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**MEMORANDUM OF UNDERSTANDING  
BY AND AMONG  
[LIST ALL PARTIES BY LEGAL NAME]**

This Memorandum of Understanding is made and entered into effective as of this \_\_\_\_ day of February, 2005, by and among The State of Tennessee, Vanderbilt University, by and through its Vanderbilt University Medical Center (“VUMC”), and the following entities (each of the following to be referred to herein as a “Core Healthcare Entity”): xxxxxx. (Each of The State of Tennessee, VUMC, and the Core Healthcare Entities are sometimes referred to herein as a “Party” and, collectively, as the “Parties”). This Memorandum of Understanding sets forth certain understandings and agreements with respect to a contemplated regional data exchange project among the Parties. Except as otherwise provided below, the terms and conditions of this Memorandum of Understanding are non-binding.

**Recitals**

WHEREAS, the Parties desire to form a regional data exchange designed to promote secure and efficient sharing of health information in order to advance the quality of health care delivery in the southwest region of Tennessee (“Regional Data Exchange”);

WHEREAS, the Parties desire to establish a common business framework to facilitate the Regional Data Exchange in a manner that improves the quality of health care delivery consistent with the individual business goals of the participating institutions and stakeholders;

WHEREAS, the Agency for Healthcare Research and Quality has awarded a five-year contract to the State of Tennessee to develop the infrastructure requirement for certain exchange of clinical data and evaluation among participating entities (“ARHQ Contract”), and the State of Tennessee intends to commit certain additional funds essential to the overall success of the project contemplated by the ARHQ Contract;

WHEREAS, the State of Tennessee intends to engage Vanderbilt as a subcontractor on the ARHQ Contract in order for Vanderbilt to provide certain project management and development services in regard to the ARHQ Contract; and

WHEREAS, this Agreement is intended to set forth the mutual understanding of the Parties in regard to the establishment of a common business framework for the Regional Data Exchange project, in accordance with the provisions of the ARHQ Contract.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **Agreement**

1. **Negotiation Period.** The Parties agree to negotiate in good faith following the execution of this Memorandum of Understanding in order to pursue the Regional Data Exchange, including without limitation, negotiation of the following elements:

a. The Parties agree to pursue the establishment of a not-for-profit Regional Health Improvement Organization (“RHIO”), defined as a multi-stakeholder organization that seeks to enable the exchange and use of healthcare information for the purpose of promoting the improvement of health care quality, safety and efficiency. Specifically, the Parties agree to participate in organizational activities pertaining to the establishment of a RHIO, including attending organizational meetings, providing review and input on proposed corporate structure, governance and staffing of the RHIO, and commenting on information and other materials pertinent to the establishment of the RHIO.

b. The Parties will explore mechanisms for appropriate funding of the RHIO with the goal of establishing the RHIO as a self-sustaining entity. Funding measures for consideration shall include an intended capital infusion of up to \$10 million over a five-year period by the State of Tennessee.

c. The Parties will work to define appropriate terms and conditions for a five (5) year data sharing agreement to be entered into by each Core Healthcare Entity and the RHIO, consistent with the requirements of the ARHQ Contract (each, a “Data Sharing Agreement”). As part of the due diligence necessary in connection with such Data Sharing Agreements, each Core Healthcare Entity will explore what investments in resources and technology will be necessary or appropriate in order to effect the exchange of data contemplated by the Data Sharing Agreement, with the goal of commencing the exchange of data on or about October 1, 2005.

d. VUMC will serve as the initial Health Information Service Provider for the RHIO, and will develop related technology in accordance with the ARHQ Contract. VUMC will enter into a mutually acceptable agreement with the RHIO pertaining to the delivery of certain health information services.

e. Any agreements pertaining to the RHIO shall be in accordance with applicable laws, rules and regulations of federal, state and local governmental authorities, including without limitation, the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder, and with the ARHQ Contract.

2. No Violation. Each Party represents to the other Parties that, as of the effective date of this Memorandum of Understanding, it is not bound under any binding or enforceable contract or agreement with any third party concerning a regional data exchange, and this Memorandum of Understanding, and the transactions contemplated hereby, will not violate any contract, agreement or commitment currently binding on such Party.

3. Non-Disclosure. Except as and to the extent required by applicable law, regulation or legal process, without the prior written consent of the other Parties, each Core Healthcare Entity shall not, and shall direct its representatives that they shall not, directly or indirectly, make any public comment, statement, or communication with respect to, or otherwise disclose or permit the disclosure of, the existence of discussions regarding the Regional Data Exchange or any of the terms, conditions, or other aspects of the project proposed in this Memorandum of Understanding. If a Core Healthcare Entity is required by applicable law, regulation or legal process to make any such disclosure, it shall as far in advance as is practicable, provide to the other Parties the content of the proposed disclosure, the reason that such disclosure is required, and the time and place that the disclosure will be made.

4. Public Announcements. In connection with the transactions contemplated by this Memorandum of Understanding, each Party agrees that it will not use any other Party's name, marks, or logos in any advertising, promotional material, press release, publication, public announcement, or through other media, whether written or oral, without the prior written consent of such other Party, acting through its chief executive officer or his/her designee. Notwithstanding anything in this Memorandum of Understanding to the contrary, the State of Tennessee may disclose information to the extent required by the Tennessee Public Records Act, T.C.A. § 10-7-503 et seq.

5. Due Diligence and Approvals. Notwithstanding anything in this Memorandum of Understanding to the contrary, the Parties agree that the consummation of any Data Sharing Agreement is contingent upon: (i) a thorough due diligence review by the respective parties to such Data Sharing Agreement of the financial, legal, strategic and other aspects of the transactions contemplated thereby; (ii) the receipt of all necessary governmental approvals or assurances of the absence of governmental objections pertaining to the transactions contemplated by such Data Sharing Agreement; and (iii) the receipt of all necessary corporate approvals by each party to such Data Sharing Agreement.

6. No Representation or Warranty. The Parties understand and acknowledge that no Party is or will be making any representation or warranty, express or implied, as to the accuracy or completeness of any furnished information or other due diligence materials, and no Party, or any of its directors, trustees, officers, employees, shareholders, owners, affiliates, representatives, or agents, has or will have any liability to any other Party or person resulting from any reliance upon or use of, or otherwise with respect to, any furnished information or other due diligence materials. Only those representations or warranties made expressly in a Data Sharing Agreement or in any binding agreements

pertaining to the RHIO, when, as, and if it is executed, and subject to such limitations and restrictions as may be specified in such agreement, will have any legal effect.

7. Definitive Agreements Supersede. In the event the Parties execute definitive agreements pertaining to the establishment of a RHIO and any Data Sharing Agreement, such definitive agreements shall supersede this Memorandum of Understanding, and this Memorandum of Understanding shall immediately terminate and no longer have any force or effect.

8. Fees and Expenses. From the date of this Memorandum of Understanding, each Party hereto will be responsible for and will pay its own fees, costs and expenses incurred in connection with such Party's participation in the negotiations and activities contemplated by this Memorandum of Understanding. Specifically, each Party will pay their respective legal counsel, accountants and advisors and will pay, or otherwise advance, any and all out-of-pocket costs and expenses incurred in connection with such Party's negotiation of any contract to which such entity is or becomes a party.

9. Entire Agreement. This Memorandum of Understanding constitutes the entire agreement among the Parties, superseding all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing regarding the subject matter hereof. Except as otherwise provided herein, the provisions of this Memorandum of Understanding may be amended, modified or waived only by a writing executed by each Party hereto.

10. Governing Law. This Memorandum of Understanding shall be governed in all respects by, and be construed in accordance with, the laws of the State of Tennessee.

11. Termination. This Memorandum of Understanding may be terminated: (i) by mutual written consent of all of the Parties hereto; or (ii) by written consent of VUMC and the State of Tennessee. Any Core Healthcare Entity may elect to terminate its participation in the transactions contemplated by this Memorandum of Understanding by providing thirty (30) days' prior written notice to the other Parties hereto. Upon termination of this Memorandum of Understanding, the Parties shall have no further obligations hereunder, except as stated in paragraphs 3,4, 6 and 8 of this Memorandum of Understanding, which shall survive any such termination.

12. Specific Performance. Each Party acknowledges and agrees that the other Party may be damaged irreparably if any of the provisions of Sections 3 and 4 of this Memorandum of Understanding are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each Party agrees that, upon a proper showing of proof of entitlement to such remedy, the other Party shall be entitled to an injunction or injunctions to prevent breaches of such provisions of this Memorandum of Understanding and to enforce specifically such terms and provisions, in addition to any remedy to which it may be otherwise entitled at law or in equity.

13. Effect of Memorandum of Understanding. Each Party hereby agrees and acknowledges that the provisions of Sections 2-13 (“Binding Provisions”) of this Memorandum of Understanding are legally binding upon the Parties and shall inure to the benefit of the Parties, their successors and assigns. All other provisions set forth in this Memorandum of Understanding are not legally binding upon the Parties, and neither Party will have any liability or obligation to the other Party with respect to such provisions. Except with respect to the Binding Provisions, any binding obligations of the Parties with respect to the transactions contemplated by this Memorandum of Understanding will result only upon required corporate authorization, execution and delivery of applicable definitive agreements by each Party subject to any required approvals from applicable governmental entities.

*[remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding to become effective as of the date first written above.

**THE STATE OF TENNESSEE**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**VANDERBILT UNIVERSITY, BY AND THROUGH  
ITS VANDERBILT UNIVERSITY MEDICAL  
CENTER**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**[Party 1]**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**[Party 2]**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**[Party 3]**

**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**[Party 4]**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**[Party 5]**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**[Party 6]**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**[Party 7]**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**[Party 8]**

**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**[Party 9]**