

DATA USE AGREEMENT

This Data Use Agreement ("Agreement") is made and entered into by and between ("Affiliate") and _____ ("Data Recipient"). This Agreement is effective on _____, 20____ ("Effective Date").

Recitals

A. The parties desire to comply with federal and California laws regarding the use and disclosure of individually identifiable health information ("PHI"), and in particular with the provisions of the federal Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated thereunder, as amended from time to time ("HIPAA").

B. The parties have accordingly determined that it is their wish and intent to enter into the following terms and conditions.

Agreement

Now therefore, in consideration of the promises set forth herein, the parties agree as follows:

1. This Agreement sets forth the terms and conditions pursuant to which <Affiliate> shall disclose certain PHI to the Data Recipient. Any capitalized terms in this Agreement shall have the same meanings as those same terms in Title 45 of the Code of Federal Regulations, part 164.

2. The PHI that <Affiliate> shall disclose to the Data Recipient shall be a Limited Data Set. Except as otherwise specified herein, Data Recipient may make all Uses and Disclosures of the Limited Data Set necessary to perform Healthcare Operations, conduct Research, and/or make Public Health Disclosures, as described herein: <insert a brief description of the uses and disclosures permitted, including, if applicable, the research study or protocol title and identification number, if any> ("Permitted Uses and Disclosures").

3. In addition to the Data Recipient, the individuals or classes of individual, who are permitted to Use or receive the Limited Data Set for purposes of the Permitted Uses and Disclosures, include <list the recipients, title and organization/department>.

4. Data Recipient agrees not to Use or Disclose the Limited Data Set for any purpose other than the Permitted Uses and Disclosures or as required by law.
5. Data Recipient agrees to use appropriate safeguards to prevent the Use or Disclosure of the Limited Data Set other than as provided for by this Agreement.
6. Data Recipient agrees to report to <Affiliate> any Use or Disclosure of the Limited Data Set not provided for by this Agreement, of which it becomes aware, including without limitation any disclosure of PHI to an unauthorized subcontractor, within five <5> business days of its discovery.
7. Data Recipient agrees to ensure that any agent, including a subcontractor, to whom it provides data from the Limited Data Set, agrees to the same restrictions and conditions that apply through this Agreement to the Data Recipient with respect to such information.
8. Data Recipient agrees not to identify the information contained in the Limited Data Set or to contact the individual who is the subject of the information in the Limited Data Set.
9. This Agreement and all obligations hereunder shall be effective on the Effective Date above, and shall remain in effect as long as Data Recipient retains the Limited Data Set, unless otherwise terminated as follows:
 - a. This Agreement may be terminated immediately by applicable law or regulation.
 - b. This Agreement may be terminated immediately upon the mutual written concurrence of both parties.
 - c. This Agreement may be terminated by Data Recipient returning or destroying the PHI, with verification to <Affiliate> that all PHI has been returned and/or destroyed.
 - d. This Agreement may be terminated by <Affiliate> should Data Recipient breach this Agreement and the breach is not cured within thirty (30) days after <Affiliate> has notified Data Recipient of the breach. If this Agreement is so terminated, <Affiliate> shall discontinue Disclosure of PHI; however, if such termination is not feasible, <Affiliate> shall report the breach to the Secretary of the Department of Health and Human Services.
10. Upon termination of this Agreement, if Data Recipient has not already returned or destroyed the PHI, Data Recipient shall return or destroy the PHI that it maintains in any form, and shall not retain any copies of the PHI, if feasible. Data Recipient shall certify to <Affiliate> that Data Recipient has returned and/or destroyed all such PHI. If the parties agree that the return or destruction of PHI is not feasible, Data Recipient shall continue to extend the protections of this Agreement to the PHI, and limit further Use of the PHI to those purposes that make the return or destruction of the PHI infeasible.

11. Data Recipient agrees to have procedures in place for mitigating, to the maximum extent practicable, any deleterious effect from the Use or Disclosure of PHI in violation of this Agreement. Data Recipient shall be responsible for any and all costs (including the costs of <Affiliate>) associated with mitigating or remedying any violation of this Agreement.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of California, and venue for any actions relating to this Agreement shall be in the county where <Affiliate> is located.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed by their authorized representatives on these respective dates:

<AFFILIATE >

DATA RECIPIENT

Name

Name

Title

Title

Date

Date