

DATA USE AGREEMENT

This Data Use Agreement (the "Agreement") is entered into this ____ day of _____, 20____, by and between _____ ("Covered Entity") and _____ ("Data Recipient").

WHEREAS, Covered Entity possesses certain Protected Health Information ("PHI") that is subject to protection under the Health Insurance Portability and Accountability Act of 1996, as amended from time to time ("HIPAA");

WHEREAS, Data Recipient wishes to obtain certain PHI from Covered Entity for the purpose of research, public health, or health care operations;

NOW THEREFORE, for and in consideration of the recitals above and the mutual covenants and conditions herein contained, Covered Entity and Data Recipient enter into this Agreement to provide a full statement of their respective responsibilities.

1. Covered Entity agrees to disclose the following PHI to Data Recipient: _____

____ (the "Limited Data Set"). Such Limited Data Set shall not contain any of the following identifiers of the individual who is the subject of the PHI, or of relatives, employers or household members of the individual: names; postal address information, other than town or city, State, and zip code; telephone numbers; fax numbers; e-mail addresses; social security numbers; medical record numbers; health plan beneficiary numbers; account numbers; certificate/license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

2. Data Recipient, its agents and employees (collectively referred to as "Data Recipient") shall use and disclose the Limited Data Set for the following purpose only: _____ . Data Recipient agrees not to use or further disclose the Limited Data Set other than as permitted or required by this Agreement or as required by law, provided that such use or disclosure would not violate HIPAA if done by the Covered Entity or the "minimum necessary" policies and procedures of the Covered Entity.

3. Only the following employees and/or agents of Data Recipient shall have access to the Limited Data Set: _____

4. The Data Recipient shall:

- A. Not identify the information in the Limited Data Set or contact the individuals;
- B. Use appropriate safeguards to prevent use or disclosure of the Limited Data Set other than as provided for by this Agreement;
- C. Report to the Covered Entity any use or disclosure of the Limited Data Set not provided for in this Agreement of which it becomes aware; and
- D. Ensure that any agents to whom it provides the Limited Data Set agree to the same restrictions and conditions as the Data Recipient.

5. If the Covered Entity becomes aware of a pattern of activity of the Data Recipient that constitutes a material breach or violation of this Agreement, the Covered Entity shall take reasonable steps to cure the breach or end the violation and, if such steps are unsuccessful, shall discontinue disclosure of PHI to the Data Recipient and report the problem to the Secretary of DHHS.

6. Any notice or other communication required, or which may be given, pursuant to this Agreement, shall be in writing. Any such notice shall be deemed delivered (i) on the day of delivery in person; (ii) five (5) days after deposit in first class registered mail, with return receipt requested; (iii) on the actual delivery date if deposited with an overnight courier; or (iv) on the date sent by facsimile, if confirmed with a copy sent contemporaneously by first class, certified, registered or express mail; in each case properly posted and fully prepaid to the appropriate address set forth below, or such other address of which a party may provide notice in accordance with this section:

_____	_____
_____	_____
_____	_____
_____	_____

7. The parties recognize that this Agreement may need to be modified from time to time to ensure consistency with amendments to and changes in applicable federal and state laws and regulations, including, but not limited to HIPAA. The parties agree to execute any additional amendments to this Agreement reasonably necessary for each party to comply with HIPAA. This Agreement shall not be waived, amended or altered, in whole or in part, except in writing signed by the parties.

8. This Agreement may not be transferred or assigned to or assumed by any other person, in whole or in part, without the prior written consent of Covered Entity.

9. This Agreement shall be governed by, and interpreted in accordance with, the internal laws of the State of Maine, except that its conflicts of law provisions shall not apply.

10. This Agreement shall be binding upon, and shall extend to the benefit of, the parties hereto and their respective permitted successors and assigns.

11. The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights, and no waiver by either party, whether written or oral, express or implied, of any rights under or arising from this Agreement shall be binding on any subsequent occasion; and no concession by either party shall be treated as an implied modification of the Agreement unless specifically agreed in writing.

12. In the event one or more clauses of this Agreement are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of this Agreement.

13. This Agreement sets forth the entire agreement of the parties, and replaces and supersedes any previous agreement between the parties on the subject, whether oral or written, express or implied.

14. Both parties shall retain all documentation required by HIPAA for six years from the date of its creation or the date when the document was last in effect, whichever is later.

IN WITNESS WHEREOF, the parties hereto have set their hands effective the day and year first above written.

DATA RECIPIENT

COVERED ENTITY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____