

END USER LICENSE AGREEMENT

(Last updated March 31, 2020)

BY ACCESSING OR USING WWW.EQUIPP.ORG (“THE WEBSITE”), YOU AGREE TO ALL OF THE FOLLOWING TERMS AND CONDITIONS SET FORTH BY PHARMACY QUALITY SOLUTIONS, INC. (“PQS”) (WHICH FOR PURPOSES OF THIS END USER LICENSE AGREEMENT (“EULA”) INCLUDES ITS THIRD PARTY VENDORS AND AFFILIATES, INCLUDING, BUT NOT LIMITED TO, PREMIER, INC. AND THEIR RESPECTIVE AFFILIATES). PQS RESERVES THE RIGHT TO MODIFY THIS EULA AT ANY TIME BY POSTING SUCH MODIFICATIONS TO THE WEBSITE. YOUR CONTINUED ACCESS TO OR USE OF THE WEBSITE AFTER SUCH MODIFICATIONS ARE POSTED, SIGNIFIES YOUR AGREEMENT TO ALL OF THE PROVISIONS OF THE EULA THAT ARE DISPLAYED ON THE WEBSITE ON THE DATE OF SUCH USE.

THE TERMS AND CONDITIONS SET FORTH IN THIS EULA ARE INTENDED TO APPLY TO USERS DESIGNATED BY A PQS CUSTOMER (“DESIGNATED USERS”), ACTING PURSUANT TO A SEPARATE AGREEMENT BETWEEN PQS AND THE RESPECTIVE PQS CUSTOMER (“SUBSCRIPTION AGREEMENT”) FOR THE USE OF THE SERVICES, ACCESSIBLE ON NON-PUBLICLY AVAILABLE PORTIONS OF THE WEBSITE (“EQUIPP® SERVICES” OR “SERVICES”). DESIGNATED USERS ARE SOMETIMES REFERRED TO AS “YOU” OR “YOUR”.

IF A CONFLICT ARISES BETWEEN THIS EULA AND THE SUBSCRIPTION AGREEMENT IN PLACE BETWEEN PQS AND THE PQS CUSTOMER, THE SUBSCRIPTION AGREEMENT WILL GOVERN YOUR USE OF THE WEBSITE, INCLUDING DATA PROTECTIONS FOR PROTECTED HEALTH INFORMATION (“PHI”) AS DEFINED UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (“HIPAA”). IF YOU ACCESS NON-PUBLICLY AVAILABLE PORTIONS OF THE WEBSITE TO WHICH YOU HAVE BEEN AUTHORIZED ACCESS PURSUANT TO A SUBSCRIPTION AGREEMENT, ADDITIONAL TERMS OF USE MAY APPLY AND WILL CONTROL IN THE EVENT OF CONFLICT WITH THIS EULA.

SCOPE OF LICENSE AND LIMITATIONS

Subject to the terms of this EULA, PQS grants You, solely in your role as a Designated User of a PQS customer organization, a limited, non-exclusive, nontransferable and revocable license (“License”) to use and access the information on the Website. The term of this License shall automatically terminate with the end of the Subscription Agreement with the PQS customer and can be terminated in accordance with the Subscription Agreement or at any time and for any reason by PQS without notice to You for breach of this EULA. Any and all content accessible on the Website (including, for example, and without limitation, performance measurement reports and links to performance improvement tools related to appropriate medication use and pharmacy services, educational materials, scientific content, and PHI) is owned by PQS, its business associates, or third parties. You are authorized to use this information provided on the Website solely for your use in accordance with the Subscription Agreement, and subject to the restriction set forth in this EULA. You may not access or use this information for any other purposes. You may not modify, republish, post, transmit, or distribute any information without the express written consent of PQS. PQS expressly retains all right, title, and interest in and to any proprietary information. Failure to adhere to these provisions could subject you to serious penalties under federal law. Designated Users are authorized to use the Services provided on the Website solely in connection with the EQUIPP® Services and strictly in accordance with the terms of the Subscription Agreement and this EULA.

PRIVACY

Your use of the Website is also governed by our Privacy Policy, which is incorporated into this EULA herein by reference. By using the Website, you indicate that you understand and agree to the practices described in the Privacy Policy. Our privacy policy may be accessed by clicking on the “Privacy Policy” link at the bottom of any page of the Website or by clicking here:

<https://www.equipp.org/content/equipp/EQUIPP.Privacy.pdf>.

PROTECTED HEALTH INFORMATION

Your organization is a "Covered Entity" under the HIPAA Privacy Standards as defined in Appendix A hereto. In connection with Your use of the Website and the EQuIPP® Services, You may upload to the Website, and PQS may need access to "**Protected Health Information**", "**PHI**" or "**ePHI**" as those terms are defined under HIPAA Privacy Standards (45 C.F.R. Section 160.103) in providing the EQuIPP Services on PQS customer's behalf. In the event you do access any PHI in connection with your use of the Website or the EQuIPP® Services, you shall only utilize such PHI in accordance with minimum necessary standards under HIPAA, and shall maintain and ensure the confidentiality, privacy and security of PHI in accordance with HIPAA Privacy Standards. You and PQS shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of Protected Information transmitted, in accordance with the standards and requirements as set for in the HIPAA Business Associate Agreement set forth in Appendix A. Each Designated User with access to PHI via the Website hereby represents and warrants that the organization information that determines access (i.e. NPI number) provided either to PQS directly by the user, or provided on behalf of the user by a PQS customer organization, is accurate and up-to-date. In the event a Designated User is a Pharmacy or Pharmacy Representative, you shall immediately inform PQS if its organization information (i.e. NPI number) changes.

PQS may use and disclose the PHI of your organizations patients and customers to streamline, calculate and display performance, measure and track progress, and report such performance to health care insurance providers, without your organization's written authorization. We may share the PHI your organization provides with insurers to assist in their determination of whether performance benchmarks are being met, and whether payments are appropriate. We may also disclose the PHI to health care insurance providers that provide services to your organization and its customers and patients, so that it can improve the quality and efficacy of the health care services your organization provides or for its health care operations. We may also use your PHI to create de-identified data, which no longer identifies your organization's customers or patients, and which may be used or disclosed for analytics, business planning or other purposes.

Certain personal information and PHI may be disclosed to third parties (for example, accrediting bodies for continuing education or entities which provide board certifications) in order to provide the information and services that your organization requests, and may be used by both PQS and third parties to provide that information and/or perform the EQuIPP Services. You acknowledge that certain activities may require PQS to share your private information, personal information and/or PHI with the associated third-party accreditor or entity providing board certification. PQS is not responsible for the use of any such information by such third-party accreditor or entity providing board certification, including use by any of the same in a manner not intended when such information is disclosed to them.

PQS may combine, in a non-personally-identifiable format, the information that PQS collects from you with information from other users to create aggregate data, which may be used by us for research purposes or shared with third parties.

WEBSITE CONTENT

PQS may provide, through the Website, the following services that include without limitation the following (collectively, "Website Content"): (i) provision of the Website, EQuIPP® Services and other online services and Internet sites; (ii) display, performance, provision, and use of: information such as performance reporting, benchmarks, status reports, and other educational, promotional, product, pricing and marketing information ("Information"); (iii) copyrighted works, images, software, audio, data, designs, photographs, text, music, video, graphics, messages, and other such content; and (iv) other Materials, including Our Materials and Third Party Materials

OWNERSHIP OF INTELLECTUAL PROPERTY AND MATERIALS

(A) Trademarks, Copyright and Intellectual Property Ownership

PQS uses names, marks, brands, design marks, slogans, logos, designs, trade dress and trade names on the Website and with the EQuIPP® Services, including but not limited to, EQuIPP® and PQS ("Our Trademarks"). We own Our Trademarks and all Website Content (subject to some Website Content being licensed from a third party), and other information displayed and posted on, contained in, and/or provided in connection with, the Website and/or the EQuIPP® Services (collectively, "Our Materials"). Also, third parties have allowed us to post or use their materials and trademarks on the Site ("Third Party Materials"). We refer to Our Materials and Third Party Materials collectively as the "Materials."

(B) Copyright Notice

Our Materials contained on the Website are copyrighted materials of Pharmacy Quality Solutions, Inc. Copyright © 2020 Pharmacy Quality Solutions, Inc. All rights reserved.

PQS exclusively owns, or has the right to use or license, all intellectual property in the Materials, proprietary information and know-how used with the Website and Services. We maintain all of the web pages of the Website, and platforms and dashboards used as part of the Services as a collective work under the U.S. copyright laws and protect the Website and Materials under trademark and other intellectual property laws.

(C) Rights in Materials

By using or accessing the Website or Services, you do not acquire any rights or interest in any Materials. The only rights you can gain are those we explicitly grant to you through this EULA. We reserve all rights that we do not expressly grant to you. You agree not to display, use (including co-branding your own goods or services with Our Trademarks), remove, or alter PQS's or any third party trademarks, Website Content or other Information without prior written consent. You also agree that any use by you, or on your behalf, of Our Trademarks, and the goodwill associated therewith, shall inure to PQS's benefit.

Except as expressly permitted, you may not, modify, copy, reproduce, republish, upload, post, transmit, hyperlink to or from, or distribute in any way any Website Content from the Website, including code and software underlying this Website, nor may you sell, transfer or otherwise use the Website or the Website Content in commerce or for any public or commercial endeavor without PQS's prior and express written consent.

GENERAL USE RULES

By using or accessing the Website or Services, you agree to adhere to the following general use rules. We reserve the right to suspend or terminate your access to the Website, and to refuse any and all current or future access to, or use of, the Website and the Services for violation of any of the following general use rules.

(i) You agree not to use obscene, racist, vulgar, discourteous, indecent or sexually explicit language or images and agree not to post, upload, e-mail, transmit, distribute, or otherwise make available, any such content or materials onto the Website.

(ii) You agree not to post or communicate infringing material or harassing communications or advertisements, and you agree not to post, communicate, upload, e-mail, transmit, distribute, or otherwise make available any material or content that infringes and/or violates any rights of a third party (including its intellectual property, data or other proprietary rights), or any law, regulation or ordinance.

(iii) You agree not to pose any harassing, slanderous, libelous or derogatory information or content, or any advertisements for products or services, "junk mail", spam, chain mail, pyramid schemes, or other form of commercial or illegal solicitation.

(iv) You agree not to harm, or attempt to harm minors in any way by your use or access of the Website or Services.

(v) You agree not to create or use a false identity for the purpose of misleading others.

(vi) You agree not to post or distribute any software or other materials that contain a virus, worm, trojan horse or other harmful or disabling code or component.

(vii) You agree not to interfere with, or disrupt, the operation of the Website and/or the Services, or with servers or networks connected to, or used in connection with the operation of the Website.

(viii) You agree not to disobey any requirements, procedures, policies or regulations established by the owners or operators of any networks, hardware, or software connected to, or used in connection with the operation of the Website, or any requirement that we post on the Website.

(ix) You agree not to engage in any activity or use any device, software or routine that interferes with access to the Website or the proper operation of the Website or the EQuIPP® Services.

(x) You agree not to delete or revise any Website Content or information of any other user.

(xi) You agree not to take any action that imposes an unreasonable large load on the Website's infrastructure.

RESTRICTIONS ON USE OF WEBSITE CONTENT, MATERIALS AND MARKS.

Your use of the Website is subject to our and other third party's intellectual property rights. Except as expressly authorized in this EULA, you agree that: (i) You will not reproduce, edit, modify, rent, license, sell, distribute, mirror, republish, download, transmit, or create derivative works from any Materials displayed on, or made available through the Website, or in connection with the Services, in whole or in part, by any means now known or later developed; (ii) You will not attempt to decipher, decompile, disassemble, modify, or reverse engineer any part of the Website or software comprising or in any way making up part of the Website or EQuIPP® Services; (iii) You will not copy, post or transmit any Materials that you receive from, access, or retrieve from, the Website or through the Services, to any server, or network of computers; (iv) You will not remove or modify any copyright or trademark notice, or other notice of ownership, displayed on, or affixed to, any Materials, including any copies of the Licensed Materials that you download and/or distribute; and (e) You will not frame the Website within a mark other than that of PQS.

ACTIVITIES WITH THIRD PARTIES ON OR FROM THE WEBSITE

(A) Linking to Third Party Sites from PQS Website

From time to time, PQS may provide links on the Website that will allow you to connect with websites of third parties that are not under our control. PQS is providing these links only as a convenience to you. Further, there may be times while in the Website that you could be directed to sites that are beyond PQS's control. This includes links from other organizations, sponsors or volunteers that may use our logo(s) as part of an agreement with PQS. These other sites may send their own cookies to users, collect data, solicit personal information, or contain information that you may find inappropriate or offensive.

(B) No Warranties

PQS MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING THE CONTENT OF, OR THE PRIVACY PRACTICES OF, OR THE AVAILABILITY OR QUALITY OF ANY PRODUCTS, MATERIALS OR SERVICES THAT YOU PURCHASE FROM A THIRD PARTY WEBSITE THAT LINKS TO OR FROM ANY PQS WEBSITE EVEN IF WE PROVIDE LINKS TO SUCH SITES ON THE WEBSITE. WE ACCEPT NO RESPONSIBILITY FOR, AND WE EXPRESSLY DISCLAIM ANY WARRANTIES OR LIABILITY RELATING TO, THE ACCURACY, RELEVANCY, COPYRIGHT COMPLIANCE, LEGALITY, OR DECENCY OF MATERIALS DISPLAYED ON, OR CONTAINED IN, WEB SITES LINKED TO, OR TO WHICH YOU ARE DIRECTED FROM, OUR WEBSITE. YOU ACCESS AND USE SUCH WEB SITES, AND THE SERVICES PROVIDED IN CONNECTION THEREWITH, AT YOUR OWN RISK.

(C) No Endorsement

Links to other websites do not imply an endorsement of the materials, products, content, ideas or interactive communications displayed on, or disseminated at or through those websites, nor does the existence of a link to another of our websites imply that the organization or person publishing at that website endorses any of the materials or ideas at our Website. PQS reserves the right to disable links from third party sites to our Website at any time without prior notice.

DISCLOSURE OF AFFILIATIONS

PQS works with a variety of third parties to provide the services available on the Website and to provide links to other websites. These third parties include, for example, accrediting bodies, content providers, technology providers, and suppliers of medical products, information, and services. These entities may supply information that is posted on or accessible through the Website, and, solely in the case of accrediting bodies, may set standards applicable to certain content, but they do not control the content or the operation of the Website.

ACCREDITATION

PQS IS NOT RESPONSIBLE FOR ENSURING THE VALIDITY OF ANY CONTINUING EDUCATION CREDITS; ISSUING NOTIFICATION OF CREDITS OR CERTIFICATION; ENSURING THE SUFFICIENCY OF CREDITS FOR LICENSE RENEWAL; ENSURING PROGRAM CONTENT IS SUFFICIENT TO EARN CONTINUING EDUCATION CREDIT; OR ENSURING THE ACCURACY OR COMPLETENESS OF PERSONAL TRANSCRIPTS.

INFORMATIONAL NATURE OF THE SITE: NO MEDICAL ADVICE

THE INFORMATION ON THE WEBSITE IS INTENDED FOR USE FOR QUALITY REPORTING PURPOSES AND/OR EDUCATION ONLY AND SHOULD NOT BE CONSTRUED AS MEDICAL ADVICE. THIS INFORMATION SHOULD NOT BE USED IN PLACE OF SEEKING PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT BY LICENSED PRACTITIONERS. PQS DOES NOT PRACTICE MEDICINE OR LAW, AND DOES NOT OFFER ANY OTHER PROFESSIONAL ADVICE OR SERVICES. YOU ASSUME FULL RESPONSIBILITY FOR APPROPRIATE USE OF THE INFORMATION AVAILABLE THROUGH THE WEBSITE.

If you think you may have a medical emergency, call your doctor or 911 immediately. PQS does not recommend or endorse any specific tests, physicians, products, procedures, opinions, or other information that may be mentioned on the Website.

SPECIAL ADMONITIONS FOR CHILDREN AND INTERNATIONAL USERS

The Website is designed for adults 18 years of age or older. Users under the age of 18 are not permitted to use the Website. If you are not a U.S. resident, you may access the Website solely at your own risk and are responsible for compliance with local laws and regulations, if applicable.

If you access our Website from outside the United States, be advised that the Website may contain references to Information, Website Content, Materials, Services, products and other information and materials that may not be available, or may be prohibited, in your country. We reserve the right to limit the provision of any of our Website, Website Content, Information, Materials, and any part of the Services to any person, geographic area or jurisdiction we so choose in the exercise of our sole discretion. The Services, or any part thereof, is void where prohibited. You agree to comply with all local rules regarding the use of our Website, Information, Website Content, Materials, and any part of the Services, including any local rules regarding acceptable online conduct. You also specifically agree to comply with all applicable laws regarding the transmission of technical data or other information exported from the United States or the country in which you reside.

As a designated user for a PQS customer, your personal information has been disclosed to PQS to facilitate your access to the Website, and as such you consent to the uses of such information described in the Privacy Policy, located at <https://www.equipp.org/content/equipp/EQUIPP.Privacy.pdf>, and acknowledge that such disclosure and use shall be governed by the applicable law of the United States and the State of Delaware and not the law of your home country. If you do not agree to the foregoing, please contact PQS via e-mail at support@equipp.org, or the PQS customer for whom you are a designated user, to modify or terminate your access to the Website.

DISCLAIMER OF WARRANTY

THE WEBSITE AND ALL SERVICES, INFORMATION, WEBSITE CONTENT AND MATERIALS MADE AVAILABLE ON OR THROUGH THIS WEBSITE ARE PROVIDED ON AN "AS IS," "WHERE IS," "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, PQS EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE WEBSITE, AND ALL SERVICES, INFORMATION, WEBSITE CONTENT AND MATERIALS, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. WITHOUT LIMITING THE FOREGOING, PQS MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS, CORRECTNESS, OR TIMELINESS OF THE SERVICES OR WEBSITE CONTENT PROVIDED ON OR THROUGH THE USE OF THE WEBSITE.

WHEN USING THE WEBSITE, INFORMATION WILL BE TRANSMITTED OVER A MEDIUM THAT MAY BE BEYOND PQS'S CONTROL AND JURISDICTION. ACCORDINGLY, PQS DOES NOT ASSUME ANY LIABILITY FOR OR RELATING TO THE DELAY, FAILURE, INTERRUPTION, OR CORRUPTION OF ANY DATA OR OTHER INFORMATION TRANSMITTED IN CONNECTION WITH USE OF THE WEBSITE.

PQS DOES NOT WARRANT THAT THIS WEBSITE OR ANY SERVICES OR INFORMATION MADE AVAILABLE ON OR THROUGH THIS WEBSITE, INCLUDING WITHOUT LIMITATION ANY THIRD-PARTY SOFTWARE, PRODUCTS, ITEMS OR OTHER MATERIALS USED IN CONNECTION WITH THIS WEBSITE, WILL BE TIMELY, SECURE, UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED.

AT ANY TIME AND WITHOUT NOTICE, PQS MAY, FOR ANY REASON WHATSOEVER AND WITHOUT INCURRING ANY LIABILITY OR OBLIGATION TO YOU OR ANY OTHER PARTY, TERMINATE OR SUSPEND THE DISPLAY, OPERATION AND/OR PROVISION OF (A) THE WEBSITE (OR ANY PART THEREOF, INCLUDING ANY CONTENT, INFORMATION, AND/OR MATERIALS); (B) ANY PART OF THE SERVICES; AND/OR (C) YOUR ACCESS TO THE WEBSITE OR ANY PART OF THE SERVICES.

ANY INFORMATION DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE WEBSITE IS DONE AT YOUR OWN DISCRETION AND RISK. YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOADING OR USE OF THE INFORMATION AND FOR ANY RESULTS OR LACK OF RESULTS FROM THE USE OF SUCH INFORMATION.

LIMITATION OF LIABILITY

IN NO EVENT AND UNDER NO CIRCUMSTANCES SHALL PQS BE LIABLE FOR ANY CLAIMS, DAMAGES OR LOSSES WHATSOEVER OF ANY KIND, WHETHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE, AND WHETHER ARISING FROM AN ACTION IN CONTRACT, TORT, OR OTHERWISE, RELATED TO OR IN CONNECTION WITH THIS WEBSITE OR ANY SERVICES OR INFORMATION MADE AVAILABLE ON OR THROUGH THIS

WEBSITE, EVEN IF PQS HAS BEEN EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PQS SHALL NOT BE LIABLE FOR ANY CLAIMS OR LOSSES IN CONNECTION WITH ERRORS, OMISSIONS, OR INACCURACIES OF INFORMATIONAL CONTENT, OR ANY DECISION MADE IN RELIANCE ON THE INFORMATION CONTAINED ON OR ACCESSIBLE THROUGH THE WEBSITE.

IF YOU ARE DISSATISFIED WITH ANY ASPECT OF THE WEBSITE AND/OR SERVICES, IF YOU DO NOT AGREE WITH ANY PROVISION OF THIS EULA, OR IF YOU HAVE ANY OTHER DISPUTE OR CLAIM, WITH OR AGAINST PQS WITH RESPECT TO THE EULA OF ANY OF THE WEBSITE OR ANY PART OF THE SERVICES, THEN YOU ACKNOWLEDGE AND AGREE THAT YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE ACCESSING AND/OR USING THE WEBSITE AND/OR THE SERVICES.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

INDEMNITY

AS A DESIGNATED USER FOR A PQS CUSTOMER YOU ARE ENTIRELY RESPONSIBLE FOR MAINTAINING THE CONFIDENTIALITY OF ALL PASSWORDS AND ALL ACCOUNTS THAT YOU ESTABLISH IN CONJUNCTION WITH YOUR USE OF OUR WEBSITE OR THE SERVICES ("YOUR ACCOUNTS"). YOU ARE SOLELY RESPONSIBLE FOR ALL ACTIVITIES THAT OCCUR UNDER, OR RELATING TO, YOUR PASSWORDS AND YOUR ACCOUNTS, AND FOR YOUR USE OF ANY OF OUR SITE AND ANY PART OF THE SERVICE.

YOU HEREBY AGREE TO INDEMNIFY, DEFEND, AND HOLD US, AND OUR AFFILIATES, OUR OFFICERS, DIRECTORS, OWNERS, AGENTS, INFORMATION PROVIDERS, LICENSORS, AND LICENSEES (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES) INCURRED BY THE INDEMNIFIED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF, OR RELATING TO: (I) ANY BREACH BY YOU OF THIS EULA; (II) ANY UNAUTHORIZED USE BY YOU OF ANY INFORMATION, WEBSITE CONTENT, MATERIALS, OUR WEBSITE, OR ANY PART OF THE SERVICES; (III) YOUR USE OF OUR WEBSITE AND/OR ANY PART OF THE SERVICES; AND (IV) ALL ACTIVITIES RELATING TO, OR CONDUCTED UNDER, YOUR PASSWORDS AND/OR YOUR ACCOUNTS.

YOU SHALL USE YOUR BEST EFFORTS TO COOPERATE WITH PQS IN THE DEFENSE OF ANY SUCH CLAIM. WE RESERVE THE RIGHT, AT OUR OWN EXPENSE, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY CLAIM AGAINST YOU OR US THAT IS SUBJECT TO INDEMNIFICATION BY YOU. YOU AGREE THAT IN THE EVENT OF ANY UNAUTHORIZED USE OF OUR WEBSITE, ANY INFORMATION, WEBSITE CONTENT, MATERIALS, AND/OR ANY PART OF THE SERVICES, WE SHALL BE ENTITLED TO OBTAIN AN INJUNCTION PROSCRIBING SUCH UNAUTHORIZED USE, WITHOUT THE NECESSITY TO POST BOND, AND IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY.

TERMINATION

This EULA may be modified from time to time by PQS, and is effective until we provide notice of termination thereof on our Website. You agree to be bound by EULA as displayed on our Website at the time you use such Website and/or any part of the Services provided in connection therewith. You may not terminate any provision of this EULA. We may terminate your access to our Website, and/or any part of the Services, at any time in our sole discretion, and we reserve the right at any time to discontinue the operation of our Website, and/or the provision of any part of the Services. We may immediately terminate your right to access and/or use any of our Website and/or the Services, without notice, if, in our sole discretion, you fail to comply with any provision of this EULA.

INJUNCTIVE RELIEF; CHOICE OF LAW; ENTIRE AGREEMENT; SEVERABILITY; NO WAIVER

You acknowledge and agree that the unauthorized use of our Website, Information, Website Content, Materials, and/or any part of the Services could cause irreparable harm to us and/or organizations or individuals that may be associated with us worldwide. Accordingly, you agree that in the event of any unauthorized use of our Website, any Information, Website Content, Materials, and/or any part of the Service, we shall be entitled to obtain an injunction proscribing such unauthorized use, without the necessity to post bond, and in addition to any other remedies available at law or in equity.

This EULA shall be governed by and interpreted in accordance with laws of the State of Delaware, without giving effect to any conflict of laws provisions. You agree that any action at law or in equity, and/or any claim arising out of or relating to this EULA, our Website, the Services, and/or your access, and/or use, of any of our Website or the Services, shall be filed and litigated only in the state or federal courts located in Durham County, North Carolina. You hereby consent and submit to the exclusive personal jurisdiction of such courts for the purposes of litigating any such action or claim.

This EULA, along with the Privacy Policy incorporated within it by reference, and any applicable Subscription Agreement constitutes the entire agreement between you and PQS with respect to the use of Website, Website Content and EQUIPP® Services.

If any provision of this EULA is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be enforced to the maximum extent permissible so as to affect the intent of this EULA, and the remainder of this EULA shall continue in full force and effect.

The failure of PQS to exercise or enforce any right or provision of this EULA will not be deemed a waiver of such right or provision and does not limit our right to future enforcement or remedies.

All of the provisions of this EULA, which by their nature survive the termination of the EULA, shall so survive.

Appendix A: HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is an Appendix to the EULA between You and PQS. Your organization (“Covered Entity”) and PQS (“Business Associate”) have or are entering into agreements or other documented arrangements (collectively, “Business Arrangement(s)”) pursuant to which Business Associate may through its assigned providers perform EQuIPP Services for Covered Entity that require Business Associate to access health information that is protected by state and/or federal law.

- 1. Definitions.** All capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in HIPAA, the Privacy Standards, the Security Standards, the HITECH Act, and the Final Omnibus Rule (as defined herein). The Health Information Technology for Economic and Clinical Health Act (“HITECH Act”) and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and breach notification. “Final Omnibus Rule” means those modifications to the HIPAA Rules which were mandated by the HITECH Act., and enacted by the final rule at 78, Fed. Reg. 5566.
- 2. Regulatory References.** A reference in this Agreement to a section in HIPAA, the Privacy Standards, the Security Standards, the HITECH ACT, the Final Omnibus Rule or implementing regulations means the section as in effect or as amended, and for which compliance is required.
- 3. Business Associate Obligations.** Business Associate may receive from Covered Entity health information that is protected under applicable state and/or federal law, including without limitation, protected health information (“PHI”) as defined in the regulations at 45 CFR Parts 160 and 164 (the “Privacy Standards”) promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) Other than as expressly permitted herein, Business Associate agrees not to use or disclose (or permit the use or disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards if the PHI were used or disclosed by Covered Entity in the same manner. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as expressly permitted under this Agreement or as Required By Law.
- 4. Use of PHI.** Business Associate may use PHI received from Covered Entity (i) for the purpose of performing services for Covered Entity as such services are defined in Business Arrangement(s), including the EULA, and the EQuIPP Services Subscriber Agreement, (ii) as necessary for the proper management and administration of the Business Associate or to carry out its legal responsibilities, provided that such uses are permitted under federal and state law, and (iii) to provide data aggregation services relating to the health care operations of the Covered Entity.
- 5. Disclosure of PHI.** Business Associate may disclose PHI as necessary to perform its obligations under the Business Arrangement(s) and as permitted by law. 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 (collectively, “Recipients”), Business Associate shall require Recipients to agree to the same restrictions and conditions that apply to the Business Associate under this Agreement. Business Associate shall report to Covered Entity any unauthorized use or disclosure of PHI received from Covered Entity, of which it becomes aware.
- 6. Minimum Necessary.** Business Associate shall at all times comply with the “minimum necessary” requirements for use and disclosure of PHI, as defined in the Privacy Standards, Security Standards, HITECH Act, the Final Omnibus Rule, and any implementing regulations. As required by the HITECH Act, the use, disclosure, or, request of PHI, shall be limited to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request. In addition, the entity disclosing the PHI (as opposed to the requester) shall make the minimum necessary determination.

7. Individual Rights Regarding Designated Record Sets. It is not anticipated that Business Associate will maintain a Designated Record Set on behalf of Covered Entity. If Business Associate agrees to maintain a Designated Record Set on behalf of Covered Entity, then Business Associate shall (a) permit an Individual to inspect or obtain a copy of PHI contained in that set about the Individual under conditions and limitations required under 45 CFR § 164.524, and (b) amend PHI maintained by Business Associate as requested by Covered Entity and in accordance with the Privacy Standards set forth at 45 CFR § 164.526.

8. Accounting of Disclosures. Business Associate shall make available to Covered Entity in response to a request from an Individual, information required for an accounting of disclosures of PHI with respect to the Individual, in accordance with 45 CFR § 164.528, incorporating exceptions to such accounting designated under the regulation and any additional requirements imposed by the HITECH Act and its implementing regulations. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and shall not include any disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within fifty (50) calendar days of Covered Entity's request. Such accounting must be provided without cost to the Individual if it is the first accounting requested by an Individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged, for subsequent accountings if Business Associate informs the Covered Entity and the Covered Entity informs the Individual in advance of the fee, and the Individual is afforded an opportunity to withdraw or modify the request. Such accounting shall be provided as long as Business Associate maintains PHI.

9. Withdrawal of Consent or Authorization. Business Associate agrees, if it has notice of revocation, expiration or invalidity of patient consent for the use of PHI, to cease the use and disclosure of any such Individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under the Privacy Standards expressly applies.

10. Records and Audit. Business Associate shall make available to the United States Department of Health and Human Services or its agents, its internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Covered Entity for the purpose of determining Covered Entity's compliance with the Privacy and Security Standards or any other health oversight agency, in a time and manner designated by the Secretary.

11. Notice of Privacy Practices. Covered Entity shall provide to Business Associate its Notice of Privacy Practices ("Notice") when adopted and any amendments thereafter. Business Associate agrees that it will abide by the limitations of any Notice provided to it by Covered Entity of which it has knowledge. The amended Notice shall not affect permitted uses and disclosures on which Business Associate has relied prior to the receipt of such Notice.

12. Term and Termination.

12.1 This Agreement shall commence on the Effective Date and shall remain in effect until terminated in accordance with the terms of this Section 12. Any termination shall not affect the respective obligations or rights of the parties arising under this Agreement prior to the effective date of termination, all of which shall continue in accordance with their terms.

12.2 Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may end the violation and terminate this Agreement and the corresponding Business Arrangement, provided that:

(a) Business Associate has been afforded the opportunity to cure the breach; and

(b) Business Associate does not cure the breach or end the violation within twenty-five (25) calendar days after written notice thereof has been given to Business Associate by Covered Entity.

12.3 If Covered Entity is in violation of any provision of the Privacy Standards, Security Standards, or HITECH Act, the Final Omnibus Rule, or applicable federal or state privacy law, or fails to observe or perform any material covenant or agreement contained in this Agreement for twenty-five (25) calendar days after written notice thereof has been given to Covered Entity by Business Associate, the Business Associate shall have the option to terminate this Agreement, provided all Business Arrangement(s) entered into between the parties, for which this Agreement is required, are also terminated.

12.4 Subject to the survival terms in Section 12.1, this Agreement will automatically terminate without any further action of the parties upon the termination or expiration of ALL Business Arrangement(s) between Covered Entity and Business Associate.

12.5 Upon termination of this Agreement for any reason, Business Associate agrees either to return to Covered Entity or to destroy all PHI received from Covered Entity or otherwise through the performance of services for Covered Entity, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this Agreement with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this Agreement shall be cause for Covered Entity to terminate any Business Arrangement.

13. Security of Electronic-PHI. Business Associate will also comply and will require each subcontractor involved in such activity to comply with each applicable requirement of the regulations at 45 CFR Parts 160 and 164 governing the security of EPHI (the "Security Standards"). Business Associate shall, among other requirements:

13.1 Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of such EPHI.

13.2 Ensure that any Recipients, to whom it provides EPHI, agrees to implement reasonable and appropriate safeguards to protect it in accordance with the Security Standards; and

13.3 Business Associate shall report to Covered Entity, without unreasonable delay, any successful Security Incident of which it becomes aware of through its security practices. Security Incidents shall not include inconsequential incidents that occur on a frequent basis such as port scans or "pings," unsuccessful log-on attempts, broadcast attacks on Business Associate's firewall, malware, denials of service or any combination thereof that are detected and neutralized by Business Associate's anti-virus and other defensive software and not allowed past Business Associate's firewall, unless such incident results in unauthorized access, use, destruction, modification or disclosure of PHI.

14. HITECH Act Requirements.

14.1 Standards to Secure Data. The HITECH Act imposes on entities covered by HIPAA and their business associates federal breach notification requirements when "unsecured" PHI is acquired by an unauthorized party. The following requirement shall apply to the extent that Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses "unsecured PHI," which is defined in the HITECH Act as not secured through the use of a technology or methodology that renders the information "unusable, unreadable, or indecipherable" to unauthorized individuals. In addition to the notification requirements with respect to EPHI set forth herein above, Business Associate shall notify Covered Entity as soon as possible but not later than 10 days following the discovery of any unauthorized acquisition, access, use or disclosure of such unsecured PHI. Business Associate shall be

considered to have discovered such activity as of the first day on which the unauthorized activity is known or, by exercising reasonable diligence, would have been known to the Business Associate. Such notice shall include identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been accessed, acquired, or disclosed during such unauthorized activity. Covered Entity, at its sole discretion, shall make the determination of whether or not the definition of "Breach" as that term is set forth in the HITECH Act, 45 CFR §164.402 and applicable state law has been met. If Covered Entity determines the unauthorized activity qualifies as a breach that triggers the breach notification requirements, all of the direct costs reasonably associated with sending out notifications of the breach to affected patients, clients, media, and regulatory authorities shall be the responsibility of the Covered Entity.

14.2 The term Breach specifically excludes:

- (i) Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a Covered Entity, subcontractor or a Business Associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under 45 CFR Subpart E.
- (ii) Any inadvertent disclosure by a person who is authorized to access PHI at a Covered Entity, Recipient or Business Associate to another person authorized to access PHI at the same Covered Entity, Recipient or Business Associate, or organized health care arrangement in which the Covered Entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under 45 CFR Subpart E.
- (iii) A disclosure of PHI where a Covered Entity, Recipient or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

15. Independent Contractors. Both parties expressly intend that with regard to the provisions of this Agreement, said parties are independent contractors. Further, it is the express intent of the parties hereto that no agent, servant, contractor, or employee assigned by Business Associate to perform the Business Associate obligations described herein shall be deemed an agent, servant, contractor, or employee of Covered Entity.