[Name of HIE]

Addendum No. \_\_\_ to Participation Agreement

(Incorporates certain requirements of state/federal data use agreements executed by HIO)

1. Introduction. [*The following discussion should be conformed to the introduction to the CaDURSA, which we understand remains to be drafted.*] *Insert name of Health Information Sharing Organization, and its form of organization, e.g., a California nonprofit public benefit corporation*] (“**HIO**”) has entered into the [*as appropriate state either or both California Data Use and Reciprocal Support Agreement (“CaDURSA”) and the Data Use and Reciprocal Support Agreement “DURSA”]* (which agreements are herein individually and collectively referred to as the “External Data Use Agreement” or “**EDUA**”), pursuant to which HIO plans to facilitate Transactions of Message Content (as described in the EDUA) among Participants that have entered into Participation Agreements with HIO (“**HIO Participants**”) and between HIO Participants and other parties that either have entered into the EDUA or have been made subject to the relevant terms of the EDUA(“**EDUA** **Participants**”).

2. Overview of Addendum. This Addendum No \_\_ (this “Addendum”) to Participant’s Participation Agreement with HIO dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ is hereby amended to incorporate therein the “**Incorporated EDUA Provisions**” described in Section 4 below. The parties hereto acknowledge, however, that the EDUA may be updated from time to time with additional or different provisions by HIO and EDUA Participants. Any such update(s) that amount to a material change to the Participation Agreement, including any prior amendments and addenda thereto, shall only be effective and binding upon HIO and Participant (as parties to the Participation Agreement) thirty (30) days after HIO has provided written legal notice of the specific update(s), and provided, however, that Participant has not objected in writing within such period of time. If Participant does object in writing, HIO and Participant shall meet to address in good faith such objections. If after sixty (60) of such notice Participant and HIO have not agreed in writing on such updates, Participant shall have the right to terminate the Participation Agreement effective within one-hundred and eighty (180) days after the date of such notice. Updates to the EDUA that are relevant to the Participation Agreement and that are not material changes to the Participation Agreement are deemed incorporated into the Incorporated EDUA Provisions (defined in Section 4 below).

3. Note Regarding Terminology. For purposes of interpreting this Addendum and the changes that it makes to the Participant’s Participation Agreement, and except as expressly provided by this Addendum:

1. terms used in the Participation Agreement and this Addendum shall have the meanings given to them by the Participation Agreement and this Addendum, respectively;
2. terms used in the Incorporated EDUA Provisions shall have the meanings given to them by the EDUA; and
3. The agreements referenced herein are intended to be read and construed in harmony with each other. To the extent any provision in any agreement conflicts with a provision in the EDUA or have new, additional or different provisions, the following shall be the order of interpretation, unless the most stringent provision or a specific format is required by law: the DURSA and its joinder agreements, the CaDURSA and its joinder agreements, this Addendum, and, finally, the Participation Agreement. A copy of the current version of the EDUA is available at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *(insert hyperlink to landing page of CaDURSA*)

4. Incorporated EDUA Provisions. If and to the extent that Participant and its Authorized Users Transact Message Content (as described in the EDUA), they shall do so in accordance with the terms and conditions of the Participation Agreement, except as provided to the contrary in the terms and conditions of the current version of the EDUA described in the table below (the “**Incorporated** **EDUA** **Provisions**”) and as provided in Sections 2 and 3 above, which shall apply to all such Transactions of Message Content:

Incorporated EDUA Provisions (as of March 17, 2014)

| **Incorporated DURSA Provision** | **Incorporated CaDURSA Provision** | **Corresponding Provision of the Participation Agreement (for reference)** |
| --- | --- | --- |
| Sec. 5.01 (Permitted Purpose) | Sec. 5.1 (Permitted Purpose) | Sec. 6.1.3 (Permitted Purposes for Use of System and Services) |
| Sec. 6.01 (Autonomy Principle) | Sec. 6.1 (Autonomy Principle) | Sec. 2.2 (Relationship Between Terms and Conditions and Policies and Procedures) |
| Sec. 6.02 (Identification) | Sec. 6.2 (Identification) | Sec. 4.1 (Identification of Authorized Users)  Sec. 4.3 ( Passwords and Other Security Mechanisms) |
| Sec. 7.01 (Enterprise Security; General) | Sec. 7.1 (Enterprise Security; General) | Sec. 5.3 (System Security)  Sec. 9.1 (Compliance with Policies and Procedures) |
| Sec. 7.02 (Malicious Software) | Sec. 7.2 (Malicious Software) | Sec. 5.5 (Malicious Software, Viruses, and Other Threats) |
| Sec. 8 (Equipment and Software) | Sec. 8 (Equipment and Software) | Sec. 5.4 (Software and Hardware Provided by Participant)  Sec. 13.9 (Other Charges and Expenses) |
| Sec. 9 (Auditing) | Sec. 9 (Auditing) | Sec. 11.7 (Audits and Reports)  Sec. 11.7.4 (Audit Trail Reports) |
| Sec. 11.01 (General Compliance) | Sec. 11.1 (General Compliance) | Sec. 2.2 (Relationships Between Terms and Conditions and Policies and Procedures)  Sec. 6.1.1 (Grant by HIO)  Sec. 7.1.1 (Grant by HIO)  Sec. 11.8 (Access to Patient Data) |
| Sec. 12.01  “Participant User” | Sec. 12.1  “Participant User” | “Participant” and “Authorized User” – with the former having appropriate policies to require the latter to act in accordance with the applicable terms conditions of both the EDUA and the Participation Agreement. |
| Sec. 12.02 (Participant Users and HSPs) | Sec. 12.2 (Participant Users and HSPs) | Sec. 2.4.5 (Effect of Terms and Conditions and Policies and Procedures Upon Participation Agreements)  Sec. 17.3 (Enforcement and Accountability) |
| Sec. 13.01 (Specific Duties of a Participant When Submitting a Message) | Sec. 13.1 (Specific Duties of a Participant When Submitting a Message) | N/A |
| Sec. 13.02 (Specific Duties of a Participant When Submitting a Message) | Sec. 13.2 (Specific Duties of a Participant When Submitting a Message) | Sec. 7.3.1 (Applicable Policies and Procedures) |
| Sec. 13.03 (Specific Duties of a Participant When Submitting a Message) | Sec. 13.3 (Specific Duties of a Participant When Submitting a Message) | N/A |
| Sec. 14.01 (Applicability of HIPAA Regulations) | Sec. 14.01 (Applicability of HIPAA Regulations) | [Sec. 5.5 (Compliance with Laws and Regulations)]  Sec. 10 (Business Associate Contract) |
| Sec. 14.02 (Safeguards) | Sec. 14.2 (Safeguards) | [Sec. 5.3 (System Security)] |
| Sec. 14.03 (Breach Notification) | Sec. 14.3 (Breach Notification) | Sec. 9.2 (Reporting of Breaches and Security Incidents) |
| Sec. 15.04 (Agreements with Participant Users) | Sec. 15.4 (Agreements with Participant Users) | [Sec. 4.5 (Responsibility for Conduct of Participant and Authorized Users)] |
| Sec. 15.10 (Use of Message Content) | Sec. 15.10 (Use of Message Content) | [Sec. 6.5 (Permitted [and Prohibited] Uses and Disclosures of Patient Data)] |
| Sec. 15.11 (Compliance With Laws) | Sec. 15.11 (Compliance With Laws) | Sec. 5.2 (Compliance with Laws and Regulations) |
| Sec. 18.01 (Participant Liability) | Sec. 18.1 (Participant Liability) | Sec. 4.5 (Responsibility for Conduct of Participant and Authorized Users)  Sec. 15.3 (Other Participants) |
| Sec. 19.02 (Suspension or Termination by Participant) | Sec. 19.2 (Suspension or Termination by Participant) | N/A |

Effectiveness of this Addendum*.* This Addendum is made pursuant to Section 2.3 (Changes to Terms and Conditions and Policies and Procedures) of the Participation Agreement. [*Insert description of process, deadlines, etc. in accordance with Section 2.3*]. This Addendum shall take effect on [*effective date of Addendum*].