

DATA USE AGREEMENT

This Data Use Agreement (“Agreement”) is entered into between Rhode Island Quality Institute (“RIQI”) and _____ (“Participant”), with its principal office at _____, effective as of the date of execution below. RIQI and Participant will each be referred to as a “Party,” and will collectively be referred to as the “Parties.”

Whereas, RIQI seeks to promote the efficient, confidential and effective exchange of clinical health care information between Participants;

Whereas, RIQI conducts transactions involving the disclosure of protected health information (“PHI”), which provides access to such PHI by Participant and its affiliated practitioners and administrative personnel for the treatment of patients under the “CurrentCare” program (“System”);

Whereas, Participant possesses health care information and wishes to participate in the System and locate and access patient information through CurrentCare, Participant acknowledges that by signing this Agreement, Participant is responsible for all of Participant’s employees and agents’ compliance with the terms of this Agreement;

Whereas, the Parties desire to, among other things, set forth certain of the terms by which Participant may participate in CurrentCare, including use of the System; and

Whereas, some or all of the information to be disclosed is required by law (Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Rhode Island Health Information Exchange Act of 2008 and the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and the regulations promulgated thereunder) to be protected against unauthorized access, use, disclosure, modification or loss. A violation of such a legal requirement may lead to criminal or civil penalties or other harm or damages. In order to comply with applicable legal requirements for the protection of PHI, the Parties agree as follows:

I. CONDITIONS OF PARTICIPATION

1. Use of the System. Participant will use good faith efforts to participate in CurrentCare and use the System in accordance with RIQI policies, which are available at www.CurrentCareri.org.
2. Compliance with RIQI Policies. Participant will abide by RIQI policies. RIQI is solely responsible for the development of RIQI policies and may amend the policies at any time. If Participant determines that any new or revised RIQI policy will materially change Participant’s obligations under this Agreement, Participant may cease participation with written notice to RIQI in accordance with Section VI of this Agreement.
3. End-User Training. Participant will, at its own expense, provide to all persons who will be accessing clinical information (or make such persons available for) appropriate training regarding, without limitation, proper use of the System and

clinical information obtained using the System, and privacy and security of clinical information obtained using the System. Participant will maintain reasonably detailed logs and records of its end-user training activities hereunder and the same shall be subject to audit by RIQI pursuant to Section III, 4.

II. LICENSE GRANT AND RESTRICTIONS

1. License Grant. RIQI grants Participant a non-exclusive, non-transferable, non-sub licensable, royalty-free, limited license to access and use the System, including the software and the documentation, during the term of this Agreement, subject to the terms and conditions of this Agreement. Notwithstanding the limited license granted in the section, Participant may permit access to use of the System by: (a) its Participant users; and (b) any third party outsourcer or service provider that is engaged by Participant to provide services to Participant that relate to Participant's information technology systems or require the use of the System, provided that Participant has taken and will continue to take, reasonable and appropriate measures to require such third party outsourcer or service provider to comply with obligations consistent with this Agreement (including entering into a Business Associate Agreement with Participant), and that access by such third party or outsourcer is terminated promptly upon its conclusion of providing such services to Participant.
2. Proprietary Rights. Participant acknowledges and agrees that: (a) RIQI and/or RIQI licensors are the exclusive owner(s) of all right, title and interest in the System; (b) the System embodies and is based on and may include patented or patentable inventions, trade secrets, trademarks, copyrights and other intellectual property rights (collectively the "Proprietary Rights") owned and/or controlled by RIQI or RIQI's licensors; (c) RIQI or RIQI's licensors will continue to be the sole owners of all Proprietary Rights in and to the System; and (d) this Agreement does not convey to Participant any title in or to, or ownership of, the System or of any part thereof or to any modifications extensions, enhancements or derivative works made thereto, except as expressly licensed to Participant hereunder, with limited rights to use in accordance with this Agreement. Participant hereby assigns all such Proprietary Rights to RIQI, and agrees to do all other acts reasonably necessary to perfect RIQI's ownership thereof. Notwithstanding the foregoing provisions of this Section, this Agreement does not convey to RIQI or any other Participant organization any right, title, interest in or to, or ownership of any of Participant's: (a) licensed or owned clinical information systems in order to enable or facilitate Participant's use of the System; and (b) inventions or other intellectual property of Participant in existence prior to the effective date of this Agreement.
3. License Restrictions. Nothing in this Agreement will be construed as an implied grant to Participant of any right to, nor will Participant permit any of its users or any third party to: (a) use or reproduce any of the software and source code format; (b) distribute, disclose or allow use of any of the software or documentation in any format by any third party other than Participant's users; (c)

decompile, disassemble or otherwise reverse engineer or attempt to deconstruct, or discover any source code or underlying ideas or algorithms of the software by any means whatsoever; (d) modify or alter the software in any manner whatsoever; or (e) allow use of the software, or access to or use of the System by anyone other than authorized Participant users; provided that it will not violate this Section if Participant allows such access to third party vendors providing services to Participant. Notwithstanding the foregoing, Participant may make a reasonable number of copies of the whole or any part of the software in executable form as necessary for Participant's back-up or archival purposes; provided that each such copy must reproduce and include all copyrights notices of RIQI and/or its licensors as applicable.

III. USE OF THE SYSTEM BY PARTICIPANT

1. System use. The System will be used by Participant (and Participant's authorized users) only to receive, locate and access patient data and system operation data or information concerning where or how to access patient data and system operations data. Unless specifically authorized by RIQI, the System may not be used by Participant or Participant's users to access, use, disclose or transmit any information other than Participant's patient data. The System, and any data or information accessible through the System may not be used for any purposes contrary to local, state and federal laws and regulations.
2. Uses and Prohibited Uses of Patient Data. Participant may not use the System, or information made available by or received from data sources through the System (including patient data or any other information that may be in the System from other data sources), for purposes other than: (a) treatment of Participant's patients; (b) RIQI related business operations; and (c) any other purpose specifically permitted by RIQI policies or law. Without limiting the foregoing, prohibited purposes include marketing or fundraising. The Participant will handle and maintain patient data in the same form, place and manner as the Participant would handle, file and maintain its own clinical information and any clinical information that Participant received from other healthcare providers.
3. Incorporation of Specification and Operations Addenda. This Agreement incorporates by reference the Specifications Addendum and Operations Addendum which the Parties have agreed shall incorporate this Agreement by reference.
4. Audits. Participant and all other Participant user organizations may be subject to audit by RIQI (or a third party engaged by RIQI for such purposes) to confirm compliance with this Agreement and proper use of the System in accordance with this Agreement and RIQI policies. Such audits may be conducted remotely or by physical on-site visit. To the extent that audits are conducted at Participant's physical premises, such audits will take place during business hours and upon reasonable notice to Participant. Such audits will be performed at the expense of RIQI, and in a manner designed to reasonably minimize interference with

Participant's day-to-day operations. In addition, Participant will review Participant's use of the System to confirm compliance with this Agreement and proper use of the System in accordance with this Agreement, and report to RIQI its findings from such review. Participant will also take appropriate disciplinary action to address any issues revealed by such audits, in accordance with such Participant's policies and procedures, and report to RIQI, the disciplinary actions taken.

5. Criteria for Transactions.

- A. Minimum Necessary Information. Participant agrees to only access and allow its Participant users to access the minimum necessary information to achieve Participant's purpose for treating the patient.
- B. Patient Affirmative Consent. Prior to conducting any transaction in which PHI is accessed or used by Participant, the patient or patient's authorized representative shall have authorized such disclosure and Participant shall have been authenticated by RIQI as an authenticated Participant. Participant will only access PHI of patients with whom Participant has a Provider-Patient relationship and is treating. Participant shall certify that Participant has a treating relationship with patient prior to accessing and/or using any PHI through CurrentCare.
- C. Specifications Addendum. The Specifications Addendum attached hereto as **Exhibit A** shall be applicable to Participant's access to CurrentCare. The Specification Addendum includes the following provisions:
 - (i) An identification of the Parties;
 - (ii) A statement incorporating this Agreement by reference;
 - (iii) A description of the purpose(s) for which PHI will be accessed or disclosed in the transaction;
 - (iv) A description of the scope of the PHI which will be accessed or disclosed;
 - (v) A description of the uses and disclosures permitted with respect to PHI;
 - (vi) A description of the format(s) in which information will be disclosed;
 - (vii) A description of the method(s) by which information will be accessed including encryption or other technical security mechanisms implemented if using electronic communications network;

- (viii) A description of the means used to authenticate person(s) authorized to disclose and/or receive PHI; and
- (ix) The parties may elect to state additional or more detailed requirements for the protection of information.

D. PHI Access. PHI shall be accessed according to the methods agreed to in the applicable Specifications Addendum.

6. Additional Obligations of Participant.

A. General Obligations. At all times following the access of PHI, until such time as the PHI is no longer in Participant's possession or control:

- i. Participant shall not use, disclose or process PHI through CurrentCare for any purpose not stated in the applicable Specifications Addendum, excepting only as necessary for proper management and administration or in order to carry out its legal responsibilities.
- ii. Participant shall implement appropriate administrative, physical and technical safeguards to protect the confidentiality and integrity of PHI and to prevent any access, use or disclosure of the PHI other than those permitted under this Agreement.
- iii. Participant shall abide by operational processes outlined in the attached Operations Addendum **Exhibit B** and the Participant Readiness Attestation Form attached as **Exhibit C**.
- iv. Participant will not allow its users access to the System unless and until the Participant user has completed the training referenced in Section I.3. Participant will be responsible for all acts and omissions of (i) Participant users; and (ii) all other individuals who access the System through Participant or by use of any password, identifier, or log-on received or obtained, directly or indirectly, lawfully or unlawfully, from the Participant or any of Participant users with respect to the System. All Participant users and Participant unauthorized user acts and omissions will be deemed to be the acts and omissions of Participant. Participant will not allow access, use or disclosure of PHI by its users unless and until the user has agreed to protect the confidentiality of such PHI substantially equivalent to that required of Participant under this Agreement.
- v. Other than hardware and software, Participant will be responsible for procuring and maintaining all equipment and software, and all telecommunications connectivity, necessary for Participant to; (i) access the System; and (ii) use the System (including the Software). Such equipment will conform to RIQI's then current specifications, as set forth in the Specifications Addendum. RIQI may change such specifications from time to time in its sole discretion. As part of Participant's obligation to provide

such equipment and software, Participant will be responsible for ensuring that all Participant computers to be used to interface with the System are properly configured, including the operating system, web browser, and Internet connectivity.

- vi. Participant must establish and document detailed policies, procedures and rules, which shall be subject to review and audit by RIQI at its reasonable request, as follows:
 - (a) Participant shall determine which workforce members are granted physical access rights to CurrentCare based upon their role or function on a need to know basis;
 - (b) Participant shall review and revise access rights on an ongoing basis;
 - (c) Participant shall implement procedures to ensure that Participant is only accessing applicable PHI and other information through CurrentCare that is authorized by the patient to access; to discover breaches; and to sanction employees for violation of such procedures;
 - (d) Participant shall implement a procedure for notifying RIQI's Account Administrator upon termination of employees or Participant role changes in order to terminate, disable or modify Participant access to CurrentCare;
 - (e) Participant shall implement a procedure to control and validate workforce members' access to PHI through CurrentCare, including providing individual Participant names and passwords for each workforce member authorized to access PHI through CurrentCare;
 - (f) Participant shall implement policies and procedures related to the destruction of PHI obtained through CurrentCare; and
 - (g) Participant shall implement breach notification policies and procedures, including providing immediate notice to RIQI's Security Officer of a breach of a patient's unsecured PHI and documentation of the risk assessment and investigation performed by Participant relating to the breach.
- vii. Participant shall promptly notify RIQI's Security Officer of any breach, use or disclosure of PHI contrary to the terms of this Agreement of which it becomes aware.

- viii. Participant shall ensure that any agent, employee or subcontractor to whom it provides PHI obtained from CurrentCare agrees to implement appropriate safeguards to protect the PHI consistent with the terms of this Agreement.
- ix. Participant shall notify RIQI's Security Officer in the event it becomes aware of a suspected breach of this Agreement.
- x. Participant agrees to provide RIQI with any policies, procedures and rules required by this Agreement at RIQI's request.
- xi. Participant shall be solely responsible for: (a) the performance of its information technology systems; and (b) all use by Participant and its users of the System, including any treatment decisions made by Participant (or any of its employees) in reliance on data accessed through CurrentCare.
- xii. Participant acknowledges and agrees that because the System: (i) is accessed over the Internet; (ii) relies, in part, on the existence and proper operation of equipment and software that is outside of the control of RIQI (including telecommunication lines); and (iii) relies on access to information from, and the provision of information controlled by, third parties, RIQI makes no representations, warranties, or guarantees as to the availability or accessibility of the System or any patient data, or the completeness or accuracy of any patient data.
- xiii. Participant grants to RIQI during the Term a perpetual, fully-paid, worldwide, non-exclusive, royalty-free right and license to: (i) permit all Participant organizations who enter into a Data Use Agreement with RIQI to access and use all patient data through the System for the purposes set forth above only; and (ii) access and use the patient data: (A) to exercise RIQI's rights and carry out RIQI's obligations under this Agreement to provide services on behalf of Participant, including as necessary for the System administration (including performance measurement), testing, and problem identification and resolution; (B) for the proper management and administration of RIQI to the extent permitted by information privacy and protection laws; and (C) as permitted by applicable state and federal laws, including information privacy and protection laws.
- xiv. In no event will Participant access, transfer, use or disclose patient data in any manner or for any purpose that is prohibited by any applicable state or federal law, rule or regulation.

7. Computer System Administration. Participant shall:

- A. Maintain a designated individual or individuals to serve as security officer(s) responsible for supervising the security of the computer systems, who shall further be responsible for communicating with RIQI with respect to matters affecting the security of the Participant's computer or computer systems;

- B. Maintain technological systems and procedures to guard against unauthorized access to information that is transmitted electronically;
- C. Maintain such policies, procedures and systems as may be reasonably necessary to prevent unauthorized parties from having access to, using, disclosing, processing, copying, modifying, corrupting, rendering unavailable, destruction, introducing computer code into or otherwise performing activities or operations upon or harmful to the privacy, availability, accessibility, integrity, structure, format or content of information which may be transmitted to or accessed by Participant;
- D. Notify RIQI's Security Officer immediately in the event of any proven or suspected incident in which Participant has reason to believe any unauthorized person may have had access to the computer or computer systems of Participant, or a breach occurred, including any and all available information that it has in its possession including:
 - i. a description of what happened, including the date of the breach and the date of the discovery of the breach;
 - ii. a description of the types of PHI that were involved in the breach;
 - iii. a description of what Participant did to investigate the breach, protect against further breaches and mitigate harm; and
 - iv. the identity of the person to contact for questions related to the breach;
- E. Immediately investigate any actual or suspected breach and promptly identify the root cause of the breach and notify RIQI of the root cause of the breach, and the response, mitigation and corrective action to be taken by Participant as a result of the breach.
- F. If a breach or unauthorized use is as a result of Participant's negligence and/or willful or intentional conduct, RIQI may sanction Participant in its sole discretion, up to and including terminating Participant's participation in CurrentCare;
- G. Maintain or cause to be maintained sufficient insurance coverage as shall be necessary to insure Participant and its employees, agents and subcontractors against any and all claims or claims for damages arising under this Agreement; and
- H. Defend, indemnify and hold harmless RIQI from and against any and all claims, damages, losses and liability, including reasonable attorneys' fees, costs, expenses, fines and penalties sustained or incurred by RIQI relating to or resulting from any action, failure, negligence or willful acts or omissions of Participant's officers, employees, agents or representatives, including all costs and expenses related to notifying individuals and/or prevent or remedy possible identity theft, financial harm, reputational harm or any other claims related to a breach of

unsecured PHI incurred as a result of, or arising directly or indirectly out of or in connection with any acts or omissions of Participant and/or its users.

IV. RESPONSIBILITIES OF RIQI

1. Data Use Agreements. RIQI will require that all data sources and all data users enter into a Data Sharing Partner and/or a Data Use Agreement prior to being granted access to and use of the System.
2. Maintenance of the System. RIQI will maintain the functionality of the System in accordance with RIQI Policy, and will provide (or arrange for the provision of) such service, security, and other updates as RIQI determines are appropriate from time to time.
3. HIPAA Business Associate Obligations of RIQI. In addition to, and without limitation of, its other obligations under this Agreement, RIQI agrees to enter into a HIPAA Business Associate Agreement with Participant in the form annexed hereto as Exhibit D, pursuant to which RIQI will, among other things, agree not to use or disclose PHI other than as permitted or required by this Agreement or as required by law.

V. WARRANTIES; LIMITATION OF LIABILITY

1. No Warranties. RIQI MAKES NO REPRESENTATIONS OR WARRANTIES TO ANY PERSON OR ENTITY WITH RESPECT TO THE SYSTEM, THE SOFTWARE, TRAINING, THE DOCUMENTATION, ANY PATIENT DATA OR OTHER INFORMATION AVAILABLE THROUGH THE SYSTEM OR ANY SERVICES PROVIDED BY RIQI OR ITS AGENTS WITH RESPECT TO ANY OF THE FOREGOING, AND HEREBY DISCLAIMS ALL IMPLIED WARRANTIES WITH RESPECT TO THE SYSTEM, THE SOFTWARE, THE DOCUMENTATION, AND SUCH INFORMATION AND SERVICES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FURTHER, RIQI MAKES NO WARRANTY, GUARANTEE, OR REPRESENTATION REGARDING THE USE, OR ANY INTENDED, EXPECTED OR ACTUAL RESULTS OF THE USE, OF THE SYSTEM, THE SOFTWARE, THE DOCUMENTATION OR ANY INFORMATION CONTAINED THEREIN OR OTHERWISE PROVIDED PURSUANT TO THIS AGREEMENT INCLUDING ANY PATIENT DATA, IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. RIQI DOES NOT MAKE ANY WARRANTIES THAT THE SYSTEM, THE SOFTWARE, OR THE DOCUMENTATION WILL BE ERROR-FREE OR THAT THE OPERATION OF THE SYSTEM OR THE SOFTWARE WILL BE UNINTERRUPTED. WITHOUT LIMITING THE FOREGOING, RIQI SPECIFICALLY DISCLAIMS ALL EXPRESS WARRANTIES NOT STATED HEREIN AND ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO RIQI AGENT OR

EMPLOYEE IS AUTHORIZED TO MAKE ANY EXPANSION, MODIFICATION OR ADDITION TO THIS LIMITATION AND EXCLUSION OF WARRANTIES IN THIS AGREEMENT.

RIQI AND ITS SUBCONTRACTORS USE AVAILABLE TECHNOLOGY TO MATCH PATIENT PARTICIPANT IDENTITIES WITH THEIR PHI IN ORDER TO PROVIDE PHYSICIANS WITH PATIENTS' PHI. BECAUSE PATIENT INFORMATION IS MAINTAINED IN MULTIPLE PLACES, NOT ALL OF WHICH ARE ACCESSIBLE TO RIQI, AND BECAUSE NOT ALL PATIENT INFORMATION IS KEPT IN A STANDARD FASHION OR IS REGULARLY UPDATED, IT IS POSSIBLE THAT FALSE MATCHES MAY OCCUR OR THAT THERE MAY BE ERRORS OR OMISSIONS IN THE INFORMATION. THEREFORE, ANY TREATING PHYSICIAN OR OTHER HEALTH CARE PROVIDER OR FACILITY SHOULD VERIFY PRESCRIPTION DRUG BENEFIT, MEDICATION HISTORY INFORMATION AND OTHER PHI WITH EACH PATIENT AND/OR THE PATIENT'S REPRESENTATIVES BEFORE SUCH INFORMATION IS RELIED UPON OR UTILIZED IN DIAGNOSING OR TREATING THE PATIENT. RIQI AND ITS SUBCONTRACTORS DO NOT AND CANNOT INDEPENDENTLY VERIFY OR REVIEW THE INFORMATION TRANSMITTED THROUGH THE SYSTEM FOR ACCURACY OF COMPLETENESS.

RIQI MAKES NO REPRESENTATION OR WARRANTY REGARDING THE AVAILABILITY THROUGH THE SYSTEM OF ANY PARTICULAR DATA SOURCE OR OTHER PARTICIPANT. AT ANY TIME, DATA SOURCES OR OTHER PARTICIPANTS MAY BE ADDED TO OR DELETED FROM THE SYSTEM OR MAY LIMIT VENDOR AND/OR ANY VENDOR CUSTOMER ACCESS TO THEIR DATA, AND SUCH CHANGES MAY OCCUR WITHOUT PRIOR NOTICE.

2. No Consequential or Special Damages. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR ANY OTHER PARTY ENTITLED TO INDEMNIFICATION HEREUNDER FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF EQUIPMENT USE, OR LOSS OF DATA OR INFORMATION OF ANY KIND, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

3. No Obligation to Operate. Participant acknowledges that, as directed by the RIQI Board of Directors, RIQI may at any time decide to cease operating the System. Participant agrees that nothing in this Agreement obligates RIQI to continue to operate the System, and that Participant's right to participate in the System as set forth herein will be in effect only to the extent that the System is operational. RIQI may dissolve, discontinue its business, or cease to operate the System at any

time, in which case Participant will have no recourse against RIQI as a result of such action or inaction.

4. Accuracy of Data. All data to which access is made through the System originates from data sources and other parties making data available through the System, and not from RIQI. All such data is subject to change arising from numerous factors, including changes to patient health information made at the request of the patient, changes in the patient's health condition, the passage of time and other factors. RIQI neither initiates the transmission of any data nor monitors the specific content of data being transmitted. Without limiting any other provision of this Agreement, RIQI will have no responsibility for or liability related to the accuracy, content, currency, completeness, content, or delivery of any data either provided by a data source, or used by a Participant.

5. Patient Care, Utilization Management and Quality Management. Participant and its users, employees and agents will be solely responsible for all decisions involving patient care, utilization management, and quality management for its patients. Neither Party will have recourse against the other Party or any Participant organization for any loss, damage, claim or cost relating to or resulting from its own use of the System or data accessed through the System. Without limitation of the foregoing provisions of this Section, or any other provision of this Agreement, RIQI will not have any liability to Participant for: (a) the content of any patient data; or (b) for any action or inaction of any other participant, provided that RIQI entered into a Data Use Agreement with such participant, and enforced the provisions of such Data Use Agreement with respect to such participant in the event that RIQI had knowledge that such participant breached a material provision of such Data Use Agreement.

6. Other Participant Organizations. Participant acknowledges that other participants will have access to patient data of Participant through the System. Provided that RIQI entered into a Data Use Agreement with each such participant, and enforced the provisions of such Data Use Agreement with respect to such participant in the event that RIQI had knowledge that such participant breached the provisions of such Data Use Agreement related to the privacy, security and confidentiality of information available through the System, RIQI will not have any liability to Participant for any impairment of the privacy, security or confidentiality of patient data of Participant resulting from any user organization's actions or failures to act.

VI. TERM AND TERMINATION

1. Effective Date. The Effective Date of this Agreement shall be _____, 20__.

2. Termination of Specifications and Operations Addenda. The Termination of this Agreement shall simultaneously terminate the Specifications Addendum and Operations Addendum in effect.
3. Term. Except as otherwise agreed, this Agreement shall be in effect until termination. Either Party may terminate this Agreement with thirty (30) days written notice to the other.
4. Conditions Allowing Immediate Termination. Notwithstanding anything to the contrary in this Agreement, any Party may terminate its participation under this Agreement immediately upon written notice to the other Party, without any term of notice and/or judicial intervention being required, and without liability for such termination, in the event that:
 - i. The terminating Party determines that the other Party has violated a material provision of this Agreement pertaining to the protection, access, use or disclosure of PHI;
 - ii. The other Party receives: (i) a Criminal Conviction; (ii) is excluded, barred or otherwise ineligible to participate in any government health care program, including but not limited to Medicare, Medicaid, CHAMPUS or Tricare; (iii) is named as a defendant in a criminal proceeding for a violation of any information privacy and protection law; or (iv) is found to have or stipulates that the party has violated any privacy, security or confidentiality protection requirements under any applicable Information Privacy and Protection Law in any administrative or civil proceeding in which the Party has been joined;
 - iii. A trustee or receiver is appointed for any or all property of a Party which is in possession of PHI received/disclosed/accessed by the terminating Party;
 - iv. A Party which is in possession of PHI received/disclosed/accessed used by the terminating Party becomes insolvent or unable to pay debts as they mature, or ceases to so pay, or makes an assignment for benefit of creditors;
 - v. Bankruptcy or insolvency proceedings under bankruptcy or insolvency code or similar law, whether voluntary or involuntary, are properly commenced by or against a Party which is in the possession of PHI received/disclosed/accessed used by the terminating Party; or
 - vi. A Party which is in the possession of PHI received/disclosed/accessed by the terminating Party is dissolved or liquidated.
5. Termination for Curable Breach. A Party may terminate its coverage by and participation in this Agreement upon written notice in the event that the other Party materially breaches one or more of the requirements or conditions of this

Agreement or the applicable Specifications Addendum and, if curable, fails to reasonably cure such breach within thirty (30) days from the date of the notice. Notwithstanding the foregoing, the non-breaching Party, at its sole discretion, may elect to cure any breach which in its sole determination may constitute or cause a violation of any information privacy and protection law by the non-breaching Party, in which event the costs and expenses of such cure shall be borne by the breaching Party.

6. Termination Due to Change in Law. Any Party may terminate its coverage by and participation in this Agreement upon reasonable written notice to the other Party in the event that it has sought amendment of this Agreement pursuant to Section and no amendment has been agreed upon, by written notice of termination no later than thirty (30) days after the date required for agreement upon amendment.

VII. Miscellaneous.

1. Amendment of Agreement.

- i. A Specifications Addendum or Operations Addendum may be modified or amended by mutual agreement of the Parties at any time without amendment to this Agreement.
- ii. A modification by a Party of its policies, procedures, processes and/or systems used in connection with its obligations under this Agreement shall not be deemed a breach of or amendment to this Agreement, unless: (i) such modification unreasonably interferes with another Party's ability to fulfill its obligations under this Agreement; or (ii) such modification is contrary to or interferes with a specific obligation stated in the applicable Specifications Addendum.
- iii. Any Party may seek to amend this Agreement in order to accommodate any new legislation, regulation, case holding, or legal order issued or proposed to be issued by a federal or state agency of competent jurisdiction which, in the reasonable judgment of the party: (a) invalidates or is materially inconsistent with this Agreement; (b) would cause a Party to be in violation of the law by its continued performance under this Agreement; (c) would jeopardize the tax-exempt status of the Party (if applicable) by its continued performance under this Agreement; or (d) would jeopardize the licensure, accreditation or participation in good standing in a federal health benefit plan of the Party by its continued performance under this Agreement. A Party wishing to seek such an amendment shall notify the other Party in writing, including any proposed terms of amendment, no later than ninety (90) days prior to the proposed effective date of the amendment. The Parties shall then negotiate in good faith to agree upon an amendment. In the event no agreement is reached, no amendment shall be effective, and the Party seeking amendment may elect to terminate by written notice.

2. Entire Agreement. This Agreement, including any Specification Addendum and Operations Addendum incorporating this Agreement by reference, and as amended from time to time, constitutes the entire agreement and understanding between the Parties and supersedes all prior oral or written agreements and understandings between them with respect to such services.
3. Assignment. No Party may assign or transfer any or all of its rights and/or obligations under this Agreement or any part of it, nor any benefit or interest in or under it, to any third party without the prior written consent of all Parties, which shall not be unreasonably withheld.
4. Notices. Any notice which may be or is required to be given under this Agreement shall be in writing and shall be sent by first class mail, fax, courier or as an Electronic Record attached to an e-mail. All notices shall be effective upon receipt at the addresses stated in the signature lines below.
5. Intent to Comply with Laws. This Agreement shall be interpreted consistently with all applicable information privacy and protection laws, and shall be construed and interpreted liberally in favor of the protection of PHI and confidential Information. In the event of a conflict between applicable laws, the more stringent law shall be applied.
6. Jurisdiction and Venue for Judicial Proceedings. Jurisdiction and venue for any dispute arising out of or in connection with this Agreement shall be the Superior Court for Providence County, State of Rhode Island and Rhode Island law shall apply.
7. Mutual Representations. Each party to this Agreement represents to the other Party that, at all times during the Term and at such other times as may be indicated, it shall comply with, and as applicable, shall require its directors, officers and employees to comply with its duties and obligations pursuant to this Agreement, including but not limited to duties and obligations which survive the termination of this Agreement.
8. Enforceability. If any provision of this Agreement is held invalid or unenforceable for any reason but would be valid and enforceable if appropriately modified, then such provision will apply with the modification necessary to make it valid and enforceable. If such provision cannot be so modified, the Parties agree that such invalidity will not affect the validity of the remaining provisions of this Agreement.
9. Force Majeure. Neither Party will be liable for nonperformance or delays caused by acts of God, wars, riots, strikes, fires, floods, earthquakes, government restrictions, terrorist acts or other causes beyond its reasonable control.
10. Use of Electronic Signatures and electronic Records. The Parties may elect to establish processes for the use of Electronic Records in the management of and compliance with this Agreement. Such document may include published policies,

procedural information, notices, and any other documents arising from or pertaining to this Agreement, including this Agreement itself. Any such process must include the establishment of a mutually acceptable Electronic Signature process, which complies with federal and state laws.

RIQI

PARTICIPANT NAME

(Signature)

(Signature)

(Print Name)

(Print Name)

(Print Title)

(Print Title)

Address

Address

Date

Date

Practice/Organization Name

EXHIBIT A

Specifications Addendum

This Specifications Addendum is entered into between RIQI and Participant pursuant to that certain Data Use Agreement effective _____, 20__, (“Agreement”). The Agreement is hereby incorporated by reference as if repeated in its entirety. This Specifications Addendum may be amended from time to time as provided in Section VII(1)(i) of the Agreement. As provided in the Agreement, the parties hereby specify as follows:

A. Purpose(s) for Access Disclosure.

The Purpose(s) for which RIQI shall disclose and share PHI with Participant is the following:

To facilitate the exchange of PHI for the treatment of patients of Participant.

B. Information to be Accessed and Disclosed.

The scope of the information to be accessed and disclosed is as follows:

Any and all PHI of patients being treated by Participant who have consented to participation in CurrentCare.

C. Permitted Access Uses and Disclosures of Information.

Participant shall be limited to the following access, uses and/or disclosures of PHI:

To utilize the information for treatment of patients.

D. Access and Disclosure Format(s).

Information shall be accessed and disclosed in the following format(s): in the CurrentCare web portal or as message(s) that are transported via NwHIN Direct secure e-mail.

E. Method of Transmission.

Information shall be transmitted as follows:

Electronically

F. Authentication.

Authorized individuals accessing/receiving PHI on behalf of Participant shall be authenticated by use of the following:

As provided in the Agreement, Participant will provide CurrentCare system Participant name and passwords to authorized individuals expected to have a treating relationship with CurrentCare enrollees. Authorized individuals who have been given a Participant name and password by the Participant will certify through the CurrentCare system that there is a treating relationship before accessing the CurrentCare enrollee's PHI.

RIQI

PARTICIPANT NAME

(Signature)

(Signature)

(Print Name)

(Print Name)

(Print Title)

(Print Title)

Date

Date

Practice/Organization Name

Address for Notices:

Address for Notices:

EXHIBIT B

Operations Addendum

This Operations Addendum is entered into between RIQI and Participant pursuant to that certain Data Use Agreement effective _____, 20__ (“Agreement”). The Agreement is hereby incorporated by reference as if repeated in its entirety. This Operations Addendum may be amended from time to time. As provided in the Agreement, the Parties hereby specify as follows:

A. The operational processes applicable are outlined in the Participant Readiness Attestation Form attached hereto. Participant agrees to provide to RIQI, upon request, all of its policies and procedures relating to implementation of the Agreement. In addition, Participant agrees to follow CurrentCare policies and procedures, which are available at currentcareri.org.

RIQI

PARTICIPANT NAME

(Signature)

(Signature)

(Print Name)

(Print Name)

(Print Title)

(Print Title)

Date

Date

Practice/Organization Name

Address for Notices:

Address for Notices:

EXHIBIT C

Participant Readiness Attestation Form

1. Pre-Assessment

Each prospective/participant user site must have:

- 1.1 Agreed to the terms of and executed the *CurrentCare Data Use Agreement* that addresses specific technical, confidentiality, data use and management requirements.
- 1.2 Completed this *Participant Readiness Attestation Form* to assure a clear understanding and satisfaction of prerequisites for CurrentCare implementation.

2. Administration

- 2.1 Designate a Delegated User Administrator to serve in the following capacity:
 - (a) Verify the physical identity of users affiliated with the organization (as per the [CurrentCare User Authentication Policy](#));
 - (b) Notify CurrentCare Account Administration at 1-888-858-4815 or CurrentCare@riqi.org of any changes to employee access, i.e. employee no longer works for the Participant site, employee's access level has changed or needs to be deactivated, or a new employee requires access;
 - (c) Notify CurrentCare Account Administration at 1-888-858-4815 or CurrentCare@riqi.org of any user and/or technical issues.
 - (d) Notify CurrentCare Account Administration at 1-888-858-4815 CurrentCare@riqi.org of any security incident or breach.

Name of Delegated User Administrator(s):

<u>Name</u>	<u>Name</u>
<u>Email</u>	<u>Email</u>
<u>Telephone#</u>	<u>Telephone#</u>

<u>Name</u>	<u>Name</u>
<u>Email</u>	<u>Email</u>
<u>Telephone#</u>	<u>Telephone#</u>

- 2.2 Require that all employees participate in user training and education necessary to assure responsible and correct use of the Participant's system and observation of essential policies and procedures including privacy and security and breach notification compliance.

3. User Authentication

Delegated User Administrator has:

- 3.1 Assured: (a) the validity and accuracy of information provided to CurrentCare to establish the identity of users to be designated as affiliates of their respective organizations; (b) the currency and validity of professional credentials, especially as they relate to the appropriate assignment of the Licensed Independent Practitioner (LIP) role; and (c) the appropriate assignment of all other roles to affiliated personnel designated as CurrentCare users.
- 3.2 Implemented a process for requesting new CurrentCare user account for new personnel.
- 3.3 Implemented a process to notify the CurrentCare Security Officer upon gaining knowledge of improper activity related to identity by any affiliated user that could subject the organization, its patients or other CurrentCare stakeholders to risk or harm.
- 3.4 Implemented a process to support CurrentCare in quarterly reconciliation of its designated users list.

4. CurrentCare Administration

Delegated User Administrator has:

- 4.1 Implemented a process to support enrollee requests to amend medical records.
- 4.2 Implemented HIPAA compliant policies and procedures.
- 4.3 Trained employees/users on CurrentCare services use as applicable.

5. Temporary Authorization

Delegated User Administrator has:

- 5.1 Implemented a process to support temporary authorization privileges, i.e. Break the Glass (reference the [RI HIE Temporary Authorization Policy](#) for additional information).

6. Complaints

All **CurrentCare** user sites must support an internal patient complaint process for the resolution of problems related to use of the HIE.

Participant must:

- 6.1 Review the Rhode Island Health Information Exchange Act of 2008 and Department of Health rules and regulations pertaining to patient's rights under CurrentCare.
- 6.2 Establish and implement policies and procedures that address patients' rights and responsibilities.
- 6.3 Encourage patients to understand and exercise those rights and responsibilities.
- 6.4 Implement a plan for taking action to resolve the complaint directly with the patient.
- 6.5 Implement a process for reporting the complaint to RIQI that assures that the details of the complaint are documented on a Patient Complaint Form, including the date the complaint was received and all related actions taken by the Participant site.

Attestation By: _____ **Date:** _____

Practice/Organization Name: _____

EXHIBIT D

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (Agreement), effective as of _____, is made by and between _____ (“Participant”) and Rhode Island Quality Institute (“RIQI”) for the purpose of compliance with the Health Insurance Portability and Accountability Act and its implementing administrative simplification regulations (45 CFR 160-164) (HIPAA) and Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH). This Agreement hereby amends and is incorporated into any underlying agreement between Participant and RIQI; to the extent that the provisions of this Agreement conflict with those of an underlying agreement, the provisions of this Agreement shall control. Terms used but not otherwise defined herein shall have the same meaning as those terms defined in 45 CFR 160.103 and 164.501.

If, during Participant’s involvement in CurrentCare, RIQI representatives may receive or have access to Protected Health Information (PHI) that is created and/or maintained by Participant, RIQI shall be bound to the following terms:

1. Permitted Uses and Disclosures. RIQI may use and disclose PHI, if in the course of performing services for or on behalf of Participant or as required or permitted by law, regulation, regulatory agency or by any accrediting body to whom Participant or RIQI may be required to disclose such PHI; RIQI may also use PHI for its proper management and administration, or to carry out the legal responsibilities of RIQI.

2. RIQI’s Obligations. RIQI shall:
 - a. ensure that its agents and subcontractors to whom it may provide PHI agree to the same terms and conditions as are applicable to RIQI as set forth herein;
 - b. implement appropriate and reasonable safeguards to prevent use or disclosure of PHI other than as permitted herein and report to Participant any use or disclosure of PHI not provided for by this Agreement;
 - c. make available to the Secretary of Health and Human Services, RIQI’s practices, books and records relating to the use or disclosure of PHI for purposes of determining Participant’s compliance with HIPAA; subject to any attorney-client or other privileges;
 - d. report to the Participant, and mitigate to the extent practicable, any harmful effect that is known to RIQI of uses or disclosures of PHI of which RIQI becomes aware that do not comply with the terms herein;
 - e. document such uses and disclosures of PHI and, upon Participant’s request, provide such information as would be required for Participant to account for disclosures of PHI as required under HIPAA; and

f. following a discovery of a breach of Unsecured Protected Health Information, as defined in HITECH, notify Participant of such breach within thirty (30) days of the discovery of the breach.

3. Term and Termination. The term of this Agreement shall be effective as of the date set forth above and shall terminate when Participant no longer participates in CurrentCare. Participant may terminate this Agreement if RIQI fails to cure or take substantial steps to cure a material breach of this Agreement within thirty (30) days after receiving written notice of such material breach from Participant.

4. Agreement. This Agreement may be amended only in writing signed by Participant and RIQI. The parties agree to take such action to amend this Agreement as is necessary to comply with the requirements of HIPAA and HITECH. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of Rhode Island, including all matters of construction, validity and performance.

RIQI

PARTICIPANT NAME

By: _____

By: _____

Title: _____

Title: _____

Practice/Organization Name