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BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("Addendum") is by and between **Navitus Health Solutions ("NAVITUS")** and the **State of Wisconsin Group Insurance Board ("BOARD")** attached to the Wisconsin Department of Employee Trust Funds (DETf), the administrator for the State of Wisconsin group health insurance plan(s) (PLANS), and acting on behalf of the State of Wisconsin.

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RECITALS:

WHEREAS, the PLANS which comprise the State of Wisconsin Employees Health Program are each a "Health Plan" as that term is defined in the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), specifically in 45 C.F.R. § 160.103;

WHEREAS, the PLANS which comprise the Wisconsin Public Employers Group Health Program are each a "Group Health Plan" as that term is defined in 45 C.F.R. § 160.103;

WHEREAS, the State of Wisconsin is a "covered entity" as defined by 45 C.F.R. § 160.103 and a "hybrid entity" as defined by 45 C.F.R. § 164.103 with respect to the operation of the PLANS, administration of which is delegated to the Group Insurance Board under Wis. Stat. §§ 40.51 and 40.52, to the Secretary of the DETf under Wis. Stat. § 40.03 (2) (b) and delegated by the Secretary under Wis. Stat. § 40.03 (2) (f) to other employees within the DETf;

WHEREAS, NAVITUS, with respect to its activities contemplated under the pending Agreement for Pharmacy Benefit Management with the BOARD and DETf, is their "Business Associate" as that term is defined by 45 C.F.R. § 160.103;

WHEREAS, BOARD and NAVITUS mutually agree to incorporate the terms of this Addendum into the Agreement for Pharmacy Benefit Management ("Agreement"), when such Agreement is executed, in order to comply with the requirements of 45 C.F.R. §§ 164.314, 164.502(e) and 164.504(e) by the applicable deadline for compliance;

NOW, THEREFORE, in consideration of these premises and the mutual promises and agreements hereinafter set forth, BOARD and NAVITUS hereby agree as follows:

DEFINITIONS:

It is the intent of this agreement to comply with the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") concerning transaction standards, security and privacy, including the definitions in 45 C.F.R. Parts 160 through 164. In particular, the following words and phrases in this agreement shall have the meanings specified below, unless the context clearly requires otherwise.

"Data aggregation services" has the meaning specified in 45 C.F.R. § 164.501.

"Designated Record Set" has the meaning specified in 45 C.F.R. § 164.501.

"Enrollment" has the meaning specified in 45 C.F.R. Part 162, Subpart O.

"Individually Identifiable Health Information" has the meaning specified in 45 C.F.R. § 160.103.

"Individual Personal Information" has the meaning specified in Wis. Admin. Code § ETF 10.70 (1).

"Medical Records" has the meaning specified in Wis. Admin. Code § ETF 10.01 (3m).

"Protected Health Information" has the meaning specified in 45 C.F.R. § 160.103.

"Required by Law" has the meaning specified in 45 C.F.R. § 164.501.

"Summary Health Information" has the meaning specified in 45 C.F.R. § 164.504 (a).

"Trading Partner Agreement" has the meaning specified in 45 C.F.R. § 160.103.

"Transaction" has the meaning specified in 45 C.F.R. § 160.103

PART I - BUSINESS ASSOCIATE'S OBLIGATIONS

A. In General. NAVITUS shall:

1. With respect to any obligation imposed upon NAVITUS by the terms of this Addendum that requires interpretation of a provision of 45 C.F.R. Part 164, consult with the DETF concerning any question about whether compliance with a provision of 45 C.F.R. Part 164 is necessary before making a decision that compliance is not required
2. Effective April 21, 2005, implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Health Information that it creates, receives, maintains, or transmits on behalf of the BOARD and the DETF in full compliance with Title 45 of the Code of Federal Regulations, Subtitle A, Subchapter C, Part 164, Subpart C titled "Security Standards for the Protection of Electronic Protected Health Information" as that subpart may be amended from time to time.
3. Effective April 21, 2005, ensure that any agent, including a subcontractor, to whom NAVITUS provides such information agrees to implement reasonable and appropriate safeguards to protect it. Nothing in this provision, however, shall be construed to authorize any disclosure of confidential individual personal information or medical records beyond that already authorized by the existing Agreement.

4. Report to the DETF any security incident of which it becomes aware that directly and materially involves the Pharmacy Benefit Management program, within three (3) business days after becoming aware of the incident. For purposes of this subsection, a security incident that "directly and materially" involves the Pharmacy Benefit Management program means that the incident involves direct access to the Protected Health Information of members of the Pharmacy Benefit Management program.
- B. Permitted Uses and Disclosures. NAVITUS is permitted or required to use or disclose Protected Health Information it creates or receives for or from the DETF or receives from the BOARD or any other business associate of DETF only as follows:
1. Functions and Activities on Behalf of the DETF. NAVITUS is permitted to receive from health care providers and the DETF and to use confidential Individual Personal Information, including but not limited to Medical Records and Individually Identifiable Health Information, but only as necessary in furtherance of NAVITUS' duties and responsibilities under the Agreement and this Addendum. This paragraph shall not be construed to allow disclosure to any third party, which, for the purposes of this Addendum, is defined as parties other than subcontractors or agents that the DETF has approved pursuant to the Agreement, of confidential Individual Personal Information which the DETF itself may not disclose under Wis. Stat. § 40.07 (1) or of Medical Records that the DETF itself may not disclose under Wis. Stat. § 40.07 (2). Any third party request for disclosure of confidential Individual Personal Information including but not limited to Medical Records and Individually Identifiable Health Information, shall be referred to the DETF for a response, except as otherwise specifically provided by written agreement between the DETF and NAVITUS signed or expressly reaffirmed after April 14, 2003. Any third party request for information or records, including but not limited to subpoenas, court orders, purported public record requests and disclosure requests from third parties, including those accompanied by authorizations from the patient, shall be promptly and immediately forwarded to the DETF for a response. The DETF will be responsible for determining whether disclosure is permitted.
 2. Data Aggregation Services. The DETF agrees and recognizes that NAVITUS will perform data aggregation services, for the DETF. Accordingly, NAVITUS may perform these Data Aggregation services in its own discretion, subject to any limitations imposed by the Agreement. This provision does not supercede the requirements for confidentiality and privacy in the preceding paragraph.
 3. NAVITUS' Operations. Subject to the limitations on Uses and Disclosures outlined in this Business Associate Addendum, specifically including Part I, Section B, Subsection 1, NAVITUS is permitted to Use and Disclose Protected Health Information: (i) as necessary for NAVITUS' proper

management and administration, (ii) to carry out NAVITUS' legal responsibilities, and (iii) as Required by Law.

- C. Minimum Necessary. NAVITUS will make reasonable efforts to use, disclose, or request only the minimum necessary amount of Protected Health Information, to accomplish the intended purpose, recognizing that the DETF has a fiduciary duty with respect to administration of the health insurance programs insured by the Public Employee Trust Fund to assure that claims are paid or denied in accord with all the terms and conditions of the health plan. Internal disclosure of such information to employees of NAVITUS shall be limited only to those employees who need the information and only to the extent necessary to perform their responsibilities under the Agreement, including this Addendum.
- D. Disclosure to NAVITUS' Subcontractors and Agents. NAVITUS shall require any of its agents or subcontractors to provide reasonable assurance, evidenced by written contract, that the agent or subcontractor will comply with the same privacy and security obligations as NAVITUS with respect to such Protected Health Information. NAVITUS shall first obtain from the DETF approval of such contracts, unless expressly excepted by the Agreement.
- E. Disclosure Pursuant to Claims or Financial Audits. No provision of this Addendum is intended in any way to limit or otherwise impair the conditions for a claims audit or financial audit.
- F. Reporting of Improper Use or Disclosure. NAVITUS will report to the DETF any use or disclosure of confidential Individual Personal Information, Medical Records, or Protected Health Information not permitted by this Addendum or in violation of 45 C.F.R. Part 164, when NAVITUS learns of such non-permitted use or disclosure.
- G. Compliance with Standard Transactions.
 - 1. General. If NAVITUS conducts, in whole or in part, transactions, for or on behalf of the DETF or the BOARD, NAVITUS will comply, and will require any subcontractor or agent involved with the conduct of such transactions to provide reasonable assurances, evidenced by written contract, that it will comply with each applicable requirement of 45 C.F.R. Part 162. Further, NAVITUS will require that each of its subcontractors or agents provide reasonable assurances, by written contract, that it will not enter into a Trading Partner Agreement, in connection with its conduct of transactions for and on behalf of the DETF that: (i) changes the definition, data condition, or use of a data element or segment in a Standard Transaction; (ii) adds any data element or segment to the maximum data set; (iii) uses any code or data element that either is not in the Standard Transaction's implementation specification or is marked "not used" by the Standard Transaction's implementation specifications; (iv) changes the meaning or intent of the

Standard Transaction's implementation specifications; or (v) otherwise violates 45 C.F.R. § 162.915.

2. Specific Communications. The parties recognize and agree that communications between the parties that are required to meet the standards for electronic transactions will meet the standards set by 45 C.F.R. Part 162. Unless the parties agree otherwise in writing, all communications for purposes of Enrollment shall be conducted between the DETF and NAVITUS. For all such communications (and any other communications between DETF or BOARD and NAVITUS), the forms, tape formats or electronic formats used shall be those mutually agreed upon by NAVITUS and the DETF.

H. Information Safeguards. NAVITUS will develop, implement and maintain and use reasonable and appropriate administrative, technical and physical safeguards to preserve the integrity and confidentiality of Protected Health Information, and to prevent intentional or unintentional non-permitted or violating use or disclosure of Protected Health Information. NAVITUS will document and keep these safeguards current and furnish documentation of the safeguards to the DETF upon request.

I. Access, Amendment and Disclosure Accounting.

1. General. When NAVITUS receives a written request by an individual or the individual's representative to exercise the individual's rights under the Privacy Rule pursuant to 45 C.F.R. §§ 164.522, 164.524, 164.526, or 164.528, NAVITUS shall copy the request and promptly forward it to the DETF Privacy Officer for review and coordination of approval or denial of the request. The DETF Privacy Officer, or person designated in writing by the Privacy Officer, shall thereafter instruct NAVITUS in writing whether the request has been approved or denied. As detailed below in this Section, NAVITUS retains the responsibility of responding to requests as directed by the DETF Privacy Officer, to the extent the requested information is in the possession of NAVITUS.
2. Access. To the extent that information is in the possession of NAVITUS, NAVITUS will provide access to Protected Health Information as required by 45 C.F.R. § 164.524 on the DETF's behalf, when and if expressly directed to do so by the DETF. Such provision of access will not relieve the DETF of any additional and independent obligations to provide access where requested by an individual. Such access shall be provided in a time and manner consistent with NAVITUS' procedures for access, which NAVITUS hereby represents comply with the requirements of 45 C.F.R. § 164.524. Accordingly, upon the DETF's written request, NAVITUS will make available for inspection and obtaining copies by the DETF, or at DETF's direction by the individual (or the individual's representative), any Protected Health Information about the individual created or received for or from DETF in

NAVITUS' custody or control contained in a Designated Record Set, so that DETF may meet its access obligations under 45 C.F.R. § 164.524. All fees related to this access, as determined by NAVITUS, shall be borne by the individual requesting the access.

3. Amendment. Whenever feasible, and to the extent that responsive information is in the possession of NAVITUS, NAVITUS will amend Protected Health Information as required by 45 C.F.R. § 164.526 on the DETF's behalf when and if expressly directed to do so by the DETF and will thereafter inform DETF of the amendment. NAVITUS will amend Protected Health Information according to its own procedures for such amendment. NAVITUS represents that its procedures for such amendment comply with applicable requirements of 45 C.F.R. § 164.526. Such amendment will not relieve the DETF of any additional and independent obligations to amend Protected Health Information where requested by an individual. Accordingly, upon the DETF's written request, or the direct request of an individual (or the individual's representative), NAVITUS will amend such Protected Health Information contained in a Designated Record Set, in accordance with the requirements of 45 C.F.R. § 164.526. Upon receipt of written notice from the DETF, NAVITUS will amend any portion of the Protected Health Information created or received for or from DETF in NAVITUS' custody or control, so that DETF may meet its amendment obligations under 45 C.F.R. § 164.526.
4. Disclosure Accounting. In order that the DETF may satisfy its disclosure accounting obligations under 45 C.F.R. § 164.528(d), NAVITUS agrees to record each disclosure, not excepted from disclosure accounting under 45 C.F.R. § 164.528(a)(1), that NAVITUS makes to the DETF or to a third party of Protected Health Information in accordance with the requirements of this agreement and 45 C.F.R. § 164.528(b). Nothing in this paragraph shall be construed to authorize disclosures by NAVITUS to third parties, except as allowed by the Agreement or by this Addendum. NAVITUS will make its disclosure accounting available to the DETF in a time and manner that would enable the DETF to comply with its obligations under 45 C.F.R. § 164.528.
5. Disclosure Accounting Time Periods. NAVITUS will retain for six years from the date of the request all disclosure accounting information it must record to satisfy the DETF's obligations under 45 C.F.R. § 164.528 in connection with that request, except that NAVITUS will not be required to create or retain such disclosure accounting information for requests or disclosures occurring prior to April 14, 2003. Disclosure accounting shall be provided according to NAVITUS' own procedures for such accounting. NAVITUS represents that its procedures for such accounting comply with the requirements of 45 C.F.R. § 164.528. Such provision of disclosure accounting will not relieve the DETF of any additional and independent obligations to provide disclosure accounting when requested by an individual. Upon the DETF's written request or the direct request of an individual (or the individual's representative), NAVITUS will provide a disclosure accounting in accordance

with 45 C.F.R. § 164.528. This accounting will be provided to the DETF, and not to the individual or third parties, unless expressly authorized by the DETF.

6. Request for Restriction and Confidential Information. Whenever feasible and to the extent that communications are within the control of NAVITUS, NAVITUS, in consultation with the DETF Privacy Officer, will evaluate and determine whether to grant a request to restrict uses or disclosures of Protected Health Information, as permitted by 45 C.F.R. § 164.522.

- J. Inspection of Books and Records. NAVITUS will make its internal practices, books, and records relating to its Use and Disclosure of Protected Health Information available to the DETF to provide to the U.S. Department of Health and Human Services (HHS) in a time and manner designated by HHS for the purpose of determining the DETF's or the PLANS' compliance with the Privacy Rule. NAVITUS shall notify the DETF of any inquiries made to it by HHS concerning DETF's or the PLANS' compliance with the Privacy Rule.

PART II – THE DETF'S OBLIGATIONS.

- A. Changes in Permissions to Use and Disclose Protected Health Information. The DETF shall notify NAVITUS of any change(s) in, or revocation of, permission by an individual to use or disclose Protected Health Information, to the extent that such change(s) may affect NAVITUS' use or disclosure of such Protected Health Information.

- B. Changes in the DETF's Notice of Privacy Practices. The DETF shall notify NAVITUS of any changes made to the DETF's Notice of Privacy Practices which are relevant to NAVITUS' efforts to comply with this Addendum.

- C. Changes in State Law. The DETF shall notify NAVITUS of changes in Wisconsin law which are relevant to NAVITUS' efforts to comply with this Addendum.

PART III – BOARD'S PLAN ADMINISTRATION FUNCTIONS

- A. Communication of Protected Health Information. Except as specifically agreed upon by NAVITUS and BOARD, and in compliance with the requirements imposed by this Part III of this Addendum, all disclosures of Protected Health Information from NAVITUS pursuant to the Agreement shall be made to the DETF. DETF agrees to identify specific persons or titles of persons within DETF to whom NAVITUS may disclose Protected Health Information.

- B. Summary Health Information. Upon the DETF's or the BOARD's written request for the purpose either (i) to obtain premium bids for providing health insurance coverage, or (ii) to modify, amend, or terminate the PLANS, NAVITUS is authorized to provide to BOARD summary health information, regarding Individuals enrolled in the PLANS.

PART IV - TERM, TERMINATION AND AMENDMENT

- A. Term. The term of this Business Associate Addendum shall be co-extensive with the term of the Agreement, including any "Run Out Period."
- B. Termination for Breach. BOARD shall have the right to terminate the Agreement if NAVITUS, by pattern or practice, materially breaches any provision of this Addendum.
- C. Reasonable Steps to Cure Breach. Rather than terminating this Addendum pursuant to Part IV, Section B above, BOARD may provide NAVITUS with an opportunity to cure the material breach. If these efforts to cure the material breach are unsuccessful, as determined by BOARD, in its sole discretion, BOARD may terminate the Agreement and this Addendum, as soon as administratively feasible.
- D. Effect of Termination: Return or Destruction of Protected Health Information. Upon cancellation, termination, expiration or other conclusion of the Agreement, NAVITUS will, unless expressly prohibited by law (and then only to the extent necessary to comply), return to the DETF or destroy all Protected Health Information, in whatever form or medium (including in any electronic medium under NAVITUS's custody or control), including all copies of and any data or compilations derived from such Protected Health Information that allow identification of any individual who is a subject of the Protected Health Information. NAVITUS will complete such return or destruction as promptly as practicable after the effective date of the cancellation, termination, expiration or other conclusion of the Agreement. NAVITUS will not destroy any Protected Health Information without the prior express consent of the DETF unless DETF has first been furnished with a copy of that information.
- E. Continuing Privacy Obligation. Notwithstanding the preceding paragraph, the DETF and NAVITUS may mutually agree that it is not feasible to destroy or return to the DETF certain specified Protected Health Information, and may provide by mutual agreement what limited use or disclosure of such information by NAVITUS may thereafter occur. NAVITUS' obligation to protect the privacy of Protected Health Information that cannot feasibly or lawfully be returned or destroyed will be continuous and survive the termination of the Agreement and this Addendum. Any material retained under this Section is perpetually subject to inspection by the DETF upon reasonable notice and during NAVITUS' normal business hours.
- F. Agreement to Amend. The parties acknowledge that federal laws relating to transactions, data security and privacy are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA and its implementing regulations. Upon the request of either party, the other

party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA and applicable federal regulations. Should the parties fail to amend this Addendum by the effective date of any final regulation or amendment to final regulations with respect to HIPAA, this Addendum will automatically be amended on such effective date such that the obligations they impose on NAVITUS remain in compliance with the regulations then in effect.

PART V – GENERAL PROVISIONS

- A. Conflict. The provisions of this Addendum will override and control any conflicting provision of the Agreement. All non-conflicting provisions of the Agreement will remain in full force and effect.
- B. Election to Not Treat As Representative. Nothing in this agreement shall be construed to limit the discretion of the DETF, under 45 C.F.R. 164.502 (g) (5), to elect not to treat a person as the representative of an individual.
- C. No Third Party Beneficiaries. Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than BOARD, the DETF and NAVITUS, any rights, remedies, obligations or liabilities whatsoever.
- D. Attorneys' Fees. Except as otherwise specified in the Agreement, if any legal action or other proceeding is brought by either party for the enforcement of this Addendum, or because of an alleged dispute, breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this Addendum, each party shall bear their own legal expenses and other costs incurred in that action or proceeding.
- E. Indemnification. The indemnification provisions of the Agreement shall equally apply to the parties' performance of duties under this Addendum.
- F. Documentation. All documentation that is required by this Addendum or by 45 C.F.R. Part 164 will be retained by NAVITUS for six (6) years from the date of creation or when it was last in effect, whichever is longer.
- G. Survival. The provisions of Part IV and Section F of this part shall survive termination of the Agreement and this Addendum.

IN WITNESS WHEREOF, the DETF and the BOARD, on behalf of the State of Wisconsin, and NAVITUS execute this Addendum in multiple originals to be effective on the 11th day of October, 2003.

NAVITUS HEALTH SOLUTIONS

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EMPLOYEE TRUST FUNDS

BY: RL Salmer
Name:
Title: S.P.

DATE: 10/02/03

STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS

BY: Eric V. Stanchfield
Eric Stanchfield
Secretary

DATE: 10/11/03

STATE OF WISCONSIN
GROUP INSURANCE BOARD

BY: Stephen H. Frankel
Stephen Frankel
Board Chair

DATE: 10/7/03