

MODEL DATA USE AGREEMENT

This Data Use Agreement (“Agreement”) is entered into effective this ____ day of 20__ (“Effective Date”), by and between _____ (“Covered Entity”) and _____ (“Data Set Recipient”).

RECITALS

WHEREAS, Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, and regulations promulgated there under, including the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Parts 160 and 164 (“Privacy Regulations”);

WHEREAS, the Privacy Regulations require Covered Entity to enter into an agreement with Data Set Recipient in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of a Limited Data Set by Data Set Recipient if such an agreement is not in place;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

DEFINITIONS

- 1.1 “Disclose” and “Disclosure” mean, with respect to the Limited Data Set, the release, transfer, provision of access to, or divulging in any other manner of the Limited Data Set outside Data Set Recipient’s internal operations or to other than its employees.
- 1.2 “Limited Data Set” means Protected Health Information that excludes certain direct identifiers of the individual, or of relatives, employers, or household members of the individual as set forth at 45 C.F.R. § 164.512(e)(2).
- 1.3 “Required By Law” means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.

- 1.4 “Use” or “Uses” mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Data Set Recipient’s internal operations.
- 1.5 Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Regulations.

OBLIGATIONS OF DATA SET RECIPIENT

2.1 Permitted Uses and Disclosures of the Limited Data Set. Data Set Recipient:

(a) shall Use or Disclose the Limited Data Set only for the following purpose(s):

The limited data set is to be used by only the Data Set Recipient.

- The limited data set is to be used for _____.

The Limited Data Set shall not be Used or Disclosed for any other purpose by the Data Set Recipient.

(b) shall not Use or further Disclose the information other than as permitted by this Agreement, or as otherwise Required By Law.

- 2.2 Adequate Safeguards. Data Set Recipient shall Use appropriate safeguards to prevent the Use or Disclosure of the information other than as provided by this Agreement.
- 2.3 Reporting Non-Permitted Use or Disclosure. Data Set Recipient shall report to Covered Entity any Use or Disclosure of the information not permitted by this Agreement of which recipient becomes aware.
- 2.4 Use of Subcontractors and Agents. Data Set Recipient shall require each of its agents and subcontractors that receive the Limited Data Set to execute a written agreement obligating the agent or subcontractor to comply with the terms of this Agreement.
- 2.5 Prohibition on Identification and Contact. Data Set Recipient shall not identify the information or contact the individuals.

TERM AND TERMINATION

- 3.1 This Agreement is effective _____ (date) and expires _____ (date).
- 3.2 Upon Covered Entity’s knowledge of a material breach or violation by Data Set Recipient of this Agreement, Covered Entity shall either:

- a) Provide an opportunity for Data Set Recipient to cure the breach or end the violation and terminate this Agreement if Data Set Recipient does not cure the breach or end the violation within the time specified by Covered Entity, or
- b) Immediately terminate the Agreement and discontinue the Disclosure of the Limited Data Set to the Data Set Recipient and to report the problem to the Secretary of U.S. Department of Health and Human Services.

SIGNATURES:

Data Set Recipient: _____ Date: _____

Covered Entity Represent _____ Date: _____

Privacy Officer _____ Date: _____

(Route to Privacy Officer for filing after completion)