

Harvard Pilgrim Health Care, Inc.

Harvard Pilgrim Health Care Institute, LLC
Data Confidentiality Agreement for Research
Agreements Cover Sheet

Project Title	
Principal Investigator:	
IRBNet #	
Oracle/GMS (Project#):	
Is HVMA data included under this Agreement?	
Name & Title of Data Recipient Contact:	
Data Recipient Address & Telephone #:	
Agreement Effective Date:	
Risk Score:	
Project Manager**:	
Brief description of Agreement:	

***The Project Manager is responsible for: preparing the Agreement; providing quarterly status updates on the Agreement when requested; and notifying the Office of Sponsored Programs (OSP) Grants Manager of any changes to the Agreement (e.g., amendments, termination, change of Project Manager, etc.).*

PROJECT MANAGER: SUBMIT THE A COPY OF THIS AGREEMENT COVER SHEET AND THE FULLY EXECUTED AGREEMENT TO THE OSP GRANTS MANAGER.

DATA CONFIDENTIALITY AGREEMENT FOR RESEARCH

This Data Confidentiality Agreement for Research (“Agreement”) is made and entered into as of this ____ day of _____, 20__ (“Effective Date”), by and between **HARVARD PILGRIM HEALTH CARE INSTITUTE, LLC** (“Research Entity”) and _____ (“Data Recipient”).

WHEREAS, Research Entity, which is not a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), wishes to disclose certain data described more fully herein (“Data Set”) to Data Recipient; and

WHEREAS, Data Recipient wishes to use/disclose the Data Set for research purposes set forth more fully herein;

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. RESEARCH PROJECT.

Data Recipient shall use/disclose the Data Set only for the Research Project identified below or as required by law.

[Research Project Name and IRBNet#]

2. DATA SET TO BE PROVIDED BY RESEARCH ENTITY.

Research Entity will disclose to Data Recipient the Data Set described below:

3. PROPOSED USES/DISCLOSURES OF DATA SET.

Data Recipient shall only use/disclose the Data Set for the Proposed Uses/Disclosures described in the space below. Data Recipient shall not attempt to re-identify the source of any information provided in the Data Set. Any change to the Proposed Uses/Disclosures must be agreed to in writing before implementing the change.

4. All references herein to the Data Set may include, but are not limited to, “Protected Health Information” as defined under HIPAA and its regulations at 45 CFR 164, 501 and “Personal Information” as defined in Chapter 93H of the Massachusetts General Laws and its regulations at 201 CMR 17.00 (*Standards for the Protection of Personal Information for Residents of the Commonwealth*). In states other than Massachusetts, "Personal Information" will have the meaning given by comparable state laws.

5. **CONFIDENTIAL INFORMATION.**

A. During the Research Project, each party is likely to have contact with information of substantial value to the other, including, but not limited to scientific techniques; designs; drawings; inventions; developments; equipment; prototypes; business plans; data processing techniques; computer programs; experimental works; customers; suppliers; information relating to and contained in the Data Set; and Research Project subjects (whose identities might be ascertained by the exercise of reasonable effort through investigation or through use of other public or private databases) (all of the foregoing hereinafter referred to collectively as "Confidential Information").

B. Each party shall, at all times, regard and preserve as confidential, the Confidential Information and shall refrain from publishing or disclosing any part of the Confidential Information or from using it, except as expressly provided in this Agreement.

C. Data Recipient shall:

- (i) use the Data Set only for the purposes set forth in **PROPOSED USES/DISCLOSURES OF DATA SET**;
- (ii) limit access to the Data Set to the Data Recipient’s authorized employees, students and researchers (deemed to include employees as well as individuals who are agents or independent contractors of Data Recipient), each of whom shall be bound by this Agreement;
- (iii) ensure that any agent, including a subcontractor, to whom it provides the Data Set agrees to implement reasonable and appropriate safeguards to protect it and comply with the same restrictions and conditions of this Agreement that apply to Data Recipient; and
- (iv) if required by subpoena or other legal process to disclose the Data Set, give Research Entity prior notice of such disclosure.

D. With respect to Data Recipient’s facilities where it receives, maintains or transmits the Data Set, Data Recipient shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality and integrity of the Data Set as required by applicable state and/or federal law. In addition, Data Recipient will encrypt all Personal Information (“PI”) and Protected Health Information (“PHI”) stored on laptops or other electronic devices and on all records and files containing PI and PHI that will be transmitted wirelessly.

- E. Notwithstanding the foregoing, the obligations imposed by this Section 5 (CONFIDENTIAL INFORMATION) shall not apply to any information that:
- (i) is rightfully received from a third party, not in violation of any right of, or obligation to, any other party to this Agreement;
 - (ii) is independently developed without the use of or reference to the Confidential Information;
 - (iii) as of the Effective Date, is part of the public domain or becomes publicly available through no wrongful act of the receiving party;
 - (iv) was in possession of the receiving party on the Effective Date, as evidenced by prior documentation kept in the ordinary course of business and bearing a date prior to the date of disclosure; or
 - (v) is approved for release in writing by an authorized representative of the releasing party.
- F. Each party shall employ all reasonable safeguards, including those safeguards it takes to protect its own Confidential Information, to prevent any use, access or disclosure of the other party's Confidential Information that would result in a breach of this Agreement.
- G. In the event that Research Entity becomes aware of a use of the Data Set or any part of it that is unauthorized under this Agreement or not permitted by applicable law, Research Entity may:
- (i) terminate this Agreement;
 - (ii) disqualify Receiving Entity from receiving Confidential Information in the future; and
 - (iii) report the inappropriate use or disclosure to the applicable regulatory authority.

6. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts, other than those provisions governing conflicts of law.

The parties' authorized representatives hereby accept and agree to the terms and conditions of this Agreement.

**HARVARD PILGRIM HEALTH CARE
INSTITUTE, LLC**

[NAME OF DATA RECIPIENT]

By: _____

By: _____

Print Name: Sheila Fireman, JD

Print Name: _____

Title: Director of Institute Administration

Title: _____

Date: _____

Date: _____