MEMBERSHIP AGREEMENT
OF
HEALTHCARE SERVICES PLATFORM CONSORTIUM

This Membership Agreement (this “Agreement”) is entered into effective as of \_\_\_\_\_\_\_ \_\_, 2014 by and between Healthcare Services Platform Consortium, Inc., a Delaware charitable nonstock corporation (the “Corporation”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ corporation (the “Member”). For and in consideration of the mutual agreements and provisions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

RECITALS

A. The Corporation is organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The Corporation’s mission is to improve clinical outcomes and financial efficiency for the healthcare enterprise by catalyzing industry-wide collaboration in the development of interoperable clinical and business information technology applications, consistent with the standards adopted by the United States Department of Health and Human Services. The Corporation expects that such developments will facilitate the electronic use and exchange of health-related information consistent with the legislative intent of the American Recovery and Reinvestment Act of 2009.

B. The Corporation has determined that the addition of the Member as a member of the Corporation pursuant to this Agreement and Article III, Section 1 of the Bylaws of the Corporation (the “Bylaws”) will better enable the Corporation to fulfill its mission.

C. The Member has determined that becoming a member of the Corporation pursuant to this Agreement is consistent with its own mission, philosophy and purposes.

AGREEMENT

# Incorporation

## The incorporation of the Corporation will precede ratification of class of membership and representation. The Corporation will be governed initially by the Founding Members that include, Intermountain Healthcare, LSU Health Sciences, Jackson Healthcare, Harris Corporation. Each organization will appoint a representative to serve as a member of the Board of the Directors of The Corporation.

### Within fifteen days from incorporation, the Founding Members will vote in a Chairman of the Board and the initial ratification of the bylaws of the Corporation including initial governance, class of membership, dues, schedule of events and meetings, etc.

### The Founding Members will vote in a five-member interim board of directors who shall serve for the initial three-month duration. This board will dissolve when the final board members are voted in by the Benefactor Members.

## Within 90 days from incorporation, Benefactor Members will be asked to make final commitments. Payments from each member will be expected within fifteen days of commitment.

## New members will be initially voted in as members of the Corporation based on the ratified fee structure and the ratified Bylaws.

# Class of Membership and Representative

## Class. The Member is a member of the following class of membership within the meaning of Article III, Section 1 of the Bylaws (check one):

## Benefactor Member

##  \_\_\_\_ HCO Benefactor Member

##  \_\_\_\_ Non HCO Benefactor Member

## Associate Member

##  \_\_\_\_ HCO Associate Member

##  \_\_\_\_ Non HCO Associate Member

## Participating Member

##  \_\_\_\_ Individual Member

##  \_\_\_\_ Student Member

## 2.2 Representative. The Member designates the following person to serve as its duly authorized representative at meetings of the members of such membership class, for the receipt of notices, and executing ballots, which representative the Member may change by written notice to the Corporation:

Member representative:

Address:

C/S/Z:

Telephone:

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Membership Dues

## Initial Benefactor Membership Fee. Each Benefactor Member signing below promises to pay $200,000, by check or by money order or by wire transfer made payable to the Corporation.

## Payment of Dues. The Member hereby promises to pay in quarterly installments, by check or by money order or by wire transfer made payable to the Corporation, annual membership dues of $20,000 in the case of Benefactor Members, $5,000 in the case of Associate Members, $500 in the case of Individual Members, and $100 in the case of Student Members, which shall be due on or before the date set forth below (to be adjusted when a Member joins) next to the amount of each quarterly installment of such dues:

### The first quarterly installment of each calendar year is $5,000, $1,250, $125, or $25, as the case may be, and shall be due on or before December 1 of the previous year.

### The second quarterly installment of each calendar year is $5,000, $1,250, $125, or $25, as the case may be, and shall be due on or before March 1.

### The third quarterly installment of each calendar year is $5,000, $1,250, $125, or $25, as the case may be, and shall be due on or before June 1.

### The fourth quarterly installment of each calendar year is $5,000, $1,250, $125, or $25, as the case may be, and shall be due on or before September 1.

## Nonrefundable. Membership dues, including Member Operations Dues, shall not be refundable.

## Failure to Pay Dues. In the event the Member fails to pay the full amount of annual dues called for in this Section 2 by the date on which each installment of such annual dues is due, and such default is not cured within fifteen (15) days after written or telephonic notice thereof given by the Corporation has been received by the Member, the following provisions shall apply, commencing after such 15‑day cure period and continuing until the earlier to occur of (i) the termination of the Member’s membership in the Corporation or (ii) such earlier date as the Member has otherwise cured the default in accordance with Section 2.4(d) below:

### Whenever the vote or consent of the Member or of any director of the Corporation or a member of a committee of the Corporation who is an officer, director, representative, employee or agent of the Member would otherwise be required or permitted by the Bylaws or by applicable statute, the Member or such director shall not be entitled to participate in such vote or consent, and such vote or consent shall be calculated as if the Member was not a member of the Corporation or if such director or committee member was not a member of the Corporation’s Board of Directors or any committee. In addition, all other rights and privileges of membership in the Corporation shall be suspended with respect to the Member.

### The Corporation may commence legal proceedings against the Member to collect the due and unpaid amount of membership dues, together with interest thereon for the account of the Corporation from the due date at the maximum rate allowed by applicable law, plus the costs and expenses of collection (including attorneys’ fees and expenses).

### If, after thirty (30) days from the expiration of the 15‑day cure period, the Member has not paid the full amount of due and unpaid membership dues, together with interest thereon, the Corporation may terminate the Member’s membership in the Corporation by the affirmative vote of at least a majority of the Corporation’s Board of Directors, provided notice of the intention to terminate the Member’s membership interest is provided to the Member.

### Notwithstanding the foregoing provisions of this Section 2.4, the Member shall have the opportunity to cure its default in the payment of membership dues pursuant to this Section 2.4(d) in the event that (i) the Member exercises its opportunity to cure within thirty (30) days of the termination of the 15‑day cure period prescribed in the first sentence of this Section 2.4 (the “Cure Period”) and (ii) not more than two other defaults have occurred with respect to the Member during the prior twelve consecutive calendar months. In order to cure such default, prior to the end of the Cure Period, the Member must pay all of its unpaid membership dues to the Corporation, together with 10% per annum interest thereon for the account of the Corporation. In the event that the Member cures its default as provided in this Section 2.4(d) prior to the expiration of the Cure Period, the Corporation shall reinstate any voting privileges revoked pursuant to Section 2.4(a) and rescind any actions taken against the Member pursuant to Sections 2.4(b) and (c) as if the Member had not defaulted in its payment of membership dues hereunder.

### The Benefactor Members [or the Board] may change amount of the dues for each class of membership at its pleasure.

# Obligations of the Member. In addition to the obligation to pay membership dues in the manner set forth in Section 1 of this Agreement, the Member hereby represents, covenants and warrants as follows:

## Contributions. Member shall use its best efforts to make contributions to the Corporation as described in the applicable subsection of Article III, Section 2 of the Bylaws.

## Organization of the Member. Each Benefactor or Associate Member is a legal entity duly organized, validly existing and in good standing under the laws of its state of incorporation or formation and has all requisite power and authority to execute and deliver this Agreement, and perform all of its obligations under this Agreement.

## Governing Documents of the Corporation. The Member acknowledges that, in its capacity as a member, it is bound by terms and conditions of the Bylaws and the Corporation’s Certificate of Incorporation, each of which the Member acknowledges that it has read and understands, and such policies and procedures as may be adopted from time to time by the Board of Directors of the Corporation.

## Three-Year Commitment. The Member acknowledges that it is making a commitment hereby to remain a member in good standing of the Corporation for a minimum period of three (3) years from the effective date of this Agreement and that it is committed to pay the dues described above for a period of three (3) years from the effective date in order to provide a stable source of funding for the Corporation.

# Obligations of the Corporation

## Organization of the Corporation. The Corporation represents, covenants and warrants that it is a charitable nonstock Delaware corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to:

### conduct its charitable activities as presently conducted and contemplated;

### execute and deliver this Agreement, and perform all of its obligations under this Agreement; and

### issue a membership to the Member in accordance with the terms of this Agreement, its Certificate of Incorporation and its Bylaws.

## Use of Membership Dues. The Corporation (i) shall use membership dues to carry out the charitable purposes of the Corporation and (ii) represents, covenants and warrants that no part of the net income or assets of the Corporation shall ever inure to the benefit of any director, officer, or member thereof or to the benefit of any private person within the meaning of section 501(c)(3) of the Code.

# Termination of Membership

## Voluntary Withdrawal. The Member may in its own discretion withdraw and be automatically removed from membership in the Corporation at any time after three (3) years by giving written notice to the Secretary of the Corporation. In the event of its withdrawal, the Member forfeits any entitlements or rights arising from such membership and, except as provided in Section 5.3 of this Agreement, shall have no obligation to pay additional membership dues or make any other required contributions to the Corporation.

## Involuntary Termination. The Member’s membership in the Corporation shall be terminated upon the occurrence of any of the following events:

### a removal pursuant to Article III of the Bylaws;

### the failure to pay annual membership dues on or before the due date prescribed for payment in accordance with the procedures set forth in Section 2.4(c) of this Agreement; provided, however, the Member’s membership in the Corporation may be reinstated upon (i) the payment of the full amount of due and unpaid membership dues payable under this Agreement prior to the date of reinstatement, together with interest thereon; (ii) the payment in full of a non-refundable reinstatement fee equal to 25% of the Member’s annual dues for the year of involuntary termination; and (iii) the affirmative vote of at least a majority of the Board of Directors of the Corporation; or

### the Member’s liquidation or dissolution under the laws of the State of its incorporation or organization.

## Obligation to Pay Membership Dues. The termination of the Member’s membership in the Corporation pursuant to this Section 5 shall not relieve the Member of the obligation to pay any portion of its annual membership dues for the full (3) year membership commitment accrued and unpaid as of the effective date of such termination of membership. In the event of the Member’s voluntary withdrawal from membership in the Corporation, the Member shall be obligated to pay all membership dues payable for the full three (3) year membership commitment under Section 2 of this Agreement.

# Resolution of Disputes. Any Member complaints which cannot be resolved to the mutual satisfaction of the Member and the Corporation through communications between the Member and the President (or the President’s designee) shall be submitted for final resolution to a committee appointed by the Board of Directors of the Corporation. Any such dispute that cannot be resolved by such committee shall be resolved by arbitration in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, pursuant to the Commercial Arbitration Rules then obtaining of the American Arbitration Association. The parties shall be entitled to conduct reasonable discovery in accordance with the Federal Rules of Civil Procedure, prior to the arbitration hearing, and the Federal Rules of Evidence shall be applicable to the arbitration hearing. Neither the Member nor the Corporation shall commence any action against the other to resolve any such dispute in any court except to confirm such arbitrator’s award or to obtain equitable relief. Judgment upon any such award rendered by an arbitrator may be entered by any court in the California having jurisdiction thereof. The arbitrator (a) shall not have any power or authority to add to, alter, amend or modify the terms of this Membership Agreement; (b) shall be bound by, the laws of Delaware, except that this Section 6 shall be governed by the Federal Arbitration Act; (c) shall have no power or authority to grant or award punitive damages; and (d) shall establish and enforce appropriate rules to ensure that the proceeding, including the decision, be kept confidential and that all confidential information of the parties be kept confidential and be used for no purpose other than the arbitration. The parties shall be deemed to have waived any rights to punitive damages. This provision shall survive the termination of this Agreement and shall apply equally to any former Member, including with regard to any continuing obligation to pay membership dues pursuant to Section 5.3 hereof.

# Term of Agreement. The terms and provisions of this Agreement shall apply for an initial period commencing on the effective date of this Agreement and ending three years thereafter. Thereafter, the terms and provisions of this Agreement shall be renewed automatically and continue in effect on a year to year basis unless the Agreement is terminated pursuant another provision of the Agreement.

# General Provisions

## Remedies. The remedies provided to the parties by this Agreement are not exclusive or exhaustive, but are cumulative of each other and in addition to any other remedies the parties may have.

## Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and transmitted by commercial courier, email or other electronic transmission, or by first class mail or certified mail, postage prepaid, to the President of the Corporation or to the Member’s representative at the address set forth in Section 2.2. Any party may change the address to which notices are sent by giving notice in accordance with the provisions of this section. Any notice given by mail shall be deemed to be delivered at the time when the same shall be deposited in the United States mails, as aforesaid. Any notice given by email or other electronic transmission shall be deemed to be given upon successful transmission thereof.

## Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, and nothing in this Agreement is intended, nor shall it be deemed, to confer benefits on any third party.

## Assignment. No assignment of this Agreement or the rights and obligations hereunder shall be valid without the prior written consent of the other party.

## Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts to be performed therein, without regard to the principles of conflicts of law thereof.

## Severability. If any part of this Agreement shall be held invalid or inoperative for any reason, the remaining parts, so far as is possible and reasonable, shall remain valid and operative.

## Waiver. Waiver by any party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any prior, concurrent or subsequent breach. None of the provisions of this Agreement shall be considered waived by any party except when such waiver is given in writing.

## Entire Agreement. This Agreement, any exhibits and any amendments or addenda hereto, all of which are hereby incorporated by reference, constitute the entire agreement between the parties regarding the subject matter of this Agreement and supersede all prior or contemporaneous discussions, representations, correspondence and agreements, whether oral or written.

## Headings. The headings contained in this Agreement are for convenience purposes only and shall not affect the meaning or interpretation of this Agreement.

## Amendment. This Agreement shall not be amended or modified except by a written document executed by both of the parties hereto and such written amendment(s) shall be attached to this Agreement.

## Effective Date. The effective date of this Agreement shall be the date set forth in the first paragraph of this Agreement.

## Counterpart Signatures. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute a single instrument.

## *(Signature page follows)*

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

**Healthcare Services Platform Consortium, Inc.**,a Delaware charitable nonstock corporation

By:

Its:

**Founding Members**

Intermountain Healthcare

Name:

By:

Its:

LSU Health Sciences

Name:

By:

Its:

**Jackson Healthcare**

Name:

By:

Its:

Harris Corporation

Name:

By:

Its: