CONSULTING SERVICES CONTRACT

PART I: PARTIES

This contract is between the City and Borough of Juneau, Alaska, a municipal corporation and political subdivision of the State of Alaska, 155 South Seward Street, Juneau, Alaska 99801 (“CITY”), and Quorum Health Resources, LLC, 105 Continental Place, Brentwood, Tennessee 37027, a Limited Liability Corporation licensed to do business in the State of Alaska (“CONTRACTOR”) (individually, a “Party” and collectively, “the Parties”).

PART II: CONTRACT ADMINISTRATION

All communications concerning this contract shall be directed as follows:

CITY: Attn: CEO
Bartlett Regional Hospital
3260 Bartlett Drive,
Juneau, Alaska 99801
Phone: (907) 796-8438
Fax: (907) 796-8221

CONTRACTOR: Attn: Senior VP, Operations
Quorum Health Resources, LLC
105 Continental Place
Brentwood, Tennessee
Phone: (615) 371-7979
Fax: (615) 371-4660

PART III: CONTRACT DESCRIPTION

This contract is for the provision of purchasing and consulting services to Bartlett Regional Hospital (“Bartlett” or “Hospital”). The following appendices are part of this contract as well as any exhibits or attachments incorporated by reference or attached to those appendices.

   Appendix A: Scope of Work, Parties’ Responsibilities, Term, Compensation
   Appendix B: Standard Provisions
   Appendix C: Insurance Addendum
   Appendix D: Consulting Services
   Appendix E: Additional Available Services
   Appendix F: Business Associate Agreement

If in conflict, the order of precedence shall be: this document; Appendices A, C, D and E; and then B.
PART IV: CONTRACT EXECUTION

The CITY and CONTRACTOR agree and sign below. This contract is not effective until signed by the CITY.

CITY:

Date: ______________________________

By: ______________________________
    Authorized Representative
    Rod Swope
    City Manager

Content Approved by: ______________________________, Date: __________
    Chair, Hospital Board

Content Approved by: ______________________________, Date: __________
    CEO, Bartlett Regional Hospital

Form Approved by: ______________________________, Date: __________
    Law Department

Risk Management Review: ______________________________, Date: __________
    Risk Manager

CONTRACTOR:

Date: ______________________________

By: ______________________________
    Authorized Representative
    Quorum Health Resources, LLC

Content Approved by: ______________________________, Date: __________
    Chair, Hospital Board
APPENDIX A:
SCOPE OF WORK, TERM AND COMPENSATION

ARTICLE 1: AUTHORITY AND RELATIONSHIP OF THE PARTIES

1.1 Retention of Authority and Responsibility. The CITY is responsible for the operation of the Hospital and retains all authority to manage and operate the Hospital.

1.2 Relationship of the Parties. This Agreement is for the provision of Consulting Services by CONTRACTOR to Bartlett.

1.3 Medical and Professional Matters. Bartlett’s Medical Staff is organized in accordance with the laws of the State of Alaska. The Medical Staff is responsible for the provision of medical care at Bartlett according to applicable standards of care. CONTRACTOR has no responsibility for the credentialing, monitoring or performance of the health care professionals on staff at the Hospital. CONTRACTOR does not have the right to direct Bartlett employees or Medical Staff members in the performance of their professional medical judgments or duties. CONTRACTOR has no responsibility for, or any control over, the clinical decisions, patient care, quality outcomes, infection control, or any other clinical or quality matter at Bartlett.

ARTICLE 2: GROUP PURCHASING ORGANIZATION

2.1 Access to Group Purchasing Organization. CONTRACTOR, acting through an affiliate, Quorum Purchasing Advantage, LLC (“QPA”), will provide Bartlett access to its group purchasing organization operations (“QPA’s GPO Program”) including, without limitation:

2.1.1 access to QPA’s arrangements with certain vendors, including strategic service partners (“SSPs”); and

2.1.2 access to other vendors through arrangements between QPA and one or more other Group Purchasing Organizations. Currently QPA has GPO arrangements with Healthtrust Purchasing Group, LP (“HPG”). CITY understands that it may be required to enter a written Contract with HPG or any other GPO that QPA selects to have access to those GPO’s vendors.

2.2 Vendors. CONTRACTOR will post and maintain a current list of the vendors used by QPA’s GPO Program at www.QHRspot.com. CITY understands that QPA, HPG or any other GPO that QPA selects may change vendors from time to time.
2.3 Non-Exclusivity. Bartlett’s participation in QPA’s GPO Program is not exclusive. Nothing in this Contract precludes Bartlett from purchasing supplies or services of any type from any other vendor or GPO that it chooses.

2.4 Group Purchasing Organization Fees. CITY understands and agrees that QPA may receive fees from GPO vendors and SSPs in connection with products and services that are purchased, licensed or leased by Bartlett, and that QPA may receive fees for providing administration and distribution services to Bartlett on behalf of vendors and SSPs, provided that:

2.4.1 all GPO fees are three percent (3%) or less of the purchase price of the goods and services purchased from a participating vendor or SSPs, except as set forth on the GPO Administrative Fee Exceptions Schedules, attached as Addendum 1 of Appendix A;

2.4.2 on at least an annual basis, QPA will provide revised GPO Administrative Fee Exceptions Schedules that identify all participating vendors, including SSPs, that pay fees in excess of three percent (3%) of the purchase price of the goods and services purchased from that vendor, as well as the maximum fee that the vendor or SSPs will or could pay;

2.4.3 QPA shall disclose to Bartlett on an annual basis, and to the Secretary of Health and Human Services upon the Secretary’s request, the amount received from each vendor with respect to Bartlett’s purchases under the GPO Program; and

2.4.4 any and all rebates HPG owes to Bartlett shall be paid directly to Bartlett by HPG. CONTRACTOR and QPA are not responsible or liable for HPG rebate payments.

2.5 Limitation of Warranties. CONTRACTOR DISCLAIMS AND EXCLUDES ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED (WHETHER ARISING UNDER LAW OR EQUITY OR CUSTOM OR USAGE), INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO ANY SUPPLIES, GOODS OR SERVICES PROVIDED TO CITY OR BARTLETT FROM THIRD PARTY VENDORS, THIRD PARTY GPOS AND THIRD PARTY SSPS THROUGH THE QPA GPO PROGRAM. CITY AND BARTLETT EXPRESSLY WAIVE RELIANCE UPON ANY SUCH WARRANTIES. HOWEVER, NOTHING IN THIS SECTION SHALL BE INTERPRETED TO LIMIT OR MODIFY ANY CLAIM WHICH CITY OR BARTLETT, AS AN ORIGINAL PURCHASER, MAY HAVE AGAINST THE MANUFACTURER OR SUPPLIERS OF ANY SUPPLIES, GOODS OR SERVICES.

ARTICLE 3: CONSULTING SERVICES

3.1 Consulting Services. CONTRACTOR shall provide Bartlett with consulting services (“Consulting Services”) described in Appendix D. Those Consulting Services listed in Appendix D are included in the Base Fee and will be provided in accordance with Bartlett’s Annual Support
Plan. Bartlett may from time to time request additional Consulting Services, in addition to those included per the Annual Support Plan, selected from the CONTRACTOR’s Consulting Catalog and those listed on Appendix E. The cost for any additional Consulting Services will be agreed upon by CONTRACTOR and Bartlett at the time those Services are requested.

3.2 Non-Exclusivity. The Parties intend that CONTRACTOR will be Bartlett’s primary vendor for the Services described in this Agreement and listed on Appendices D and E. Nothing in this Contract, however, precludes CITY or Bartlett from purchasing Services from any other vendor that it chooses, at any time, whether or not the Services are listed on Appendices D and E.

3.3 Standard of Care. CONTRACTOR agrees the Services that it performs or furnishes pursuant to this Contract shall meet or exceed all applicable standards of care and be carried out in a professional, diligent and prudent manner. Neither CONTRACTOR nor its employees, officers or agents will act dishonestly, negligently or recklessly in providing or furnishing Services pursuant to this Contract.

3.6 Responsibility for Services. CONTRACTOR shall be responsible to perform or furnish those Services described in this Agreement. “Services” shall not include and shall not be construed as including any other service, item, access or deliverable, and shall specifically not include legal or audit services; expert witness services; cost report preparation/oversight; obtaining licenses, governmental approvals, provider numbers or similar items necessary for the operation of the Hospital; data processing or information system software or hardware; feasibility studies in connection with the Hospital’s procurement of third party financing; certificate of need applications related to major capital projects; facility master planning, architectural or engineering services; construction program management; and costs associated with Hospital website development. CONTRACTOR shall provide support to Bartlett’s CEO and CFO as outlined in this Agreement, but specifically shall not supervise or direct Bartlett’s CEO or CFO, and shall not be responsible for decisions made by those individuals in the course of their job duties.

3.7 Points of Contact. CONTRACTOR’s principal point of contact shall be the Bartlett CEO. CONTRACTOR shall have direct access to CITY’s Hospital Board on request, and shall meet with the Hospital Board at least once annually without Bartlett’s management present to provide a candid assessment of the Hospital’s operations.

ARTICLE 4: RESERVED.

ARTICLE 5: TERM AND TERMINATION

5.1 Term. The Term of this contract is from January 31, 2012, until January 31, 2015, unless terminated earlier, extended or renewed by the Parties in writing.
5.2 **Termination for Convenience.** CITY may terminate this Contract for its convenience at any time by giving at least sixty (60) days written notice to CONTRACTOR and specifying the effective date of termination, provided that City at its option may continue to participate in CONTRACTOR’s GPO for up to an additional 90 days past the effective date of termination.

5.3 **Termination for Cause.** This Agreement may be terminated for cause by either Party immediately upon delivery of written notice under following circumstances. If either Party terminates the Agreement pursuant to this provision, CITY shall pay CONTRACTOR for all fees and expenses incurred through the date of termination. Cause includes:

5.3.1 Either party’s insolvency, bankruptcy or exclusion from participation in any federal or state health care program;

5.3.2 Either party is found guilty of a fraudulent or bad faith act, or wanton and willful misconduct which reflects adversely on the professional integrity or ethics of its officers, directors, employees or agents;

5.3.3 Either party’s dishonesty or material representation or warranty in performing or furnishing services pursuant to this Agreement;

5.3.4 Either party’s unprofessional or disruptive conduct, performance failures, recurring errors or other acts or omissions that lead the terminating party, in its reasonable discretion, to the conclusion that the other party is no longer able to meet the professional standards; or

5.3.5 Any other act or omission by CONTRACTOR or its directors, officers, employees or agents constituting just cause under Alaska law.

5.3.6 The CITY’s failure to make any payment to CONTRACTOR hereunder within ten (10) days following CONTRACTOR’s notice to CITY of nonpayment.

5.4 **Effects of Termination or Expiration on GPO Services.** The CITY understands that due to agreements between CONTRACTOR and HPG, following the effective date of termination or expiration of this Agreement, Bartlett shall have sixty (60) days to wind down Bartlett’s relationship with HPG, and that for twelve (12) months after the termination or expiration of this Agreement, the Hospital will not be able to access HPG as a “participating provider” within HPG.

The CITY understands that following termination, Bartlett shall also no longer have access to the “preferred pricing” offered by the SSPs through CONTRACTOR’s GPO Program for any new contractual relationship(s) with SSP vendors. For vendor agreements entered into prior to the
effective date of the termination or expiration of this Agreement, the pricing in those vendor agreements between the Hospital and the SSP vendors may remain in place until the renewal or expiration of those vendor agreements, at which time SSP “preferred pricing” will no longer be available to the Hospital.

ARTICLE 6: COMPENSATION

6.1 **Base Fee.** CITY shall pay CONTRACTOR an annual fee of $380,000 (the “Base Fee”). The Base Fee will be payable in equal quarterly installments, due on or before the first (1st) day of each quarter and paid by electronic transfer.

6.2 **Additional Fees.** CITY will pay CONTRACTOR additional fees for Consulting Services provided beyond those provided per the annual Support Plan, and included in the Base Fee, and for services listed on Appendix E at the rates agreed to by CONTRACTOR and Bartlett for those Services.

6.3 **Travel Expenses.** CITY will reimburse reasonable travel expenses, including transportation, food and lodging, incurred by CONTRACTOR’s employees and consultants in connection with providing Services to Bartlett, with the exception of travel expenses incurred by CONTRACTOR’s Account Executive and members of its Account Executive Team, which will be paid by CONTRACTOR. Travel related expenses will be invoiced to the CITY, and the CITY agrees to for travel related expenses within thirty (30) days of receipt of CONTRACTOR’s invoice.

6.4 **Business Expenses.** CITY will reimburse CONTRACTOR for its business expenses incurred in connection with providing the Services at CONTRACTOR’s cost. Reimbursable business expenses include, without limitation, database, data entry and data analysis/technology fees, photocopying charges, and phone and fax charges. Business expenses will be invoiced to the CITY, and the CITY agrees to pay for business expenses within thirty (30) days of its receipt of CONTRACTOR’s invoice.

ARTICLE 7: PERFORMANCE MEASURES

7.1 **Performance Review.** The Hospital Board will review and evaluate CONTRACTOR’s performance on an annual basis or more frequently as the Board decides appropriate. The Board may base its evaluation on its own observations and those of Bartlett management, including the CEO and senior staff. Performance measures will be set by the Board from time to time and may include, but are not limited to, evaluation of CONTRACTOR’s:

7.1.1 quality, efficiency and timeliness of Services;

7.1.2 responsiveness of CONTRACTOR;
7.1.3 effectiveness and accuracy of consulting services and advice; and

7.1.4 management support and its effect on Bartlett’s operational, financial and quality performance.

ARTICLE 8: CONFIDENTIALITY AND RECORDS

8.1 Confidentiality. Each Party agrees that it shall not, and shall cause its officers, directors, employees and agents to not disclose to any third party any confidential or proprietary data, reports, or other information or materials concerning the other Party hereto, including, without limitation, any aspect of the Proprietary Information, and the terms or prices of any agreement under the Group Purchasing Program, without the prior written consent of the Party whose information is to be disclosed, except as otherwise required by applicable court or administrative order, law or regulation, including without limitation the Alaska Public Records Act and the City and Borough of Juneau Code. Each Party shall notify the other Parties immediately of any suspected or actual breach of these confidentiality requirements, and related facts. Promptly upon the expiration or earlier termination of this Agreement, each Party shall return to the other Party originals and copies, whether in electronic or other medium, of all reports, records, memoranda, and other materials that contain proprietary information belonging to the other Party.

8.2 Access to Books and Records. Until the expiration of four (4) years after the furnishing of Services pursuant to this Agreement, the Parties shall, upon written request, make available to the Secretary of Health and Human Services (the “Secretary”) or the Comptroller General, or their duly authorized representative(s), the contract, books, documents, and records necessary to verify the nature and extent of the cost of such Services. If any Party carries out any of its obligations under this Agreement by means of a subcontract with a value of $10,000 or more, that Party agrees to include this requirement in any such subcontract. The availability of CONTRACTOR’s books, documents, and records shall be subject at all times to all applicable legal requirements, including without limitation such criteria and procedures for seeking and obtaining access that may be promulgated by the Secretary by regulation. Neither Party shall be construed to have waived any applicable attorney client privilege by virtue of this section.

8.3 HIPAA and Business Associate Agreement. The Parties intend to comply with the Business Associate Addendum attached as Appendix F and to comply with all privacy standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160 and 164, subparts A, D and E (“the Privacy Rule”), the security standards adopted by the U.S. Department of Health and Human Services as they may be amended from time to time, 45 C.F.R. parts 160, 162 and 164, subpart C (“the Security Rule”),
and the requirements of Title XIII, Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act, as well as any applicable Alaska confidentiality laws.
**ADDENDUM 1 OF APPENDIX A**

Quorum Purchasing Advantage  
Strategic Service Partners - GPO Fee  
Exception List  
October 2011

<table>
<thead>
<tr>
<th>Service Provider</th>
<th>GPO Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armstrong Relocation</td>
<td>6%</td>
</tr>
<tr>
<td>Arrow-Intechra</td>
<td>5%</td>
</tr>
<tr>
<td>ASE Direct</td>
<td>5%</td>
</tr>
<tr>
<td>Audit Trax</td>
<td>10-25%</td>
</tr>
<tr>
<td>Bekins Van Lines</td>
<td>6%</td>
</tr>
<tr>
<td>Bottomline Technologies</td>
<td>6%</td>
</tr>
<tr>
<td>Clinical Colleagues, Inc</td>
<td></td>
</tr>
<tr>
<td>Administrative fees are flat fees based on case volume and the total number of QPA facility contracts with Clinical Colleagues</td>
<td></td>
</tr>
<tr>
<td>CHG Medical Staffing, Inc</td>
<td>5%</td>
</tr>
<tr>
<td>CompHealth Associates, Inc.</td>
<td>5%</td>
</tr>
<tr>
<td>CompHealth Locums</td>
<td>5%</td>
</tr>
<tr>
<td>Computer Programs &amp; Systems, Inc.</td>
<td>5%</td>
</tr>
<tr>
<td>CPSI – EBOS</td>
<td>6%</td>
</tr>
<tr>
<td>CPSI – Statement Processing</td>
<td>4%</td>
</tr>
<tr>
<td>CPS Pharmacy</td>
<td></td>
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<tr>
<td>3% of Pharmacy Management Fees and any Shared Savings Fee Generated. .5% - 3% of Invoice Sales on any Fully-staffed Pharmacy Management Agreement.</td>
<td></td>
</tr>
<tr>
<td>Database Solutions</td>
<td></td>
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<tr>
<td>SSP shall pay QPA AF in amounts equal to 10% of total installation fees received by SSP from any and all QPA Facilities pursuant to any and all SSP Service Agreements.</td>
<td></td>
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<tr>
<td>Dragon Healthcare</td>
<td>6%</td>
</tr>
<tr>
<td>Ehealthclaim.net</td>
<td>6%</td>
</tr>
<tr>
<td>EmCare</td>
<td></td>
</tr>
<tr>
<td>Administrative fees are flat fees based on ER volume and the total number of QPA facility contracts with EmCare</td>
<td></td>
</tr>
<tr>
<td>Fast Health</td>
<td></td>
</tr>
<tr>
<td>FastHealth Patient Education</td>
<td></td>
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<tr>
<td>Fast Health will pay QPA $25/month in admin fees when SSP collects the on-going monthly service charge from each facility. If the contracted monthly fee is greater than or equal to $500/month, the administrative fee to QPA will be $50/month.</td>
<td></td>
</tr>
<tr>
<td>Fast Command Disaster Response System</td>
<td></td>
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<tr>
<td>SSP will pay QPA $25/month in administrative fees when SSP collects the on-going monthly service charge from each facility. If the contracted monthly fee is greater than or equal to $700/month, the administrative fee to QPA will be $75/month.</td>
<td></td>
</tr>
</tbody>
</table>
ADDENDUM 1 OF APPENDIX A
Quorum Purchasing Advantage
Strategic Service Partners - GPO Fee
Exception List
October 2011

GPS Consulting 4%
Gallagher Healthcare Services, Inc. Annual Consulting Fee of $145,000
Global Compliance Services 5% on new contracts and existing contracts where price was adjusted to pricing table in Exhibit ‘A’ during the time of contract renewal.
HMS 4% on Software modules added after sale
Hospital Physician Partners 4 - 6%
Hospital Solutions, Inc 4% on Motor Vehicle Accident/Lien Services
$3,000 - $6,000 on Eligibility Services (quotes based on bed size)
InLine Referral Network 4%
Insight Imaging 5%
Institutional Bond Network $1,000 annual flat fee per engagement
Language Line Services 4%
Maintenance First (formerly Panda Software) 10% - 40%
McKesson 29% - 50%
MedicalGPS 8%
Medical Reimbursements of America, Inc. 4%
Metropolitan Medical Services of NC 4%
MileStone Health 5% New, 1.5% on renewal
National Healing 3% plus a flat fee of $24,000 per year paid in quarterly installments.
Passport Health Communications, Inc. $0.02 per transaction; 4% of license price, if required.
  Pinnacle 6%
  QuadraMed 6%
  Pinnacle Health Group 6%
  PolicyTech 5%
  Revenue Source Group Inc. 5%
  Sammons Preston 3-5%

Quorum Health Resources LLC
Management and Consulting Services Contract
Bartlett Regional Hospital
## ADDENDUM 1 OF APPENDIX A

**Quorum Purchasing Advantage**  
**Strategic Service Partners - GPO Fee**  
**Exception List**  
**October 2011**

<table>
<thead>
<tr>
<th>Service Provider</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic Health Care</td>
<td>6%</td>
</tr>
<tr>
<td>VMG Health</td>
<td>5%</td>
</tr>
<tr>
<td>Weatherby Locums</td>
<td>5%</td>
</tr>
<tr>
<td>WellnessWorks</td>
<td>3-5%</td>
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<tr>
<td>Principal Financial Group</td>
<td></td>
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<tr>
<td>Annual Consulting Fee of $11,000</td>
<td></td>
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<tr>
<td>Southwest Therapies</td>
<td>8%</td>
</tr>
<tr>
<td>United Shockwave Therapies</td>
<td>8%</td>
</tr>
</tbody>
</table>
APPENDIX B: STANDARD PROVISIONS

1. CONTRACTUAL RELATIONSHIP. The parties intend that an independent CONTRACTOR relationship will be created by this contract. CITY is interested only in the results to be achieved as provided in this Contract. The conduct and control of the work will lie solely with the CONTRACTOR. CONTRACTOR is not considered to be an agent or employee of CITY for any purpose, and the employees of CONTRACTOR are not entitled to any benefits that CITY provides for CITY’s employees. CITY does not agree to use the CONTRACTOR exclusively. CONTRACTOR does not agree to work for CITY exclusively.

2. PERSONNEL, EQUIPMENT AND SUPPLIES. Except as provided in the Scope of Work, Appendix A, the CONTRACTOR represents that it has or will secure at its own expense all personnel, equipment, and supplies required in performing the work under this contract. All of the work required will be performed by the CONTRACTOR or under its supervision. None of the work covered by this contract shall be subcontracted except as provided in the Scope of Work.

3. INSURANCE REQUIREMENTS. The CONTRACTOR has secured and will maintain insurance for the risks and in the amounts approved by CITY’s Risk Management as set out in the attached Insurance Addendum.

4. CONTRACTOR QUALIFICATIONS. CONTRACTOR warrants that it is fully qualified and is licensed under all applicable local, state, and federal laws to perform its obligations under this contract. Each Party warrants that it has not been sanctioned by the United States Department of Health and Human Services, Office of the Inspector General, as set forth on the Cumulative Sanctions Report, or excluded by the General Services Administration as set forth on the List of Excluded Providers [see http://oig.hhs.gov/fraud/exclusions.html and http://els.arnet.gov/]. CONTRACTOR will promptly notify CITY if, during the Term, CONTRACTOR receives notice of any investigation conducted by any federal or state health care program or law enforcement agency.

5. CHANGES. The CITY may, from time to time, require changes in the scope of services to be performed under this contract. Such changes, including any increase or decrease in the amount of the CONTRACTOR’s compensation, must be mutually agreed upon in writing before they will be regarded as part of this contract. No claim for additional services, not specifically provided in this contract, performed or furnished by the CONTRACTOR, will be allowed, nor may the CONTRACTOR do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the CITY.

6. NO ASSIGNMENT OR DELEGATION. The CONTRACTOR may not assign or delegate any interest in this contract without the prior written consent of the CITY, which consent will not be unreasonably withheld. CONTRACTOR may assign its rights to any payment under this contract
without the prior written consent of CITY, however, notice of any such assignment or transfer shall be furnished promptly to the CITY by CONTRACTOR.

7. RESERVED.

8. INSPECTION AND RETENTION OF RECORDS. Upon written request at least thirty (30) days in advance, CITY may inspect, in the manner and at reasonable times it considers appropriate, all of CONTRACTOR’s facilities, records and activities having any reasonable relevance to this contract. CONTRACTOR shall retain financial and other records relating to the performance of this contract for a period of 6 years, or until the resolution of any audit findings, claims or litigation related to the contract.

9. NO DISCRIMINATION. CONTRACTOR will not discriminate against any individual, including employees or applicants for employment, because of race, religion, color, gender, national origin, age, culture, disability, sexual orientation, marital status and changes in marital status, pregnancy or parenthood. CONTRACTOR shall include these provisions in any Contract relating to the work performed under this Contract by subcontractors.

10. CHOICE OF LAW; VENUE. This contract shall be governed by the law of the State of Alaska. Venue shall be in the Trial Courts of the State of Alaska, First Judicial District at Juneau.

11. COMPLIANCE WITH LAWS AND REGULATIONS. Each Party shall, at its sole cost and expense, comply with all applicable requirements of federal, state, and local laws, ordinances and regulations now in force, including, without limitation, the federal physician self-referral law (commonly known as the “Stark II Law,” 42 U.S.C. § 1395nn et seq.) and the anti-fraud and abuse provisions of the Social Security Act (42 U.S.C. § 1320a-7 et seq.). Nothing in this Agreement shall require either Party to arrange for or send patients to the other Party or to the other Party’s affiliated hospitals or providers, and also including safety, environmental, immigration, and security enactments, or which may be subsequently enacted, and must obtain all required licenses, permits, and registrations regulating the conduct of business within the State of Alaska and the CITY during the performance of this Contract.

11B. COMPLIANCE PROGRAM. Bartlett represents that it has developed and implemented a Compliance Program and that it will maintain, update and abide by the terms of its Compliance Program during the Term. CONTRACTOR agrees to comply with Bartlett’s Compliance Program in carrying out its duties under this Agreement and to bring items of potential noncompliance discovered by CONTRACTOR or of which CONTRACTOR has actual notice to the attention of the Board. The costs (including, without limitation, legal and consulting fees and expenses incurred in undertaking corrective action) required to develop, implement, update and maintain the Compliance Program shall be CITY’s sole responsibility.
12. **PAYMENT OF TAXES, OBLIGATIONS TO CITY.** As a condition of this contract, the CONTRACTOR shall pay all federal, state, and local taxes incurred by the CONTRACTOR and shall require their payment by any subcontractor or any other persons in the performance of this contract. CONTRACTOR shall not be delinquent in any other obligations to CITY during the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the CITY under this contract.

13. **CONFLICT OF INTEREST.** CONTRACTOR warrants that to the best of its knowledge and belief no employee or officer of the CITY has violated the conflict of interest provisions of the CITY code regarding this contract. CONTRACTOR also warrants that it has not solicited or received any prohibited action, favor or benefit from any employee or officer of CITY, and that it will not do so as a condition of this contract. If the CONTRACTOR learns of any such conflict of interest, the CONTRACTOR shall without delay inform the CITY Attorney or CITY’s representative for this contract.

14A. **INDEMNIFICATION BY CONTRACTOR.** CONTRACTOR agrees to defend, indemnify, and hold harmless CITY, its employees, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit whatsoever arising out of or related to the CONTRACTOR’s performance of this contract, unless due to the sole negligence of the CITY, without limitation as to the amount of fees, and without limitation as to any damages, cost or expense resulting from settlement, judgment, or verdict, and including the award of any attorneys’ fees even if in excess of Alaska Civil Rule 82. This indemnification agreement applies to the fullest extent permitted by law and is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against CITY relating to this contract. The obligations of CONTRACTOR arise immediately upon actual or constructive notice of any action, claim, or lawsuit. CITY shall notify CONTRACTOR in a timely manner of the need for indemnification, but such notice is not a condition precedent to CONTRACTOR’s obligations and is not required where CONTRACTOR has actual notice.

14B. **INDEMNIFICATION BY CITY.** CITY agrees to defend indemnify and hold harmless CONTRACTOR, its shareholders, affiliates, members, directors, officers and employees against all judgments, losses, claims, damages, liabilities, fines, penalties, costs and expenses (including reasonable attorneys’ fees and expenses even if in excess of Alaska Civil Rule 82) which may be asserted against them due to CITY’s sole breach of this Agreement, or arising out of the sole negligent activities or operations of CITY, or arising from any pending or threatened medical malpractice claim. The obligations of CITY arise immediately upon actual notice of any action, claim or lawsuit. CONTRACTOR shall notify CITY in a timely manner of the need for indemnification but such notice is not a condition precedent to CONTRACTOR’s obligations and is not required where CITY has actual notice.

15. **OWNERSHIP OF INFORMATION.** All operating procedures, protocols, information systems, computer data bases, and other non-public proprietary business systems or
information not uniquely pertaining to the Hospital (collectively, “CONTRACTOR’s Proprietary Information”) that are or were created or developed by CONTRACTOR, or obtained by CONTRACTOR from sources other than the CITY or Hospital, shall be the exclusive property of CONTRACTOR. Nothing contained in this Agreement shall be construed as a license or transfer of CONTRACTOR’s Proprietary Information or any portion, either during the Term or after. Upon the termination or expiration of this Agreement, CONTRACTOR shall have the right to retain all of CONTRACTOR’s Proprietary Information, and any Party, upon request, shall return to CONTRACTOR all CONTRACTOR’s Proprietary Information in its possession. Notwithstanding the foregoing, all documents, designs, drawings, specifications, notes, artwork, and other work developed in the performance of this contract, whether hard copy or electronic, become the sole property of the CITY and may be used by the CITY for any other purpose without additional compensation to the CONTRACTOR. The CONTRACTOR agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. The CONTRACTOR, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the CITY. Unless otherwise directed by the CITY, the CONTRACTOR may retain copies of all the materials.

16. IDENTIFICATION OF DOCUMENTS. All reports, maps, and other documents completed as a part of this contract, other than documents exclusively for internal use within the CITY, shall carry a CITY notation or logo as directed by the CITY.

17. DISPUTES. The Parties agree to meet and discuss any dispute arising under or relating to this Agreement informally and make a good faith effort to resolve the dispute prior to filing any claim or action.

If the Parties are unable to resolve the dispute after meeting and discussing the dispute, the Parties agree that upon request of either Party they will promptly participate in non-binding mediation under the American Health Lawyers Association Mediation Rules. The Parties agree to make their best efforts to resolve the matter during mediation. Venue for mediation shall be Juneau, Alaska, unless the Parties jointly agree to another location.

Any claim, controversy or dispute arising out of or relating to this Agreement that cannot be resolved amicably through discussions or mediation shall be resolved in the first instance by the written decision of an independent hearing officer appointed from the American Health Lawyers Association Dispute Resolution List. The hearing shall be conducted according to the American Lawyers Association Rules of Procedure for Arbitration, except that instead of a final and binding decision, the hearing office shall prepare a recommended decision for the Hospital Board. The Board shall accept, reject, modify or remand the decision with directions for further proceedings. The Board’s decision is final and binding unless appealed to the City and Borough of Juneau Assembly within twenty days of the date of Board’s decision, pursuant to and in accordance with § 3.16 of the Charter of the City and Borough of Juneau and the Administrative Appeal Procedures of the City and Borough of Juneau Code, Chapter 01.50. The Assembly’s
decision may be appealed to the Superior Court for the State of Alaska in accordance with the Alaska Rules of Court.

18. **COUNTERPARTS.** This Agreement may be executed in one (1) or more counterparts delivered by the Parties to each other by facsimile transmission, electronic transmission or otherwise.

19. **COVENANT NOT TO HIRE.** During the Term, and for a period of one (1) year afterwards, neither Party will directly solicit for employment and employ, any employee or consultant of the other Party unless the other Party gives its written consent, which consent will not be unreasonably withheld. The Parties agree that if an employee of a Party independently responds to an employment opportunity with the other Party, employment of that employee by the hiring Party shall not be a breach of this covenant.

The Parties recognize and agree that monetary damages alone are not an adequate remedy for a breach by a Party of this covenant. The Parties further agree that irreparable damage will result to the non-breaching Party and its business from a breach of this covenant, and that, in the event of a breach or threatened breach of this covenant, in addition to monetary damages, the non-breaching Party shall be entitled to an injunction enjoining the breaching Party from violating this covenant and may seek any and all other remedies in law or equity.
APPENDIX C: INSURANCE ADDENDUM

INSURANCE REQUIREMENTS:
CONTRACTOR is self-insured and shall provide certification of proper insurance coverage to the City and Borough of Juneau. CONTRACTOR agrees to maintain insurance as specified in this Appendix at all times while this contract is in effect, including during any periods of renewal.

- **Workers’ Compensation Insurance:** CONTRACTOR, if subject to the provisions of the Alaska Workers’ Compensation Act (AS 23.30), will provide CITY and the State of Alaska with proof, furnished by the insurance carrier, of current coverage for workers’ compensation with an insurance company or association authorized to transact such business in the State of Alaska, or an approved current certification of self-insurance by the Alaska Workers’ Compensation Board. CONTRACTOR further acknowledges and agrees that in the event it fails to maintain proper workers’ compensation coverage, the State will implement the provisions of AS 23.30.045(c) and CITY, at its option, may terminate this Contract for cause without liability. The minimum limits of Employer’s Liability Protection coverage are:
  - $100,000 per accident, $500,000 policy limit, $100,000 each employee.

- **Commercial General Liability Insurance:** CONTRACTOR shall maintain commercial general liability insurance covering all operations by, or on behalf of, the CONTRACTOR and providing insurance for bodily injury and property damage liability including coverage for premises and operations, products and completed operations, contractual liability, broad form property damage and personal injury liability. The minimum limits of liability are:
  - $1,000,000 each occurrence for General Liability and Products/Completed Operations
  - $1,000,000 for Personal Injury/Advertising Liability
  - $2,000,000 Aggregate for Products/Completed Operations
  - $2,000,000 General Aggregate

- **Business Automobile Insurance:** CONTRACTOR shall maintain business automobile insurance coverage. The minimum limits of liability are: $1,000,000 per accident combined single limit covering non-owned and hired automobiles.

- **Professional errors and omissions liability Insurance:** CONTRACTOR shall maintain professional errors and omissions liability insurance covering all Services provided under this Agreement by CONTRACTOR and its employees, agents, subcontractors and consultants. The minimum limits of liability are: $2,000,000 per claim.

**CITY’S INSURANCE OBLIGATIONS.** The CITY shall obtain at its sole cost and expense and shall maintain throughout the Term of this Agreement the following minimum insurance coverage,
which may be provided by CBJ self-insurance as deemed appropriate by the Board and CBJ; provided however that CONTRACTOR will be given thirty (30) days written notice of any change to self-insurance:

| Hospital Professional Liability (HPL) | $5,000,000 per occurrence | $5,000,000 aggregate |

CONTRACTOR shall be named as an additional insured, with respect to this Agreement, under CITY’s hospital professional policies. Its right to invoke the protection of such policies shall be severable from and independent of the CITY’s and HOSPITAL’s rights. CITY agrees to provide QHR with thirty (30) days prior written notice of such policies’ non renewal or termination. If such coverage is written on a claims-made form, following termination or expiration of this Agreement, the CITY shall: (i) continue such coverage to survive with CONTRACTOR as an additional insured for the period of the applicable statute of limitations; or (ii) shall provide an extended reporting endorsement (tail coverage) covering CONTRACTOR for claims arising during the Term, but not reported until after the termination or expiration of this Agreement. Should the CITY change insurance companies during the Term, the CITY shall maintain coverage which includes claims incurred but not reported under the prior coverage (prior acts coverage).

Within thirty (30) days following the execution of this Agreement, and thirty (30) days following the end of each policy year, the CITY shall give to QHR a copy of the endorsements naming CONTRACTOR as an additional insured on its hospital professional polices. The parties intend that such insurance shall protect the CITY, HOSPITAL, and CONTRACTOR and will be the primary insurance for such parties for any and all losses covered thereby, notwithstanding any insurance which may be maintained by CONTRACTOR or its affiliates covering any such loss.
APPENDIX D: SERVICES INCLUDED IN BASE FEE

Within 30 days from the execution of this Agreement, and at least ninety (90) days prior to the end of each calendar year, CONTRACTOR shall meet with the Board and the Hospital’s senior management team to discuss the strategic and operational goals and objectives of the Hospital during the forthcoming twelve (12) month period. Once these annual goals and objectives are identified by the Parties, CONTRACTOR shall develop, and shall submit to the Board for the Board’s approval, a CONTRACTOR consulting services support plan (individually, a “Support Plan,” and collectively, the “Support Plans”). Each Support Plan will provide the Services described in this Appendix and additional consulting services that the Hospital will receive from CONTRACTOR under the Base Fee selected from CONTRACTOR’s “Consulting Catalog,” as it may be updated from year to year. CONTRACTOR may provide additional Services beyond those provided in the Base Fee, for additional fees agreed to by CONTRACTOR and the Hospital.

In addition to access to the GPO, CONTRACTOR will provide the following Consulting Services. The cost of these Consulting Services is included in the Base Fee:

1. Quarterly attendance at Board meetings by the Account Executive and/or other members of the assigned regional support team.

2. Business and Strategic Planning:
   - Assisting the CEO and Board in developing an annual business plan.
   - Together with the CEO, monitoring the Hospital’s progress toward achievement of goals established in the annual business plan and reporting to the Board on progress.
   - Advising the CEO and Board on significant strategic and business decisions.
   - Assisting the CFO and Board with strategic financial planning.
   - Facilitating the tri-annual strategic planning process for the Board.

3. Operations and Financial Advisory Support:
   - Regular operations reviews with the CEO and CFO, including reviewing a monthly financial report and advising on operational improvements.
   - Review of the annual operating budget and capital budget.
   - Monthly account receivable review and benchmark comparisons.
   - Access to Vantage Labor Management System and annual updates to the labor productivity benchmark data.
   - Joint Commission assessment and preparation.
   - HR management support.
   - Supply chain management support.
4. CEO Evaluation:
   - Providing assistance to the Board’s annual CEO evaluation and compensation review.

5. Reimbursement Support and Advice:
   - Annual review of the hospital’s prepared cost report and reimbursement strategies
   - Providing reimbursement advisory updates including changes in regulations
   - Assisting in planning for regulatory changes as they develop including the impact of value based purchasing and the Affordable Care Act.
   - Providing an semi-annual third party contractual allowance review (a detailed review of the contractual accounting processes, contractual allowances and cost report settlements as reported on the Hospital’s financial statements in order to identify potential errors)

6. Access to the CONTRACTOR Financial Comparative Database.
   - Access to Hospital’s blinded comparative data as well as other facilities’ blinded comparative data via a link provided by CONTRACTOR to Hospital online. The blinded data can and shall be used for self-analysis and trending purposes only. Hospital authorizes CONTRACTOR to coordinate the data extraction service as a service which will fall under the terms and conditions of this Agreement. Hospital acknowledges that in order to receive the aggregated data reports compiled in the data extraction service, Hospital must allow access to its financial data for extraction purposes, and Hospital represents and warrants to QHR that it has full legal right and authority to allow such access.

7. Compliance Program Self-Assessment.
   - Annual effectiveness review of the Hospital’s compliance plan, using CONTRACTOR’s Compliance Program Self-Assessment.

8. Quorum Learning Institute.
   - Access for the Board and the Hospital (including its employees) to CONTRACTOR’s management training and development offerings currently provided through the CONTRACTOR’s Learning Institute, tuition free.
• Access to Medical Staff Leadership programs for Medical Staff Leaders, tuition-free.
• Access to CONTRACTOR’s Learning Institute programs offered in Brentwood, Tennessee, and at other locations from time to time.
• Course catalogs and announcements.
• Participation of the Hospital’s CEO and CFO in education programs hosted by CONTRACTOR’s Regional Office.
• Publications developed by the CONTRACTOR’s Learning Institute on their regularly-scheduled publication dates.
APPENDIX E: SERVICES AVAILABLE FOR AN ADDITIONAL FEE

Hospital understands and acknowledges that only the “Base Services” set forth in APPENDIX D which have been specifically selected by the Hospital are included in this Agreement. The following additional Services may be provided for additional agreed upon fees and terms and conditions.

1. Additional Consulting Services, selected from the Consulting Catalog, beyond those included in the Base Fee.

2. CEO and CFO Executive Recruitment.

3. Interim management services.
APPENDIX F: BUSINESS ASSOCIATE AGREEMENT

A. This Appendix E is attached to and made a part of that Consulting Services Contract between the Parties dated ______, 2011.

A. Definitions. Terms used herein, but not otherwise defined, shall have meaning ascribed by the Privacy Rule and the Security Rule.

1. **Breach.** “Breach” is an acquisition, access, use, or disclosure of PHI that is not permitted by the HIPAA Privacy Rule, and which compromises the security or privacy of PHI by posing a significant risk of financial, reputational or other harm to an individual. However, a Breach does not include:
   
   a. an unintentional acquisition, access, or use of PHI by an employee or individual acting under the authority of a covered entity or business associate if such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual with the covered entity or business associate and that individual does not further use or disclose the PHI in violation of the HIPAA Privacy Rule; or
   
   b. an inadvertent disclosure of PHI between employees of business associate, if they are authorized to access PHI and do not further use or disclose the PHI in violation of the HIPAA Privacy Rule; or
   
   c. the disclosure of a Limited Data Set, unless that information contains date of birth or zip code; or
   
   d. The parties intend that the definition of Breach be consistent with 45 C.F.R. § 164.402 and HHS interpretation of that rule.

2. **Business Associate.** “Business Associate” shall mean QHR.

3. **Covered Entity.** “Covered Entity” shall mean Hospital.

4. **Designated Record Set.** “Designated Record Set” shall mean a group of records maintained by or for a Covered Entity that is: (i) the medical records and billing records about Individuals maintained by or for a covered health care provider; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the covered entity to make decisions about Individuals. For purposes of this definition, the term “record” means any item,
collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

5. **HIPAA Rules.** The Privacy Rule and the Security Rule are referred to collectively herein as “HIPAA Rules.”

6. **Individual.** “Individual” shall mean the person who is the subject of the protected health information.

7. **Protected Health Information (“PHI”).** “Protected Health Information” or PHI shall mean individually identifiable health information that is transmitted or maintained in any form or medium.

8. **Required by Law.** “Required by Law” shall mean a mandate contained in law that compels a use or disclosure of PHI.

9. **Secretary.** “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her Designee.

10. **Unsecured Protected Health Information (PHI).** Unsecured PHI shall mean PHI that is not secured through the use of technologies or methodologies that render PHI unusable, unreadable, or indecipherable to unauthorized individuals, which technologies or methodologies are specified in guidance issued by the Secretary of HHS at 74 Fed. Reg. 42741-43 (August 24, 2009), and as updated from time to time.

B. **Purposes for which PHI May Be Disclosed to Business Associate.** In connection with the services provided by Business Associate to or on behalf of Covered Entity described in this Addendum, Covered Entity may disclose PHI to Business Associate incidentally during the performance of service and support activities.

C. **Obligations of Covered Entity.** If deemed applicable by Covered Entity, Covered Entity shall:

1. provide Business Associate a copy of its Notice of Privacy Practices (“Notice”) produced by Covered Entity in accordance with 45 C.F.R. §164.520 as well as any changes to such Notice;

2. provide Business Associate with any changes in, or revocation of, authorizations by Individuals relating to the use and/or disclosure of PHI, if such changes affect Business Associate’s permitted or required uses and/or disclosures;

3. notify Business Associate of any restriction to the use and/or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.522;
4. notify Business Associate of any amendment to PHI to which Covered Entity has agreed in accordance with 45 C.F.R. § 164.526 that affects a Designated Record Set maintained by Business Associate; and

5. If Business Associate maintains a Designated Record Set, provide Business Associate with a copy of its policies and procedures related to an Individual’s right to: access PHI; request an amendment to PHI; request confidential communications of PHI; or request an accounting of disclosures of PHI.

D. Obligations of Business Associate. Business Associate agrees to comply with applicable federal and state confidentiality and security laws, specifically the provisions of the Privacy Rule applicable to business associates (as defined by the Privacy Rule), including the requirements of Title XIII, Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act, codified at 42 U.S.C. §§ 17921-17954, which are applicable to business associates, and will comply with all regulations issued by the Department of Health and Human Services (HHS) to implement these referenced statutes, as of the date by which business associates are required to comply with such referenced statutes and HHS regulations. As well as:

1. Use and Disclosure of PHI. Except as otherwise permitted by this addendum or applicable law, Business Associate shall not use or disclose PHI except as necessary to provide service and support to or on behalf of Covered Entity, and shall not use or disclose PHI that would violate the HIPAA Rules if used or disclosed by Covered Entity. Provided, however, Business Associate may use and disclose PHI as necessary for the proper management and administration of Business Associate, or to carry out its legal responsibilities. Business Associate shall in such cases:

   a. provide information to members of its workforce using or disclosing PHI regarding the confidentiality requirements of the Privacy Rule and this addendum;

   b. obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (a) the PHI will be held confidential and further used and disclosed only as Required by Law or for the purpose for which it was disclosed to the person or entity; and (b) the person or entity will immediately, upon discovery, notify Business Associate of any instances of which it is aware in which confidentiality of the PHI has been breached; and

   c. agree to notify the designated Privacy Officer of Covered Entity of any instances of which it is aware in which the PHI is used or disclosed for a purpose that is not otherwise provided for in this Addendum or for a
purpose not expressly permitted by the HIPAA Rules within five (5) days of discovery.

2. **Data Aggregation.** In the event that Business Associate works for more than one Covered Entity, Business Associate is permitted to use and disclose PHI for data aggregation purposes, however, only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the Privacy Rule.

3. **De-identified Information.** Business Associate may use and disclose de-identified health information if (i) the use is disclosed to Covered Entity and permitted by Covered Entity in its sole discretion and (ii) the de-identification is in compliance with 45 C.F.R. §164.502(d), and the de-identified health information meets the standard and implementation specifications for de-identification under 45 C.F.R. §164.514(a) and (b) and the dates of birth and zip codes of individuals in the de-identified population are also excluded.

4. **Safeguards.** Business Associate shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this addendum or as required by law. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of Covered Entity.

5. **Minimum Necessary.** Business Associate shall attempt to ensure that all uses and disclosures of PHI are subject to the principle of “minimum necessary use and disclosure,” i.e., that only PHI that is the minimum necessary to accomplish the intended purpose of the use, disclosure, or request is used or disclosed.

6. **Disclosure to Agents and Subcontractors.** If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor, Business Associate shall require the agent or subcontractor to agree to the same restrictions and conditions as apply to Business Associate under this Addendum. Business Associate shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity. Business Associate shall be liable to Covered Entity for any acts, failures or omissions of the agent or subcontractor in providing the services as if they were Business Associate’s own acts, failures or omissions, to the extent permitted by law. Business Associate further expressly warrants that its agents or subcontractors will be specifically advised of, and will comply in all respects with, the terms of this addendum.
7. **Individual Rights Regarding Designated Record Sets.** If Business Associate maintains a Designated Record Set on behalf of Covered Entity Business Associate agrees as follows:

   a. **Individual Right to Copy or Inspection.** Business Associate agrees that if it maintains a Designated Record Set for Covered Entity that is not maintained by Covered Entity, it will permit an Individual to inspect or copy PHI about the Individual in that set as directed by Covered Entity to meet the requirements of 45 C.F.R. § 164.524. Under the Privacy Rule, Covered Entity is required to take action on such requests as soon as possible, but not later than 30 days following receipt of the request. Business Associate agrees to make reasonable efforts to assist Covered Entity in meeting this deadline. The information shall be provided in the form or format requested if it is readily producible in such form or format; or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost-based fee for copying health information may be charged. If Covered Entity maintains the requested records, Covered Entity, rather than Business Associate shall permit access according to its policies and procedures implementing the Privacy Rule.

   b. **Individual Right to Amendment.** Business Associate agrees, if it maintains PHI in a Designated Record Set, to make amendments to PHI at the request and direction of Covered Entity pursuant to 45 C.F.R. § 164.526. If Business Associate maintains a record in a Designated Record Set that is not also maintained by Covered Entity, Business Associate agrees that it will accommodate an Individual’s request to amend PHI only in conjunction with a determination by Covered Entity that the amendment is appropriate according to 45 C.F.R. § 164.526.

   c. **Accounting of Disclosures.** Business Associate agrees to maintain documentation of the information required to provide an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528, and to make this information available to Covered Entity upon Covered Entity’s request, in order to allow Covered Entity to respond to an Individual’s request for accounting of disclosures. Under the Privacy Rule, Covered Entity is required to take action on such requests as soon as possible but not later than 60 days following receipt of the request. Business Associate agrees to use its best efforts to assist Covered Entity in meeting this deadline. Such accounting must be provided without cost to the individual or Covered Entity if it is the first accounting requested by an individual within any 12 month period; however, a reasonable, cost-
based fee may be charged for subsequent accountings if Business Associate informs the individual in advance of the fee and is afforded an opportunity to withdraw or modify the request. Such accounting is limited to disclosures that were made in the six (6) years prior to the request (not including disclosures prior to the compliance date of the Privacy Rule) and shall be provided for as long as Business Associate maintains the PHI.

8. **Internal Practices, Policies and Procedures.** Except as otherwise specified herein, Business Associate shall make available its internal practices, policies and procedures relating to the use and disclosure of PHI, received from or on behalf of Covered Entity to the Secretary or his or her agents for the purpose of determining Covered Entity’s compliance with the HIPAA Rules, or any other health oversight agency, or to Covered Entity. Records requested that are not protected by an applicable legal privilege will be made available in the time and manner specified by Covered Entity or the Secretary.

   a. **Notice of Privacy Practices.** Business Associate shall abide by the limitations of Covered Entity’s Notice of which it has knowledge. Any use or disclosure permitted by this Addendum may be amended by changes to Covered Entity’s Notice; provided, however, that the amended Notice shall not affect permitted uses and disclosures on which Business Associate relied prior to receiving notice of such amended Notice.

   b. **Withdrawal of Authorization.** If the use or disclosure of PHI in this addendum is based upon an Individual’s specific authorization for the use or disclosure of his or her PHI, and the Individual revokes such authorization, the effective date of such authorization has expired, or such authorization is found to be defective in any manner that renders it invalid, Business Associate shall, if it has notice of such revocation, expiration, or invalidity, cease the use and disclosure of the Individual’s PHI except to the extent it has relied on such use or disclosure, or if an exception under the Privacy Rule expressly applies.

   c. **Knowledge of HIPAA and HITECH Rules.** Business Associate agrees to review and understand the HIPAA and HITECH Rules as they apply to Business Associate, and to comply with the applicable requirements of the HIPAA and HITECH Rules, as well as any applicable amendments.

   d. **Security Incident.** Business Associate agrees to report to the Covered Entity any Security Incident of which Business Associate becomes aware.
i. Attempted incidents, i.e., those incidents that are unsuccessful, shall be reported to the Covered Entity within thirty (30) days of the Covered Entity’s written request. The Covered Entity will not make such a request more frequently than quarterly.

ii. Successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operation shall be reported to the Covered Entity immediately.

e. Term and Termination.

i. Term. This addendum shall be effective as of the Effective Date of the Agreement attached here to and shall be terminated when all PHI provided to Business Associate by Covered Entity, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity.

ii. Termination for Breach. If Business Associate breaches any provision in this Addendum, Covered Entity may, at its option, access and audit the records of Business Associate related to its use and disclosure of PHI, require Business Associate to submit to monitoring and reporting, and such other conditions as Covered Entity may determine is necessary to ensure compliance with this Addendum, or Covered Entity may terminate this Addendum on a date specified by Covered Entity.

iii. Effect of Termination. Upon termination of this addendum for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, maintained by Business Associate in any form. If Business Associate determines that the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity in writing of the reason thereof, and shall agree to extend the protections of this addendum to such PHI and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI not feasible for so long as Business Associate retains the PHI.

E. Miscellaneous.

1. Indemnification. To the extent permitted by law, Business Associate agrees to indemnify and hold harmless Covered Entity from and against all claims, demands, liabilities, judgments or causes of action of any nature for any relief,
elements of recovery or damages recognized by law (including, without limitation, attorney’s fees, defense costs, costs related to mitigation and equitable relief), for any damage or loss incurred by Covered Entity arising out of, resulting from, or attributable to any acts or omissions or other conduct of Business Associate or its agents in connection with the performance of Business Associate’s or its agents’ duties under this Addendum. This indemnity shall not be construed to limit Covered Entity’s rights, if any, to common law indemnity.

The foregoing indemnification obligation is conditioned on Business Associate having sole control over the defense and settlement of any claim that is subject to indemnification under this Agreement, provided that Covered Entity has approved in writing in advance, which shall not be unreasonably denied, (a) the counsel selected by Business Associate to defend such claim and (b) the settlement of any such claim.

Covered Entity shall provide Business Associate with timely notice of the existence of such proceedings and such information, documents and other cooperation as reasonably necessary to assist Business Associate in establishing a defense to such action.

These indemnities shall survive termination of this addendum, and Covered Entity reserves the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel of its own choosing.

2. Mitigation. If Business Associate violates this addendum or either of the HIPAA Rules, Business Associate agrees to mitigate any damage caused by such breach.

3. Rights of Proprietary Information. Covered Entity retains any and all rights to the proprietary information, confidential information, and PHI it releases to Business Associate.

4. Survival. The respective rights and obligations of Business Associate under Section D of this addendum shall survive the termination of this Addendum.

5. Notices. Any notices pertaining to this addendum shall be given in writing and shall be deemed duly given when personally delivered to a party or a party’s authorized representative as listed below or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate party as follows:

If to Covered Entity:
6. **Amendments.** This addendum may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the parties hereto. The parties, however, agree to amend this addendum from time to time as necessary, in order to allow Covered Entity’s to comply with the requirements of the HIPAA Rules.

7. **Choice of Law.** This addendum and the rights and the obligations of the parties hereunder shall be governed by and construed under the laws of the state where the Covered Entity is located, without regard to applicable conflict of laws principles.

8. **Assignment of Rights and Delegation of Duties.** This addendum is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns. However, neither party may assign any of its rights or delegate any of its obligations under this addendum without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding any provisions to the contrary, however, Covered Entity retains the right to assign or delegate any of its rights or obligations hereunder to any of its wholly owned subsidiaries, affiliates or successor companies. Assignments made in violation of this provision are null and void.

F. **Nature of Addendum.** Nothing in this addendum shall be construed to create (i) a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, (ii) any fiduciary duty owed by one party to another party or any of its affiliates, or (iii) a relationship of employer and employee between the parties.
G. **No Waiver.** Failure or delay on the part of either party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. No provision of this addendum may be waived by either party except by a writing signed by an authorized representative of the party making the waiver.

H. **Equitable Relief.** Any disclosure of misappropriation of PHI by Business Associate in violation of this addendum will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain. Business Associate therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining Business Associate from any such further disclosure or breach and for such other relief as Covered Entity shall deem appropriate. Such rights are in addition to any other remedies available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate, and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

I. **Severability.** The provisions of this addendum shall be severable, and if any provision of this addendum shall be held or declared to be illegal, invalid or unenforceable, the remainder of this addendum shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.

J. **No Third Party Beneficiaries.** Nothing in this addendum shall be considered or construed as conferring any right or benefit on a person not party to this addendum nor imposing any obligations on either party hereto to persons not a party to this addendum.

K. **Headings.** The descriptive headings of the articles, sections, subsections, exhibits and schedules of this addendum are inserted for convenience only, do not constitute a part of this addendum and shall not affect in any way the meaning or interpretation of this addendum.

L. **Entire Addendum.** This addendum, together with all exhibits, riders and amendments, if applicable, which are fully completed and signed by authorized persons on behalf of both parties from time to time while this addendum is in effect, constitutes the entire addendum between the parties hereto with respect to the subject matter hereof and supersedes all previous written or oral understandings, addenda, negotiations, commitments, and any other writing and communication by or between the parties with respect to the subject matter hereof. In the event of any inconsistencies between any provisions of this addendum in any provisions of the exhibits, riders, or amendments, the provisions of this addendum shall control.

M. **Interpretation.** Any ambiguity in this addendum shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules and any applicable state
confidentiality laws. The provisions of this addendum shall prevail over the provisions of any other addendum that exists between the parties that may conflict with, or appear inconsistent with, any provision of this addendum or the HIPAA Rules.

N. **Regulatory References.** A citation in this addendum to the Code of Federal Regulations shall mean the cited section as that section may be amended from time to time.