

## LICENSE AGREEMENT

THIS AGREEMENT made as of [insert date], by and between HEALTH CARE INCENTIVES IMPROVEMENT INSTITUTE INCORPORATED ("HCI 3") and HEALTH PLAN.

WHEREAS, HCI 3 is in the business of designing and implementing incentives programs, and HCI 3 has developed certain designs, products and methodologies in connection with improving value in health care. These designs, products and methodologies are more fully set forth and described in Schedule I, which Schedule is attached and incorporated herein by reference; and

WHEREAS, HCI 3 has two principal product lines, the Bridges to Excellence<sup>®</sup> Suite and the Prometheus Payment<sup>®</sup> Suite, and

WHEREAS, HEALTH PLAN desires to incorporate such designs, products and methodologies in the development and maintenance of its provider networks, and as part of its ongoing quality improvement and/or other provider, customer and/or member programs or products.

NOW, THEREFORE, for good and valuable consideration, a sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

### ARTICLE 1 DEFINITIONS

"Bridges to Excellence Suite" means:

1. All trademarks, service marks and certification marks now owned or controlled by HCI 3 in the Bridges to Excellence Family, regardless of whether such marks are registered, including all design-only marks, design-word marks and all words-only marks and including, but not limited to, those set forth on Schedule 1 annexed hereto; and

2. All current versions and, when created, future versions of the BTE Intellectual Property related to the subject matter of this Agreement, operational tool kits, manuals, Patient Attribution Rules and BTE expertise relating to all current and future Bridges to Excellence programs.

"ECR<sup>®</sup> Analytics" means the software, algorithms and related materials developed by or for HCI 3, in connection with its Evidence-informed Case Rates<sup>®</sup>.

"Intellectual Property" or "IP" means all inventions, discoveries, ideas, processes, algorithms, methodologies, software, designs, models, works of authorship (whether intangible or electronic form), any derivative works with respect to a work of authorship, data and data sets, know how, trade secrets, unique and innovative uses of an existing invention and marks or other designations of origin, whether or not protected by patent, copyright, trademark or trade secrets or similar law.

"IP Rights" means patents, trademarks, service marks, trade names, copyrights, design rights, and trade secret rights and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may exist anywhere in the world with respect to any or all of the IP, whether or not any of such IP rights are registered and including applications for registration for any of them.

"Marks" means all trademarks, trade names, service marks, logos and other identifying information of either a party or its services that exist during the term, including all IP and IP's rights related to any of the foregoing. Marks of HCI 3 include those set forth in Schedule I.

"Data Analysis Results" means all information, data, inventions, discoveries, ideas and other IP created, derived, resulting or otherwise learned in connection with the data analysis, all comments or explanatory materials related to the foregoing and all IP and IP rights related thereto.

"Licensed Property" shall be as defined in attached Schedule I hereof.

"Prometheus Payment Suite" means all trademarks, service marks and certification marks now owned by or controlled by HCI 3 in the Prometheus Payment Family, regardless of whether such marks are registered, including all design-only marks, design-word marks and words-only marks.

## ARTICLE 2 GRANT

2.1. Subject to the terms and conditions of this Agreement HCI 3 licenses to HEALTH PLAN the limited, non-exclusive right to utilize, at its discretion for any incentive and reward programs incorporating the Licensed Property, the Licensed Property described and set forth in attached Schedule I (hereinafter the "BTE Licensed Property"), and designated as the Bridges to Excellence<sup>®</sup> Suite and all variations and stylized forms thereof designated by HCI 3 (the "BTE Trademarks") and all other intellectual property incorporated in the Licensed Property, including all future program components, additions, and/or modifications thereto, as well as all quality recognition and rewards programs developed, incorporated and/or otherwise related to the Licensed Property, as approved and endorsed by HCI3. All future program components, additions and/or modifications thereto shall be approved by HCI 3 and made available for use by HEALTH PLAN in the manner set forth herein, solely in connection with the use of the Licensed

Property, as contemplated by this Agreement. The parties agree that HEALTH PLAN shall be licensed to use the Licensed Property, as provided herein, as part of HEALTH PLAN'S development and maintenance of its provider networks and as part of its ongoing quality improvement and/or other provider, customer and/or member programs or products. HCI 3 acknowledges that HEALTH PLAN may be required to disclose the Licensed Property and/or to allow access to, and the use of, all or part of the Licensed Property to employed, contracted and/or independent contractor physicians and/or physician practice groups, as well as customers, members, enrollees, beneficiaries, and/or employer groups either under contract with HEALTH PLAN or with whom HEALTH PLAN may attempt to contract. HCI 3 agrees that any such disclosure or use in connection with HEALTH PLAN'S development and maintenance of its provider networks, and, as part of its ongoing quality improvement and/or other provider, customer and/or member programs or products is not a violation or breach of this Agreement.

2.2. Subject to the terms and conditions as set forth herein, HCI 3 hereby grants Licensee a royalty free, non-exclusive license to utilize, as set forth herein, the Licensed Property described and set forth in attached Schedule I, (hereinafter the "Prometheus Licensed Property") and designated as the Prometheus Payment Suite, including, but not limited to, the trademark Prometheus Payment® and all variations and stylized forms thereof designated by HCI 3 (the "Prometheus Trademarks") and all other intellectual property incorporated in the Licensed Property, including all future program components, additions and/or modifications thereto, as well as all quality recognition and rewards programs developed, incorporated and/or otherwise related to the Prometheus Licensed Property. At the present time, Licensee's use of the Prometheus Licensed Property is limited to its participation in a supervised implementation of the Prometheus Payment® model, as set forth in Article 3.

### ARTICLE 3 LIMITED USE OF PROMETHEUS LICENSED PROPERTY

3.1. HEALTH PLAN is authorized to use ECR® Analytics to analyze its claims' database. In consideration for this use, HEALTH PLAN agrees to share the Data Analysis Results stemming from any use of the tool with HCI 3 for the purposes of furthering HCI 3's research and informing its work. While HEALTH PLAN may use the information for its own purposes, it may only publicize its use as part of a supervised implementation of the Prometheus Payment® Model.

3.2. The potential harm of a breach of this provision may be substantial, but incapable of being measured. In view of the difficulty in qualifying damages, the parties agree that misuse of the Prometheus Licensed Property, the data generated through use of ECR Analytics® or improper attribution to HCI 3 of such results shall entitle HCI 3 to liquidated damages in the amount of \$\_\_\_\_\_ for each such incident in addition to a public apology from Licensee.

3.3. This limitation on the use of the Prometheus Licensed Property shall continue until this Agreement is modified by a written notice signed by both parties.

#### ARTICLE 4 REPORTS

HEALTH PLAN shall provide HCI 3 with annual reports detailing the rewards paid to providers for each component of the licensed programs, with the exclusion of any and all patient identifying information, protected health information, information protected by the "Health Insurance Portability and Accountability Act of 1996", any information protected by any other state or federal law, rule or regulation, and/or anything that HEALTH PLAN, in its discretion, considers privileged, confidential and proprietary and/or trade secret information ("Confidential Information").

#### ARTICLE 5 PAYMENTS AND OTHER CONSIDERATION

5.1. Upon the execution of this Agreement, HEALTH PLAN shall pay to HCI 3 the sum of \$ \_\_\_\_\_. HEALTH PLAN shall also pay an annual License Fee in the sum of \$ \_\_\_\_\_ by [insert date] of each year during which this Agreement is in effect.

5.2. HCI 3 shall bill HEALTH PLAN quarterly and HEALTH PLAN shall have 30 days to remit payment to HCI 3 following receipt of such invoice for the optional services agreed to and listed in Schedule II.

5.3. HEALTH PLAN shall not use the Licensed Property on behalf of organizations other than itself and its customers and as otherwise permitted by this Agreement.

#### ARTICLE 6 HCI 3'S OBLIGATIONS

6.1. It is an objective of the Agreement that HEALTH PLAN be allowed to incorporate the use of the Licensed Property as part of HEALTH PLAN'S development and maintenance of its provider networks, and as part of its ongoing quality improvement and/or other provider, customer and/or member programs or products. It is agreed that HEALTH PLAN may offer to enter, and to enter into agreements with employer groups, customers, members, and/or enrollees that establish programs incorporating the use and disclosure of all or part of the Licensed Property. It is also agreed that HEALTH PLAN may offer to enter, and to enter into agreements with employed, contracted and/or independent contractor physicians and/or physician practice groups that establish programs incorporating the use and disclosure of

all or part of the Licensed Property. The parties agree that, as an integral part of this Agreement, HEALTH PLAN may enter into and terminate such relationships without prior advice, knowledge or consent by HCI 3 and may utilize and disclose the Licensed Property in this regard in order to accomplish HEALTH PLAN'S goals as contemplated by this Agreement. HCI 3 shall also make its personnel reasonably available without additional cost to consult in the design of the implementation and effective incorporation of the Licensed Property into HEALTH PLAN'S development and maintenance of its provider networks and as part of its ongoing quality improvement and/or other provider and/or member programs and products.

## ARTICLE 7 ADDITIONAL HCI 3 AVAILABLE SERVICES

HCI 3 recognizes that HEALTH PLAN may desire additional support in the use and implementation of the Licensed Property and agrees to provide such services on the following terms and conditions and as further detailed and agreed to in Schedule II:

### 7.1. Data Support.

HCI 3 will work with Licensee to provide such data support as may be requested. Such support will be provided on a fixed price basis for physician lists matched to HEALTH PLAN'S lists of participating physicians through HCI 3's Recognition Data Exchange.

### 7.2. Analytical Support.

HCI 3 will provide support in managing and interpreting the data generated by the application of the ECR® Analytics to HEALTH PLAN'S data. It will provide support to help Licensee use the analytics.

### 7.3. Implementation Support.

HCI 3 will provide active support in the implementation of its programs. Such support will be provided at minimum half-day intervals of each half day equal to 10% of a full time dedicated person (FTE).

### 7.4. Dedicated Account Support.

HCI 3 will provide full time dedicated support to Licensee in the implementation of all programs and data support.

ARTICLE 8  
TERM

This Agreement shall be in full force and effect for an initial period of three years from the effective date, unless the Agreement is terminated earlier in accordance with Article 12. Thereafter, this Agreement shall automatically renew annually, on the anniversary date, unless either party has provided the other with written notice of its intention not to renew, at least 180 days prior to the termination date.

ARTICLE 9  
PROPERTY RETENTION

9.1. All right, title and interest in the Licensed Property, including, without limitation, all copyrights, trademarks, and other rights therein (and all renewals and extensions thereof) shall be owned exclusively by HCI 3. Subject to the terms of this Agreement, HCI 3 shall have the sole unrestricted right to exploit the Licensed Property, in its sole discretion, in any manner in perpetuity, in any and all media throughout the world, whether now known or hereafter devised, with no further obligation whatsoever to HEALTH PLAN or any third party. Any use which HEALTH PLAN may be permitted to make of the Licensed Property, pursuant to this Agreement, shall be subject to the mutual agreement of the parties.

9.2. HEALTH PLAN confirms the sole ownership by HCI 3 of the Licensed Property and agrees that all use by HEALTH PLAN of the Licensed Property, unless a separate agreement is reached amongst the parties, shall inure solely to the benefit of HCI 3 and, as such, HEALTH PLAN shall not at any time acquire any rights in the Licensed Property, or otherwise by virtue of any use or exploitation HEALTH PLAN may make thereof.

9.3. All rights in the Licensed Property, other than those specifically granted herein, are reserved by HCI 3 for its sole use and benefit and exploitation in its sole discretion. Upon the expiration or termination of this Agreement, for any reason whatsoever, all rights in the Licensed Property shall automatically revert to HCI 3 for its sole use and disposition, with no further obligation whatsoever to HEALTH PLAN or any third party.

9.4. HEALTH PLAN agrees to promptly inform HCI 3 of any use by any person or entity of a trademark, service mark or design associated with the Licensed Property which comes to the attention of HEALTH PLAN and which HEALTH PLAN has reason to believe could be a use unauthorized pursuant to the terms of this Agreement. HCI 3 shall have the sole right to determine whether or not any action shall be taken on account of any infringement. HEALTH PLAN shall have no right to take any action with respect to the Licensed Property, other than that which is contemplated by this Agreement, without prior written approval from HCI 3, which approval shall not be unreasonably withheld.

9.5. All Intellectual Property (including copyright rights) in materials relating to the subject matter of this Agreement that are developed and/or created by HCI 3 shall be owned solely by HCI 3. All designs, concepts, patterns, names and other Intellectual Property (including copyright rights) in materials relating to the subject matter of this Agreement that are developed and/or created by third parties, under HCI 3's direction, or which are incorporated into the licensed products at HCI 3's request, shall, as between HCI 3 and HEALTH PLAN, be owned solely by HCI 3.

9.6. HEALTH PLAN agrees that all Intellectual Property (including copyright rights) in any custom software (to include software code in any form) ("Custom Software") created by or on behalf of HEALTH PLAN by HCI 3, its agent or assigns, shall, as between HEALTH PLAN and HCI 3, belong to HCI 3, notwithstanding that HEALTH PLAN may have paid HCI 3 for the development of the Custom Software. HCI 3 grants to HEALTH PLAN a non-exclusive license in the Custom Software co-terminus with the license granted hereunder.

9.7. Nothing contained herein shall be construed as an assignment or grant to HEALTH PLAN of any right, title or interest in or to the Licensed Property, it being understood that all rights thereto are reserved exclusively by HCI 3, except for the license granted hereunder as specifically described herein.

#### ARTICLE 10 REPRESENTATIONS AND WARRANTIES

10.1. HCI 3 represents and warrants to HEALTH PLAN that (i) it has the full right and authority to enter into this Agreement and to grant the licenses herein, (ii) HEALTH PLAN'S authorized use of the Licensed Property does not infringe or violate the rights of any third parties, (iii) the licensed products (including any labeling thereof) do conform in all respects to and satisfy applicable requirements of, applicable federal, state and local laws, orders and regulations.

10.2. HEALTH PLAN hereby represents and warrants to HCI 3 that it has the full right and authority to enter into this Agreement and relationship contemplated herein.

#### ARTICLE 11 INDEMNIFICATION

11.1. HEALTH PLAN agrees to defend, indemnify and hold harmless HCI 3 and its officers, directors, employees, agents and representatives from, in respect of and against any and all claims, losses and liabilities (including, without limitation, reasonable attorney's fees and disbursements), judgments, damages, demands, lawsuits or similar actions or proceedings ("Claims") arising out of the breach of any of HEALTH PLAN'S representations, warranties or covenants hereunder, or out of HEALTH PLAN'S use of the Licensed Property, unless such use

is contemplated herein (a HEALTH PLAN Claim"). HCI 3 agrees to notify HEALTH PLAN, within a reasonable time after it receives notice of any HEALTH PLAN Claim, and HEALTH PLAN shall promptly assume HCI 3's defense thereof, either directly or through counsel, to any relevant vendor. HCI 3 shall have the right to participate in the defense of any HEALTH PLAN Claim with counsel of its choosing and at HCI 3's expense. Any settlement which affects the Licensed Property or otherwise contains a remedy other than the payment of money damages by HEALTH PLAN (i.e., which in any way impacts upon HCI 3) must be approved, in writing, in advance by HCI 3.

11.2. HCI 3 agrees to defend, indemnify and hold harmless HEALTH PLAN and its officers, directors, shareholders, employees and representatives from, in respect of and against any and all Claims arising out of the breach of any of HCI 3's representations, warranties or covenants hereunder, or for copyright, trade dress, or trademark infringement or unfair trade practice arising out of HEALTH PLAN'S authorized use of the Licensed Property (a "HCI 3 Claim"). HEALTH PLAN agrees to notify HCI 3, within a reasonable time, after it receives notice of any HCI 3 Claim, and HCI 3 shall promptly assume HEALTH PLAN'S defense thereof. HEALTH PLAN shall have the right to participate in the defense of any HCI 3 Claim, with counsel of its choosing, and at HEALTH PLAN'S expense. Any settlement which contains a remedy, other than the payment of money damages by HCI 3 (i.e., which in any way impacts upon HEALTH PLAN) must be approved in writing in advance by HEALTH PLAN.

## ARTICLE 12 DISCLAIMER AND HOLD HARMLESS

### 12.1 General disclaimer.

**THE BTE SUITE, THE PROMETHEUS PAYMENT SUITE, ECR® ANALYTICS AND ALL OTHER PROPERTY LICENSED AND CONFIDENTIAL INFORMATION ARE PROVIDED "AS IS." ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, ARE HEREBY DISCLAIMED BY HCI 3, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, DESIGN, ACCURACY AND PERFORMANCE, AND ANY IMPLIED WARRANTY AGAINST INTERFERENCE WITH ENJOYMENT.**

### 12.2 Hold Harmless.

**HEALTH PLAN AGREES TO INDEMNIFY AND HOLD HCI 3 HARMLESS FROM ANY AND ALL CLAIMS ARISING FROM HEALTH PLAN'S USE AND/OR IMPLEMENTATION OF THE BTE SUITE, THE PROMETHEUS PAYMENT SUITE, ECR® ANALYTICS AND ALL OTHER PROPERTY LICENSED HEREUNDER INCLUDING BUT NOT LIMITED TO CLAIMS BY PROVIDERS, CONSUMERS AND OTHER THIRD PARTIES.**

### 12.3 Limitation of Liability.

**IN NO EVENT SHALL EITHER PARTY(INCLUDING EACH OF ITS AFFILITATES, SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, MANAGERS, OWNERS, EMPLOYEES, CUSTOMERS AND AGENTS) BE LIABLE TO THE OTHER FOR THE PAYMENT OF ANY CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, OR LOST PROFITS, BUSINESS OR REVENUE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION DOES NOT LIMIT EITHER PARTY'S INDEMNITY OR DEFENSE OBLIGATIONS AND DOES NOT APPLY TO ANY BREACH OF ARTICLES 3 (LIMITED USE OF PROMETHEUS LICENSED PROPERTY) OR 17 (STRICT CONFIDENCE).**

## ARTICLE 13 TERMINATION

### 13.1. With Cause.

This Agreement may be immediately terminated by either party in the event a material breach hereof by the other party continues uncured for a period of 30 days after written notice thereof. In the event of termination or expiration of this Agreement, all rights granted hereunder shall terminate and revert to HCI 3 for its sole use and disposition without any further obligation to HEALTH PLAN.

### 13.2. Without Cause.

This Agreement may be terminated without cause by at least 180 days written notice by either party ("Termination Period"). In the event the terminating party is HEALTH PLAN, there will be no refund or proration of any fees paid. Further, if a license fee is payable during the Termination Period pursuant to the provisions of Article 5.1, it shall be paid in full.

## ARTICLE 14 ASSIGNMENT

14.1. No party may assign any right or obligation under this Agreement, other than the right to receive money, to any person, or entity, other than its parent or subsidiary companies or purchaser of all or substantially all of the assets of a party, without the express written consent of the other party.

## ARTICLE 15 CHOICE OF LAW

15.1. This Agreement shall be construed and enforced in accordance with the laws of the State of Connecticut

ARTICLE 16  
RELATIONSHIP OF THE PARTIES

16.1. Neither party shall be or be deemed to be an agent, employee, partner or joint venturer of or for the other party.

ARTICLE 17  
STRICT CONFIDENCE

17.1. With the exception of the use of the Licensed Property by HEALTH PLAN, as set forth herein, after the date hereof, each of HEALTH PLAN and HCI 3 (a) shall hold and shall cause its officers, directors, employees, agents, accountants, representatives and advisors ("Representatives") to hold in strict confidence all the terms of this Agreement and all information furnished to such party or its Representatives in connection with the transaction contemplated by this Agreement, as well as information concerning the other party contained in analysis, compilations, studies, or other documents prepared by or on behalf of such party (collectively, the "Information"); provided that the Information shall not include any information which has become (i) generally available to the public other than as a result of a disclosure by such party or such party's Representatives; (ii) available to such party on a non-confidential basis from a source other than the other party or the agents of one of them if such source is to such party's knowledge entitled to disclose such information; or (iii) independently acquired or developed by such party; and (iv) shall not, without the prior written consent of the other party, release or disclose any information to any other person, except (i) to such person's Representatives who need to know the information in connection with the consummation of the transactions contemplated by this Agreement, or informed by such person of the confidential nature of the information and who are caused by the relevant party to comply with the terms and conditions of this section, and (ii) as may be required by applicable law, regulations or legal processes (including, without limitation, any disclosures of information which are required to be made by applicable security laws in connection with any financing activities of either party or standard disclosure requirements under the Securities Exchange Act of 1934, as amended).

ARTICLE 18  
NOTICES

18.1. All notices under this Agreement shall be in writing and shall be given by either party by Certified Mail, guaranteed Express Mail or overnight courier, as follows:

If to HCI 3:  
Mr. Francois de Brantes, Chief Executive Officer  
Health Care Incentives Improvement Institute Incorporated  
13 Sugar Street  
Newtown, CT 06470

If to HEALTH PLAN:  
HEALTH PLAN'S preferred mailing address

## ARTICLE 19 BANKRUPTCY

19.1. HEALTH PLAN and HCI 3 shall each, in addition to its other rights, have the right, on written notice to the other, to terminate this Agreement if the other party files a petition in bankruptcy, or is adjudicated a bankrupt, or, if a petition in bankruptcy is filed against it and is not dismissed within 60 days thereof, or if it becomes insolvent, or makes an assignment for the benefit of creditors, or files a petition or otherwise relief under or pursuant to any federal or state bankruptcy, insolvency, or reorganization statute or procedure, or if a custodian, receiver or trustee is appointed for it, or a substantial portion of its business or assets (and such receivership is not discharged within 60 days thereafter).

## ARTICLE 20 INTEGRATION

20.1. This Agreement shall be the final and complete Agreement between HEALTH PLAN and HCI 3 with respect to the subject matter hereof. No representations, inducements, premises or understandings exist in relation to the subject matter hereof, whether oral or written, except as expressly set forth herein, and this Agreement shall supercede all prior understandings, agreements, contracts or arrangements between the parties, whether oral or written, unless otherwise expressly incorporated herein. No agreement or other understanding purporting to add to or to modify the terms and conditions hereof shall be binding unless agreed to by the parties in writing. Any terms or conditions and any forms of the parties used in the performance of this Agreement, which are in conflict with the terms and conditions hereof, shall be void.

## ARTICLE 21 SEVERABILITY

21.1. If any provision of this Agreement is or becomes invalid or unenforceable in whole or in part because the provision is contrary to law or against public policy, or for any other reason,

then the provision shall be enforced to the extent valid and enforceable, and the validity and enforceability of the remaining provisions of this Agreement shall be unaffected.

ARTICLE 22  
NON-WAIVER

22.1. The parties' failure at any time to enforce any of the provisions of this Agreement, or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided will, in no way, be construed to be a waiver of such provisions, rights, remedies or options, or any other term, condition, or covenant of this Agreement, or in any way to affect the validity of this Agreement. The exercise by HCI 3 or HEALTH PLAN of any rights, remedies, or options provided hereunder or at law or equity shall not preclude prejudice the exercising hereunder of the same or any other rights, remedies or options.

ARTICLE 23  
SCHEDULES

23.1. All Schedules referred to herein are attached hereto and incorporated by reference.

ARTICLE 24  
SECTIONS AND OTHER HEADINGS

24.1. Headings of articles, sections and subsections of this Agreement are inserted for a convenience only and shall not be deemed to constitute a part hereof.

ARTICLE 25  
COUNTERPARTS

25.1. This Agreement may be executed in any number of counterparts, all of which taken together, shall constitute one and the same instrument and each fully executed counterpart shall be deemed an original.

ARTICLE 26  
SURVIVING SECTIONS

26.1. All obligations under this Agreement that are continuing in nature and shall survive the termination or conclusion of this Agreement.

ARTICLE 27  
RULES OF CONSTRUCTION

27.1. The language and all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning and not strictly for or against either HCI 3 or HEALTH PLAN. Section headings in this Agreement are for convenience only and are not to be construed as a part of this Agreement or in any way limiting or amplifying the provisions hereof. All pronouns and any variations hereof shall be deemed to refer to the masculine, feminine, neuter, singular, or plural, as the identification of the persons, firm or firms, corporation or corporations may require.

ARTICLE 28  
DISPUTE RESOLUTION

Except where expressly indicated to the contrary in this Agreement, in a dispute, claim or controversy arising out of or relating to this Agreement, or breach of the Agreement, shall be resolved in accordance with the dispute resolution procedure set forth below:

28.1. The parties will attempt, in good faith, to resolve through negotiation any such dispute, claim or controversy arising from or relating to the Agreement or breach of the Agreement. Either party may initiate negotiations by providing written notice, in letter form to the other party, setting forth the subject of the dispute and the relief requested. Within 15 days after receipt of said notice (or such other period as may be agreed to by the parties), the receiving party shall submit to the other party a written response. The notice and response shall include (a) the general statement of the party's position and (b) recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then a representative of each party, with full settlement authority, will meet in a mutually agreeable time and place within 15 days of the receipt of the notice and response in order to exchange relevant information and prospectus to attempt to resolve the dispute. All such communications, correspondence, proposals and recommendations are confidential and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use as aforesaid. If the dispute is not resolved by these negotiations, then the parties agree that the dispute shall be submitted to the American Arbitration Association ("AAA"), or its successor, for mediation in accordance with the Commercial Arbitration Rules and Mediation Procedures (the "Rules") in New York, New York, unless the parties mutually agree to a different venue. The parties will cooperate with the AAA and with one another in selecting a mediator from the AAA's panel of mutuals and in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith, and that they will share equally in the cost of utilizing the AAA. While all offers, promises, conduct and statement, whether oral or written, made in the

course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any AAA employees, are confidential and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in mediation.

28.2. If the matter has not been resolved pursuant to the aforementioned mediation procedure within 60 days of the initiation of such procedure, except where such time has been extended by mutual consent of the parties in writing, then the controversy shall be resolved by arbitration in accordance with the Rules by a sole arbitrator. The parties will cooperate in good faith with AAA and with one another in selecting the sole arbitrator and in scheduling the arbitration. The parties agree and stipulate conclusively that the arbitrator must follow and apply applicable law, and that any substantial refusal or failure of the arbitrator to do so shall be a basis of court invalidation of the arbitration result.

28.3. The parties further agree that they will participate in the arbitration in good faith, and that they will share equally in the costs of utilizing the AAA. The parties agree that the arbitrator shall not be empowered to award damages in excess of compensatory damages, and each party irrevocably waives all rights to recover such non-compensatory damages with respect to any dispute resolved by arbitration hereunder. A judgment upon the award may be entered in any court having jurisdiction thereof.

28.4. By executing the Agreement, the parties expressly agree to have all such disputes, claims or controversies arising out of or relating to this Agreement or the breach of this Agreement or the subject matter of this Agreement decided by neutral arbitration, and they each hereby agree to give up any rights they might possess to have those matters litigated in a court or jury trial.

28.5. Regardless of all of the foregoing dispute resolution procedures, a party to this Agreement may file and maintain suit in either the Superior Court, Judicial District of Danbury, Connecticut, or the U.S. District Court for the State of Connecticut, solely to obtain injunctive relief but only if the filing of such is accompanied by a good faith request for temporary, preliminary or emergency injunctive relief. Both parties consent to the jurisdiction of said courts. In such instance, a party is not required to use or go through any of the other dispute resolution procedures in this Agreement before filing such suit. Such suit may proceed to a hearing and decision on whether to grant a permanent injunction and all available appeals of the Court's decision. Such a suit shall be limited to injunctive relief only and may not be for monetary damages. Claims for monetary damages may be pursued only in the other dispute resolution procedures described in this Agreement, and any claim for monetary damages is not waived, barred or limited by not being included in any litigation. In any litigation in State or Federal Court, depositions and interrogatory responses may be used in support or defense of motions for summary judgment. In any litigation arising from or related to this Agreement, the prevailing party shall be entitled to recover its reasonable legal fees and costs from the non-prevailing party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

HEALTH PLAN

HEALTH CARE INCENTIVES  
IMPROVEMENT INSTITUTE, INC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

DRAFT

## SCHEDULE I

### **DESCRIPTION OF LICENSED PROPERTY AND LICENSED USES THEREOF**

The Licensed Property includes:

1. All trademarks, service marks, and certification marks now owned by or controlled by HCI 3 in the Bridges to Excellence Suite, regardless of whether such marks are registered, including all design-only marks, design-words marks and all words-only marks, including, but not limited to:

- a. BRIDGES TO EXCELLENCE (words-plus-design mark);
- b. PHYSICIAN OFFICE LINK (words-plus-design mark applied for);
- c. DIABETES CARE LINK (words-plus-design mark applied for);
- d. CARDIAC CARE LINK (words-plus-design mark applied for);
- e. SPINE AND BACK CARE LINK;
- f. CANCER CARE LINK;
- g. CHRONIC OBSTRUCTIVE PULMONARY DISEASE CARE LINK
- h. CONGESTIVE HEART FAILURE CARE LINK
- i. HYPERTENSION CARE LINK
- j. ASTHMA CARE LINK
- k. CORONARY ARTERY DISEASE CARE LINK
- l. BTE PCP RECOGNITION
- m. BTE-ACC CARDIO-VASCULAR RECOGNITION PROGRAM
- n. BTE MEDICAL HOME RECOGNITION
- o. DIABETES CARE REWARDS;
- p. CARDIAC CARE REWARDS;

- q. BTE QUALITY RATINGS;
- r. BRIDGES TO EXCELLENCE DIABETES CARE REWARDS  
REWARDING QUALITY ACROSS THE HEALTHCARE SYSTEM  
(words-plus-design mark);
- s. BRIDGES TO EXCELLENCE CARDIAC CARE REWARDS  
REWARDING QUALITY ACROSS THE HEALTHCARE SYSTEM  
(words-plus-design mark);
- t. BRIDGES TO EXCELLENCE REWARDING QUALITY ACROSS THE  
HEALTHCARE SYSTEM (words-plus-design mark).

2. All current versions and, when created, future versions of the BTE Intellectual Property related to the subject matter of this agreement, operational tool kits, annuals (including Licensee and Operations Manual), Patient Attribution Rules (these are a data methodology) and BTE expertise relating to all current and future Bridges to Excellence programs, including, but not limited to:

- a. PHYSICIAN OFFICE LINK;
- b. DIABETES CARE LINK;
- c. CARDIAC CARE LINK.

3. All trademarks, service marks, and certification marks now owned by or controlled by HCI 3 in the Prometheus Payment Suite, regardless of whether such marks are registered, including all design-only marks, design-words marks and all words-only marks. As part of a supervised implementation of the Prometheus Payment model, Licensee is authorized to use the following Prometheus Payment Suite marks:

- a. PROMETHEUS PAYMENT;
- b. EVIDENCE-INFORMED CASE RATES;
- c. ECR ANALYTICS;
- d. PROMETHEUS SCORECARD.

## SCHEDULE II

### **DESCRIPTION OF OPTIONAL SERVICES AND ASSOCIATED FEES**

#### 1. Recognition Data Support.

On a quarterly basis, HCI 3 will provide Licensee a standard file of all Recognized physicians in HEALTH PLAN'S service area. The costs associated to the production and delivery of these quarterly files is included in the base Licensing fee.

HCI3 will also provide a monthly file from its Recognition Data Exchange. Such support will be provided on a fixed price basis for physician lists matched to HEALTH PLAN'S lists of participating physicians through HCI 3's Recognition Data Exchange. On a quarterly basis, HEALTH PLAN shall pay to HCI 3 the sum of \$\_\_\_\_\_ per physician for each recognized physician that is matched to HEALTH PLAN'S network of contracted physicians in the last month of each quarter based on the most recent data in HCI 3's Recognition Data Exchange.

#### 2. Analytical Support.

HCI 3 will provide support in managing and interpreting the data generated by the application of the ECR Analytics to HEALTH PLAN'S data. It will also provide support to help Licensee use the analytics. Up to 40 hours of analytical support are included in the base Licensing fee. Additional support will be billed at an hourly rate of \$\_\_\_\_\_ and invoiced on a quarterly basis.

Licensee may submit a claims file to HCI 3 or its designee, complying with HCI 3's data file specifications. HCI 3 or its designee will then complete the analyses of any or all specified ECRs and provide Licensee with detailed reports of the analysis. The price for analyzing each file submission will be negotiated separately and invoiced to HEALTH PLAN when the analytical reports are delivered.

#### 3. Implementation Support.

HCI 3 will provide active support in the implementation of its programs. For implementations other than Prometheus Payment, such support will be provided at minimum half-day intervals of each half-day equal to 10% of a full time dedicated person (FTE). Up to 5 half-day intervals are included in the base Licensing fee. Additional half-days will be billed at a cost of \$\_\_\_\_\_ plus travel and living expenses and any other out-of-pocket expenses. These fees will be billed on a quarterly basis. The support for Prometheus Payment implementations will be negotiated separately depending on the scope of the project and HCI3's expected involvement in the implementation.