

**FIRST AMENDMENT
HEALTH INFORMATION EXCHANGE ORGANIZATION PARTICIPATION AGREEMENT
BY AND BETWEEN
NORTH COAST HEALTH IMPROVEMENT AND INFORMATION NETWORK
AND
COUNTY OF HUMBOLDT
FOR FISCAL YEARS 2017-2018 THROUGH 2021-2022**

This First Amendment to the Health Information Exchange Organization Participation Agreement, by and between North Coast Health Improvement and Information Network, a California nonprofit public benefit corporation, hereinafter referred to as "HIO," and the County of Humboldt, a political subdivision of the State of California, by and through its Department of Health and Human Services, hereinafter referred to as "Participant," is entered into this 8 day of June, 2021.

WHEREAS, on March 27, 2018, Participant and HIO agreed to enter into a Health Information Exchange Organization Participation Agreement ("Participation Agreement") regarding the implementation of various data solutions that are designed to facilitate the exchange of health information in accordance with any and all applicable local, state and federal confidentiality, privacy and data security laws, regulations and standards; and

WHEREAS, the parties now desire to amend certain provisions of the Participation Agreement to clarify the term thereof and define the compensation, payment and execution requirements applicable thereto.

NOW THEREFORE, the parties mutually agree as follows:

1. The Introductory and General Provisions of the Participation Agreement are hereby amended to read as follows:

INTRODUCTORY AND GENERAL PROVISIONS

This Health Information Exchange Organization Participation Agreement, by and between the North Coast Health Improvement and Information Network, a California nonprofit public benefit corporation, hereinafter referred to as "HIO," and the County of Humboldt, a political subdivision of the State of California, by and through its Department of Health and Human Services ("DHHS"), hereinafter referred to as "Participant," is made upon the following considerations:

Effective Date. The Effective Date of this Health Information Exchange Organization Participation Agreement ("Agreement") is March 27, 2018.

Term. This Agreement shall take effect on March 27, 2018 and shall remain in full force and effect until March 31, 2022, unless sooner terminated as provided in Section 2.1 (Termination of Participation Agreements) of the Terms and Conditions attached hereto.

Nature of Organization. HIO is a California nonprofit public benefit corporation, organized to facilitate health information sharing and aggregation for treatment, payment, operations, public health and other lawful purposes in a manner that complies with all applicable laws and regulations, including, without limitation, those protecting the privacy and security of health information.

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Exchanging Patient Data. From time to time, HIO may provide or arrange for the provision of data transmission and related services to allow Participants to search for and exchange Patient Data from a computer system that facilitates the sharing of Patient Data among disparate participants. HIO's services include establishing and applying standards for exchanging Patient Data.

Data Recipients and Providers. Participants in the Exchange include Data Recipients, who may be Health Care Providers, that will access Data through the Exchange and Data Providers that will provide Data through the Exchange. For purposes of this Agreement, Participant is both a Data Recipient and a Data Provider.

Description of Services. HIO provides, or arranges for the provision of, data transmission and related services to Participants to enable a Participant to send Patient Data to another Participant. HIO's services include establishing and applying standards for such exchange of Patient Data. HIO has access to and/or is responsible to maintain some or all of such Patient Data in the performance of HIO's services.

Maximum Amount Payable. The maximum amount payable by Participant for any and all costs and expenses incurred pursuant to the terms and conditions of any Project Addenda issued under this Agreement is Two Hundred Thousand Dollars (\$200,000.00). HIO agrees to provide, or arrange for the provision of, any and all services required by any Project Addenda issued under this Agreement for an amount not to exceed such maximum dollar amount. However, if local, state or federal funding or allowance rates are reduced or eliminated, Participant may, by amendment, reduce the maximum amount payable hereunder or terminate this Agreement as provided in Section 2.1 (Termination of Participation Agreements) of the Terms and Conditions attached hereto.

Rate of Compensation. The specific rates and costs applicable to the services provided by HIO will be set forth in each Project Addendum issued under this Agreement.

Additional Services. Any Additional Services not otherwise set forth in any Project Addenda issued under this Agreement shall not be provided by HIO, or compensated by Participant, without Participant's prior written authorization. Any and all unauthorized costs and expenses incurred above the maximum payable amount set forth herein shall be the responsibility of HIO. HIO shall notify Participant, in writing, at least six (6) weeks prior to the date upon which HIO estimates that the maximum payable amount will be reached.

Payment. HIO shall submit to Participant semi-annual invoices itemizing any and all services provided, and costs and expenses incurred, pursuant to the terms and conditions of any Project Addenda issued under this Agreement. Invoices shall be in a format approved, and include any and all appropriate backup documentation as specified, by the DHHS Director and the Humboldt County Auditor-Controller. Payment for any and all costs and expenses incurred pursuant to the terms and conditions of any Project Addenda issued under this Agreement shall be made within thirty (30) days after the receipt of approved invoices. Any and all invoices submitted pursuant to the terms and conditions of this Agreement shall be sent to Participant at the following address:

COUNTY: Humboldt County DHHS – Administration
Attention: Financial Services
507 F Street
Eureka, California 95501

Complete Agreement. This Agreement includes, and incorporates by reference, all of the following terms, conditions and exhibits as well as any and all fully executed project addenda attached hereto:

- Section 1 Development and Administration of Participation Agreements
- Section 2 Termination of Participation Agreements
- Section 3 Authorized Users
- Section 4 General Obligations of Participants
- Section 5 Data Recipient's Use of System and Services
- Section 6 Data Provider's Use of System and Services
- Section 7 Associated Hardware and Software to be Provided by HIO
- Section 8 Privacy and Security of Patient Data
- Section 9 Business Associate Agreement
- Section 10 HIO's Operations and Responsibilities
- Section 11 Governance
- Section 12 Proprietary and Confidential Information
- Section 13 Disclaimers, Exclusions of Warranties, Limitations of Liability, and Indemnification
- Section 14 Insurance and Indemnification
- Section 15 Transparency, Oversight, Enforcement and Accountability
- Section 16 Miscellaneous Provisions
- Exhibit A County of Humboldt HIPAA Business Associate Agreement
- Exhibit B Participant Types, Data Types and Projects, and Other Health Information Organizations
- Exhibit C Associated Hardware and Associated Software
- Exhibit D Data Security Requirements
- Exhibit E North Coast Health Improvement and Information Network Policy, Procedures and Standards Manual

Project Addendum: Facility Alerts, Humboldt County Department of Health and Human Services Program Information Exchange

Counterpart Execution. This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. This Agreement, and any amendments hereto, may be signed by manual or electronic signatures in accordance with any and all applicable local, state and federal laws, regulations and standards, and such signatures shall constitute original signatures for all purposes. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement and any amendments hereto.

2. Section 1.1.1 – Additional Services of the Participation Agreement is hereby amended to read as follows:
 - 1.1.1 Additional Services. As used herein, the term “Additional Services” means data types, products and/or services not expressly described in the applicable Participation Agreement Addendum.
3. Section 2 – Term and Termination of Participation Agreements of the Participation Agreement is hereby amended to read as follows:

SECTION 2
TERMINATION OF PARTICIPATION AGREEMENTS

- 2.1. Participant's Termination Based on Objection to Change. Notwithstanding Section 1.4 (Changes to Terms and Conditions and Policies, Procedures and Standards), the HIO shall not make any change to these Terms and Conditions and/or the Policies, Procedures and Standards that either (a) materially reduces the rights or increases the obligations of a Participant, (b) materially reduces the obligations of the HIO, or (c) substantially changes the provisions of the specific Terms and Conditions or Policies, Procedures and Standards regarding the privacy or security of Patient Data, without providing to the Participant the right to terminate its Participation Agreement by giving HIO written notice thereof not more than [thirty (30)] days following HIO's notice of the change. Such termination of a Participation Agreement shall be effective as of the effective date of the change to which the Participant objects; provided, however, that any change to these Terms and Conditions or the Policies, Procedures and Standards that HIO determines is required to comply with any federal, state, or local law or regulation shall take effect as of the effective date HIO determines is required, and the termination of any Participant's Participation Agreement based on the Participant's objection to the change shall be effective as of HIO's receipt of the Participant's notice of termination.
- 2.2. Participant's Termination Without Cause. A Participant may terminate its Participation Agreement at any time without cause by giving not less than ninety (90) days prior written notice to HIO.
- 2.3. Participant's Termination Upon Uncured Breach. Without limiting the obligations of HIO pursuant to Section 10.1 (HIO's Performance of Obligations, Generally), a Participant may terminate its Participation Agreement upon HIO's failure to perform a material responsibility arising out of the Participant's Participation Agreement, and that failure continues uncured for a period of sixty (60) days after the Participant has given HIO written notice of that failure and requested that HIO cure that failure.
- 2.4. Participant's Termination Upon Breach of Privacy or Security. A Participant may immediately terminate its Participation Agreement upon a Breach of Privacy or Security, as described in Section 8.2 (Reporting of Breaches and Security Incidents), when such Breach of Privacy or Security continues uncured for a period of sixty (60) days after the Participant has given HIO notice of that failure and requested that HIO cure that breach.
- 2.5. Participant's Termination Upon Breach of Business Associate Agreement. A Participant may immediately terminate its Participation Agreement based upon HIO's breach of Participant's Business Associate Agreement.
- 2.6. HIO's Termination Without Cause. Except as provided otherwise in the applicable Participation Agreement, HIO may terminate any Participant's Participation Agreement at any time without cause by giving not less than thirty (30) days prior written notice to the Participant provided, however, that HIO shall not terminate the Participation Agreement of any Participant without cause except incident to HIO's termination of the Participation Agreements of all Participants of the same Participant Type described in Exhibit B (Participant Types and Projects and Other Health Information Organizations).
- 2.7. HIO's Termination of Upon Uncured Breach. Without limiting the obligations of the Participant pursuant to Section 4.1 (Participant's Performance of Obligations, Generally), HIO may terminate any Participant's Participation Agreement upon the

Participant's failure to perform a material responsibility arising out of the Participant's Participation Agreement, and that failure continues uncured for a period of sixty (60) days after HIO has given the Participant written notice of that failure and requested that the Participant cure that failure.

- 2.8 Effect of Termination. Upon any termination of a Participant's Participation Agreement, that party shall cease to be a Participant and thereupon and thereafter neither that party nor its Authorized Users shall have any rights to use the System or the Services.
 - 2.9 Survival of Provisions. The following provisions of these Terms and Conditions shall survive expiration or termination of a Participant's Participation Agreement: Section 3.5 (Responsibility for Conduct of Participant and Authorized Users), Section 8 (Privacy and Security of Patient Data), Section 9 (Business Associate Agreement), Section 13 (Proprietary and Confidential Information), Section 14.8 (Limitation on Liability) and Section 15.2 (Indemnification).
4. Except as modified herein, the Participation Agreement shall remain in full force and effect. In the event of a conflict between the provisions of this First Amendment and the original Participation Agreement, the provisions of this First Amendment shall govern.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have entered into this First Amendment as of the first date written above.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

NORTH COAST HEALTH IMPROVEMENT AND INFORMATION NETWORK:

By:  Date: 5/5/21

Name: Martin Love

Title: CEO

By:  Date: 5/5/2021

Name: Rosemary Den Ouden

Title: COO

COUNTY OF HUMBOLDT:

By:  Date: 6/8/2021

Virginia Bass, Chair
Humboldt County Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By:  Date: 05/12/2021

Risk Management