any method described below. Termination of these Terms and Conditions shall automatically result in the termination of the Participant's Participation Agreement.

17.2 Termination Without Cause.

A Participant may terminate its Participation Agreement with MyHealth at any time without cause by giving one hundred twenty (120) days advance written notice of that termination to MyHealth.

17.3 Participant's Right to Terminate for Cause.

In the event that the Participant believes or learns that MyHealth has materially breached the Participation Agreement, Participant shall:

- a. Notify MyHealth of the breach, whether suspected or confirmed, and shall provide MyHealth ten (10) days in which to cure the breach, or to provide a plan for curing the breach, if such cure will take more than the ten (10) days allotted herein;
- b. Terminate the Participation Agreement, if MyHealth is unable or unwilling to cure the breach, or provide a plan for curing the breach, within ten (10) days or as otherwise permitted by the Participant;
- c. Immediately terminate this Participation Agreement if MyHealth has breached a material term of the Agreement and cure is not possible; or
- d. If neither termination nor cure is feasible and the breach is related to the provisions of Section 10 of these Terms and Conditions (the Business Associate Agreement), report the violation to the Secretary.

Participant may also terminate for cause based on Objection to Change in compliance with Section 4.7

17.4 MyHealth's Right to Terminate Participation Agreement.

MyHealth's ability to terminate any Participant's Participation Agreement for breach or other cause shall be governed by the Participation Agreement, these Terms and Conditions, and the Policies and Procedures. Notwithstanding the foregoing, MyHealth may terminate the Participation Agreement, upon (a) forty-five (45) days advance written notice (specifying the date of termination) in the event of termination of the Beacon Award for any reason, or (b) one hundred twenty (120) days advance written notice (specifying the date of termination) upon decision of the Governing Body.

17.5 Effect of Termination.

- a. Upon any termination of a Participant's Participation Agreement, that party shall cease to be a Data Supplier as of the date of termination and/or Data Recipient (as it was identified in the Participation Agreement) and shall immediately, as of the date of termination, lose any and all rights to use MyHealth System and/or MyHealth Services. Provisions of the Agreement identified in Section 17.6 (Survival Provisions) and provisions of the Policies and Procedures which survive termination under the terms thereof shall continue to apply to the former Participant and its Authorized Users following termination.
- b. If required by Covered Entity, MyHealth shall return or destroy all PHI that it has received from, or has created or received on behalf of, Covered Entity, as soon as may be reasonably practicable, and with exception as provided in subparagraph (c) below. MyHealth shall include any PHI belonging to Covered Entity that is in the possession or control of any of its subcontractors or agents. Except as otherwise specified in this Agreement, neither MyHealth nor its agents and subcontractors shall retain any copies of Covered Entity's Protected Health Information.
- c. If, by mutual agreement, the Parties determine that it would be infeasible to return or destroy all or part of Covered Entity's Protected Health Information, then MyHealth, its contractors and agents shall extend such privacy protections to Covered Entity's PHI as it would otherwise extend to such PHI under the terms of this Participation Agreement, especially as described in Section 11) and as may otherwise be required by law, and shall keep such protections in place so long as Business Associate, its contractors and agents retain possession and/or control of Covered Entity's PHI.

17.6 Survival Provisions.

The following provisions of this Participation Agreement shall survive any termination of a Participant's Participation Agreement and/or this Participation Agreement: Section 5.4 (Responsibility for Conduct of Participant and Authorized Users), Section 6.3 (Prohibited Uses), Section 7.4 (License and Limitations of Use of PHI), Sections 8.3 and 8.4 (Copying and Modifications; Derivative Work), Section 10 (Confidentiality and PHI), Section 14 (Proprietary Information), Section 15.7 (Limitation on Liability), Section 17.5 (Effect of Termination), and Section 18 (Dispute Resolution). In addition, the obligations contained in Section 16 for retention of insurance for a certain period of time following termination of this Participation Agreement shall survive as well.

18. DISPUTE RESOLUTION.

18.1 Scope

Any controversy, dispute, or disagreement arising out of or relating to these Terms and Conditions, the Policies and Procedures, or any Participant's Participation Agreement, or the breach of this Participation Agreement, (referred to in this Section as a "dispute") shall be settled according to the procedure set forth in this Section.

18.2 Informal Conference

In the event a dispute arises between or among any of the Participants concerning their respective duties and obligations under this Participation Agreement, each Participant shall be obligated to meet and confer with the other(s) in good faith, on reasonable notice, and at a mutually agreeable location. The Participants agree that if any Participant refuses to participate in such a conference, or if such a conference fails to produce a mutually acceptable resolution of the dispute within fifteen (15) calendar days after the Participants' receipt of notice of the dispute, the other Participant(s) may submit the matter to mediation or arbitration pursuant to this Section.

18.3 Mediation

In the event a dispute arises between or among the Participants that cannot be settled by informal conference as set forth above, the parties may, on mutual agreement, submit the matter to mediation to be conducted in Tulsa County, Oklahoma. The process for selecting the mediator shall be determined by the mutual written consent of the Participants. If the Participants fail to agree to a process within ten (10) calendar days from a request, the requesting Participant may proceed to pursue other legal remedies outside the mediation process. The consent of any Participant to such mediation may be withdrawn at any time, without cause.

18.4 Jurisdiction and Venue of Disputes

In the event a dispute cannot be settled by informal conference or mediation as set forth above, or in the event either Participant refuses or withdraws consent to mediation, either Participant may pursue any legal remedies available to it through the judicial system. Venue for any action at law or in equity to interpret or enforce the any portion of this Participation Agreement shall lie exclusively in a court of competent jurisdiction sitting in Tulsa, Oklahoma. Each Participant hereby consents to the personal jurisdiction of such courts.

19. GENERAL PROVISIONS.

19.1 Applicable Law

The interpretation of these Terms and Conditions, the Policies and Procedures or any Participant's Participation Agreement, and the resolution of any dispute arising under this Participation Agreement, shall be governed by the laws of the State of Oklahoma.

19.2 Changes in Law

In the event that a change in applicable laws and regulations renders any portion of this Participation Agreement and/or the relationship of the Parties to be impermissible or unadvisable, or impedes or prohibits the activities of either of the Parties under this Participation Agreement, then the Parties shall, in good faith, attempt to renegotiate this Participation Agreement such that the purpose of the Participation Agreement, to the extent possible, may be maintained. If the Parties are unable to renegotiate this Participation Agreement within thirty (30) days, then this Participation Agreement may be immediately terminated, upon delivery of written notice by either party.

19.3 Regulatory References

Any reference in this Participation Agreement to a section in any statute or in HIPAA means the section as in effect or as amended.

19.4 Survival

Business Associate's obligation to protect the privacy of the PHI created or received for or from the Covered Entity will be continuous and survive termination, cancellation, expiration or other conclusion of the Participation Agreement.

19.5 Interpretation, Amendments and Conflicts.

Any ambiguity in this Participation Agreement shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA and the Privacy and Security Rules. In the event of conflicting terms or conditions with prior agreements between the parties, this Participation Agreement shall supersede any such previous agreement. These Terms and Conditions of the Participation Agreement may be amended only in writing signed by the Parties.

19.6 Third Party Beneficiaries

Nothing express or implied in this Participation Agreement is intended to confer, nor shall anything herein confer, upon any person or entity other than the parties and their respective successors or assignees of the parties, any rights, remedies, obligations, or liabilities whatsoever.

19.7 Supervening Circumstances

Neither Participant nor MyHealth shall be deemed in violation of any provision of this 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.

19.8 Severability

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

19.9 Waiver

No provision of this 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 consent to, waiver of, or excuse for, any other different or subsequent breach.

19.10 Schedules and Exhibits

The schedules referenced in these Terms and Conditions may be attached to a Participant's Participation Agreement. Such schedules, along with any exhibits thereto, if attached to Participant's Participation Agreement, are an essential part of the agreement.

19.11 Complete Understanding

This Participation Agreement, including each Participant's Participation Agreement, which incorporates these Terms and Conditions and the Policies and Procedures, constitutes 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 this Participation Agreement other than those contained or referenced herein. Any conflicts or differing interpretations in a Participant's Participation Agreement, including the Policies and Procedures and these Terms and Conditions, will be interpreted using the language of the most recently adopted document.

19.12 Counterpart Signatures.

This Participation Agreement may be signed in one or more counterparts, all of which when taken together will constitute one agreement.

19.13 Succession and Assignment.

This Participation Agreement, and all rights and obligations hereunder, shall be binding upon, and inure to the benefit of, the Parties, the successors, and assigns, provided that neither party shall assign or otherwise transfer its rights and obligations under this Participation Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed, or conditioned. The foregoing notwithstanding, neither party shall be prohibited from assigning its rights and obligations to an entity controlling, controlled by, or under common control with the assigning party, provided written notice of such assignment is provided to the non-assigning party.

19.14 Compliance.

It is the Parties' intention to abide by all applicable laws in fulfilling their obligations under this Participation Agreement, and it is their belief that this Participation Agreement, and all activities relating to the fulfillment of its purpose, are and will remain in compliance with such laws. In the event that any provision of this Participation Agreement does not comply with any federal or state law, or is otherwise determined by legal process to be void or otherwise invalid, then, in accordance with Section 19.2, above, the parties shall attempt in good faith to renegotiate this Participation Agreement so as to comply with the law and, if it cannot be made compliant, then the Parties shall immediately terminate this Participation Agreement, in accordance with the provisions of this Participation Agreement.

19.15 Independent Contractors.

The Parties acknowledge and agree that their relationship is that of independent contractors, and that nothing contained in this Participation Agreement is intended to create or imply a partnership, joint venture, or employer-employee relationship. Neither Party shall be the agent of the other, and neither party may make any representation or enter into any contract or commitment on behalf of the other, except as may otherwise be specifically agreed by the Parties.

19.16 Notice of Legal Claims.

Upon receiving written notice of any legal claim arising from or relating to this Participation Agreement, whether such claim or action is one of civil, criminal, or governmental liability, the

receiving Party shall notify the other Party of the claim, whether or not the non-receiving party is named in the claim or action.

19.17 Notice.

All notices, requests, consents and other communications hereunder will be addressed to the receiving party's address set forth on the signature form for the Participation Agreement. All notices covered by this provision, excluding service of process, shall be deemed to have been received on the date issued, if delivered in person, by facsimile, or by electronic mail. Notices issued by posted mail shall be deemed to have been received on the third day after posting.

EXHIBIT A: MyHealth INSURANCE PROGRAM

1. INSURANCE TO BE MAINTAINED BY MyHealth

Prior to commencing work under this Participation Agreement, MyHealth, at its own cost and expense, shall maintain insurance for the coverages listed below, written for not less than the limits specified for each coverage or required by law, whichever is greater, and including the provisions enumerated below:

1.1. *Commercial General Liability*

General Aggregate	\$2,000,000	
Liability and Medical Expense Limit	\$1,000,000	
Medical Expenses Limit	\$10,000	each person
Personal Injury & Advertising Injury Limit	\$1,000,000	
Products/Completed Operations Limit	\$2,000,000	aggregate

1.2. *Automobile Liability*

Hired and Non-Owned Autos	Included in General Liability
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1.3. *Workers' Compensation & Employers' Liability*

Statutory coverage complying with the law of each state in which MyHealth's employees are headquartered or domiciled with Employers' Liability limits of not less than \$1,000,000 Each Accident and \$1,000,000 Each Employee for Disease and \$1,000,000 Policy Limit for Disease.

1.4. *Umbrella Liability*

Each Occurrence	\$1,000,000
General Aggregate Limit	\$1,000,000
Products/Completed Operations Aggregate Limit	\$1,000,000
Bodily Injury by Disease Aggregate Limit	\$1,000,000

1.5. *Technology Errors and Omissions and Cyber Liability*

MyHealth carries coverage to defray costs that may be incurred as a result of an adverse event resulting from the "cloud-hosted" infrastructure strategy employed by the organization.

Crisis Management Expense	\$5,000,000
Cyber Investigation Expense	\$5,000,000
Payment Card Industry (PCI) Expense	\$5,000,000
Cyber Extortion Expense	\$5,000,000
Business Interruption Loss	\$5,000,000
Dependent Business Interruption Loss	\$100,000
Data Restoration Expense	\$5,000,000

1.6. *Technology Errors and Omissions and Cyber Liability Excess*

MyHealth carries an excess policy for all Technology Errors and Omissions and Cyber Liability coverage.

Limit of Liability	\$5,000,000
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1.7. Financial Rating of Insurers

The insurance companies providing the coverages shall be licensed to do so in the State of Oklahoma and shall have an AM Best rating no lower than "A-".

1.8. Notice of Cancellation, etc.

Should any of the described policies be cancelled before the expiration date of the respective policy, notice will be delivered in accordance with the policy provisions.

1.9. Evidence of Insurance

MyHealth shall deliver separately to Participant, if requested, Certificates of Insurance certifying that policies of insurance for the required coverages have been issued and are in effect and comply with the requirements herein. Upon expiration or cancellation of any policy during the period the coverages under such policy are required to be maintained, MyHealth shall, if requested, deliver to each Participant a Certificate of Insurance evidencing proper renewal or replacement of the policy.

1.10. Adequacy of Insurance

The Participants and MyHealth do not in any way represent that the insurance specified herein, whether in scope of coverage or limits of coverage, is adequate or sufficient to protect the business or interest of the MyHealth or its Participants.