# DATA USE AGREEMENT

This Data Use Agreement ("Agreement") is entered into by and between _____ (hereinafter, "Covered Entity") and the Data Recipients named in Schedule 1 (attached hereto and incorporated herein by reference) (each a "Data Recipient" and collectively the "Data Recipients"). Covered Entity and each Data Recipient may herein be individually referred to as a "Party" or collectively as the "Parties".

# RECITALS:

WHEREAS, the Parties are committed to improving the health of the populations and the communities they serve;

WHEREAS, Covered Entity is providing to each Data Recipient the data described in Schedule 1, which contains certain Protected Health Information in the form of a Limited Data Set (hereinafter referred to as the "Data") for the purposes of research or public health as described herein; and

WHEREAS, this Agreement addresses the conditions under which Covered Entity will disclose and the Data Recipient may obtain, use, reuse, and disclose the Data in accordance with Applicable Law;

NOW, THEREFORE, in consideration of the mutual promises and considerations set forth below, the Parties agree as follows:

1. **Definitions**. Any capitalized terms used in this Agreement and not otherwise defined, shall have the meanings set forth in the HIPAA Privacy Rule, which definitions are incorporated in this Agreement by reference.

    a. "Applicable Law" means HIPAA, the HITECH Act, and all the regulations promulgated thereunder, as well as any other applicable federal, state, or local law.

    b. "Data Use Agreement" shall have the same meaning as specified in the standards in 45 CFR Section 164.514(e)(4).

    c. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-005, and the regulations promulgated thereunder by the U.S. Department of Health and Human Services and its Office of Civil Rights.

    d. "Limited Data Set" shall have the same meaning as specified in the standards in 45 CFR Section 164.514(e).

    e. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, Subparts A and E.

    f. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103.

2. **Term**. This Agreement shall commence on the Effective Date set forth in Schedule 1 and shall continue in effect until terminated in accordance with Section 4 below. To the extent

that a Data Recipient is added to this Agreement after the Effective Date, then the Effective Date of the Agreement as to the later added Data Recipient shall commence on the date of execution with Covered Entity.

3. **Data Recipient's Obligations.**

   a. **Permitted Data Use.**  Data Recipient shall only receive, use or disclose the Data for the purposes described in Schedule 1 and shall not use or further disclose the Data unless otherwise required by law, or as authorized by Covered Entity in writing.

   b. **Safeguards.** Data Recipient shall use appropriate safeguards as required by Applicable Law to prevent any use and disclosure of the Data, other than as provided for by this Agreement.  Upon request by Covered Entity, Data Recipient shall describe the safeguards being used to prevent unauthorized use or disclosure of the Data.

   c. **Reporting Unauthorized Use or Disclosure.** Data Recipient shall immediately report to the Covered Entity any use or disclosure of the Data other than as expressly allowed by this Agreement of which Data Recipient becomes aware.  Unauthorized uses or disclosures of the Data by Data Recipient is grounds for termination of this Agreement by Covered Entity in accordance with Section 4.

   d. **Data Recipient Workforce**. Data Recipient shall ensure that its employees, representatives, and agents each agree to comply with the terms and conditions of this Agreement, and shall ensure that its agents, Business Associates and subcontractors to whom Data Recipient provides the Data each agree to comply with the same restrictions and conditions that apply to Data Recipient hereunder.

   e. **No Identification of Individuals.**  Data Recipient shall not identify or attempt to identify the information contained in the Data, nor contact any of the individuals whose information is contained in the Data.

4. **Termination**.

   a. For Cause. Covered Entity may terminate this Agreement with respect to one or more Data Recipient(s) and cease all disclosures of Data pursuant hereto, upon ten (10) days' notice to Data Recipient(s) if Data Recipient(s) violates or breaches any material term or condition of this agreement.

   b. Covered Entity or Data Recipient may terminate this Agreement for any reason upon 30 days' written notice to the other Party.

   c. Upon termination of this Agreement by either Party or upon completion of Data Recipient's purpose for requesting the Data identified on Schedule 1, whichever occurs first, Data Recipient shall promptly return or destroy the Data using industry-accepted methods. If return or destruction of the Data is not feasible, Data Recipient shall continue the protections required under this Agreement consistent with the requirements of the Privacy Rule.

5. <u>**Interpretation.**</u> Any ambiguity in this Agreement relating to the use and disclosure of the Data by Recipient(s) shall be resolved in favor of a meaning that further protects the privacy and security of the Data.

6. **Liability.** Except as expressly set forth herein, the Parties acknowledge and agree that each Party will be responsible for its own acts, errors, omissions, or the results thereof to the extent permitted by Applicable Law and shall not be responsible for the acts, errors, omissions, or the results thereof of the other.

7. **Amendment.**

   a. Any amendment to this Agreement must be made in writing, signed by the Parties, except that Schedule 1 may be modified or amended by agreement of the Parties in writing from time to time without formal amendment of this Agreement.

   b. Addition of Data Recipients. Covered Entity may agree to provide the Data to a new data recipient upon execution of this Agreement by the Covered Entity and the new Data Recipient and amendment of the Data Recipient list in Schedule 1. The addition of new Data Recipients shall not affect the rights or obligations of then existing Data Recipients in any way.

8. **Compliance with Laws.** Each Party represents and warrants that it will at all times comply with Applicable Law in the performance of this Agreement.

9. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. **Entire Agreement.** This Agreement is the complete agreement between the Parties and supersedes all previous agreements or representations, written or oral, with respect to the Data and any related matters as addressed herein.

11. **Notices.** Any and all notices required or permitted under this Agreement must be in writing and sent by United States mail, electronic mail with written acknowledgement of receipt, overnight delivery service or facsimile to the addresses for each party provided below or such different address as a party may later designate in writing.

12. **Independent Contractors.** The relationship between the Parties is that of independent contractors. This Agreement will not create any agency, joint venture, or partnership relationship between the Parties.

13. **Severability.** In the event any part or parts of this Agreement are held to be unenforceable, the remainder of this Agreement shall continue in effect.

**IN WITNESS WHEREOF,** the Parties have executed this Agreement as follows:


**COVERED ENTITY**

**Name**


By_____
Name
Title

**DATA RECIPIENT**

**Name:**


By⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽

Name:

Title:


**DATA RECIPIENT**

**Name:**


By⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽

Name:

Title:


**DATA RECIPIENT**

**Name:**


By⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽⎽

Name:

Title:

**Schedule 1**

1. Effective Date:

2. Name of Covered Entity contact person/department releasing the Data:

3. Name and Contact Information of Data Recipients:

| Data Recipient | Address | Workforce |
|---|---|---|
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4. Purpose of Data disclosure: Data Recipient may use and disclose the Data for public health surveillance activities of the following conditions:
   - Infectious or communicable diseases.
   - Chronic diseases, conditions or health behaviors.
   - Behavioral health conditions.

5. Each Data Recipient is permitted to use and disclose the Data for the following specific purpose(s):

   Covered Entity's Data may be combined with data from other regional collaborators to create a Consolidated Data Set (CDS). The CDS will be used to monitor population health, target areas for intervention and conduct evaluation activities. Analyses conducted on the CDS data will be shared on a regional basis in accordance with this Agreement and with the goal of improving health and the quality and availability of health care and health resources in neighborhoods or sub-county regions. Reports developed from the Data and CDS may be disclosed at the county, council district, neighborhood level or census tract in accordance with the purpose described above.

6. Description of Data elements disclosed for the public health purposes described in Sections 4 and 5.

Public health surveillance data related to the conditions described above in Section 4 for the year 2000 and forward. Data elements are described in the current CHORDS VDW Data Model Manual and are based on the Virtual Data Warehouse [VDW] (a database containing data extracted directly from Covered Entity's EHR that is reconfigured using standard variable names and values).

Covered Entity will generate, assign and store a unique identifier for patients, providers and encounters that will be used to join health information across tables.

In order to qualify as a Limited Data Set under HIPAA and this Agreement, the Data must exclude the following direct identifiers:

      a.   Names
      b.   Postal address information, other than town or city, state, and zip code
      c.   Telephone numbers
      d.   Fax numbers
      e.   Electronic mail addresses
      f.   Social Security numbers
      g.   Medical record numbers
      h.   Health plan beneficiary numbers
      i.   Account numbers
      j.   Certificate/license numbers
      k.   Vehicle identifiers and serial numbers, including license plate numbers
      l.   Device identifiers and serial numbers
      m.  Web Universal Resource Locators (URLs)
      n.   Internet Protocol (IP) address numbers
      o.   Biometric identifiers, including finger and voice prints, and
      p.   Full face photographic images and any comparable images.