**RHODE ISLAND DEPARTMENT OF HEALTH**

**ALL-PAYER CLAIMS DATABASE**

**DATA USE AGREEMENT FOR NON RHODE ISLAND STATE REQUESTERS**

This Data Use Agreement (“Agreement”) #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, is effective beginning on the date that the last party signs this agreement, which is the (“Effective Date”) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and ends upon project completion (“End Date”) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and is between the parties, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Receiving Organization”) and the Rhode Island Department of Health (“RIDOH”).

1. **Purpose.** This Agreement addresses the terms and conditions under which RIDOH will release and the Receiving Organization may obtain, use, and disclose Rhode Island All-Payer Claims Database data files or reports specified in Section 4 of this Agreement, and/or any derivative files (“APCD Data”).
2. **Applicable Law**. This Agreement is permitted under the *Rules and* *Regulations Pertaining to the Rhode Island All-Payer Claims Database* (R23-17.17 RI-APCD), pursuant to Chapters 42-35 of the General Laws of Rhode Island, the Confidentiality of Health Care Communications and Information Act, R.I. Gen. Laws Chapter 5-37.3-1, and all other applicable laws.
3. **Terms**.
	* + 1. The terms of this Agreement can only be changed by a written modification to this Agreement or by the parties adopting a new agreement.
			2. If an Applicable Law requires a change in this Agreement, the parties will consider that change to be made automatically, but only to the minimum extent required by that Applicable Law. Following amendment of the Agreement in this manner, the parties shall, as necessary, work together to clarify their respective obligations with respect to any new requirements under the modified Applicable Law.
			3. If there is a conflict between the terms of this Agreement and any underlying agreement between the parties, the terms of this Agreement shall prevail.
			4. If an extension to this Agreement is necessary, the duration may be extended in writing only by the parties specified in this Agreement.
4. **Project and Application**. This Agreement pertains to the project entitled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as described in the RI-APCD Data Release Application #\_\_\_\_\_\_\_\_\_\_\_\_\_\_ approved by RIDOH and incorporated into this Agreement as Exhibit A. Any other projects, uses and users require separate applications and approvals.
5. **Covered Data.** This Agreement pertains to the following files, in accordance with the specifications, as requested and approved in Exhibit A:

|  |  |
| --- | --- |
| **Type of File** | **Years** |
|  |  |
|  |  |
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1. **Attachments.** The parties mutually agree that the following specified Exhibits are part of this Agreement:

Exhibit A: Approved RI-APCD Data Release Application #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Exhibit B: RI APCD Data Display and Reporting Policy

Exhibit C: Certificate of Data Destruction or Retention

1. **Ownership of Information**. The Receiving Organization agrees that RIDOH owns and retains ownership of all APCD Data released to the Receiving Organization under this Agreement. The Receiving Organization will not disclose, release, reveal, show, sell, rent, lease, loan, submit, present or otherwise grant access to the APCD Data unless specifically approved in Exhibit A.
2. **APCD Data Use**.
	* + 1. The Receiving Organization will use APCD Data only for the purposes identified in Exhibit A.
			2. The Receiving Organization will ensure that access to APCD Data is provided only to the authorized individuals listed in Exhibit A, including employees, agents, and/or approved subcontractors.
			3. The Receiving Organization and its authorized individuals will not attempt to identify individuals in the APCD data in any way.
			4. The Receiving Organization will not link APCD Data to any other data sources other than those approved in Exhibit A and for the purposes approved in Exhibit A.
3. **APCD Data Disclosure.** The Receiving Organization will strictly adhere to the provisions of Exhibit B: RI APCD Data Display and Reporting Policy in all reports, analyses, displays, products and other data uses (“Outputs”) to prevent identification of individuals.
4. **Pre-Dissemination Review of all Outputs.**
	* + 1. The Receiving Organization shall submit all Outputs to RIDOH at least 15 days prior to any information dissemination beyond the Receiving Organization and its authorized users. Dissemination includes but is not limited to: submitting such Outputs to journals, publications, peer review processes, federal or state agencies, presentations, or other public forums.
			2. RIDOH will review the Outputs within 10 business days to confirm that the Receiving Organization has met all terms and conditions of this Agreement.
			3. RIDOH will not review Outputs for the purposes of validating study results or for data quality/integrity purposes.
			4. Every Output shall contain the following disclaimer:

“Data for this [report][analysis][product] was obtained through a request to the RI APCD as administered by RIDOH. Data was obtained for [year(s)]. RIDOH is not responsible for the author’s analysis, opinions and conclusions contained in this document.”

1. **Safeguards.** The Receiving Organization will implement and maintain the Data Management Plan specified in Exhibit A. The Receiving Organization will not undertake any unsecured telecommunication or transfer of APCD Data. The Receiving Organization agrees that APCD Data may not be physically moved, transmitted or disclosed in any way other than the way(s) indicated in Exhibit A, without written approval from RIDOH unless such movement, transmission or disclosure is required by law.
2. **Subcontractors.** If subcontractors are utilized, the Receiving Organization agrees to enter into a written contract with each agent and subcontractor receiving or accessing RI APCD Data, binding the subcontractor to the terms of this Agreement.
3. **Reporting and Mitigating Unauthorized Uses or Disclosures of Data.**
	* + 1. The Receiving Organization agrees to report any unauthorized use, reuse or disclosure of APCD Data to RIDOH within 48 hours of becoming aware of the incident. The report will include the date of the incident; any harmful effects that may or have been caused by the unauthorized use or disclosure; details about the most likely causes of the incident and how it occurred; and a description of the APCD Data accessed, used, or disclosed.
			2. In the event that RIDOH has reasonable belief that the Receiving Organization has made use, reuse or disclosure of the APCD Data, RIDOH may, at its sole discretion, require the Receiving Organization to:
				1. Investigate and report to RIDOH the Receiving Organization’s determinations regarding any alleged or actual unauthorized use or disclosure;
				2. Promptly resolve any issues or problems identified by the investigation;
				3. Submit a corrective action plan outlining the steps that the Receiving Organization will take to prevent future unauthorized use or disclosure;
				4. Return or destroy the APCD Data received from RIDOH under this Agreement.
			3. The Receiving Organization will preserve evidence relating to each incident, including log report data to be shared with RIDOH within fourteen (14) calendar days of request. The Receiving Organization agrees to cooperate with RIDOH, and other related State and Federal agencies in any investigation into an unauthorized use, reuse or disclosure.
			4. RIDOH will send written notification to the Receiving Organization about the start and end dates of the cure period and documentation to prove the remedy has been implemented. Thereafter, RIDOH may accept this proof or terminate the agreement.
4. **Termination.**
	* + 1. If RIDOH determines that the Receiving Organization has violated a material term of this Agreement, RIDOH may terminate this Agreement immediately via written notification. Upon request, RIDOH may grant the Receiving Organization a period of up to thirty (30) calendar days to cure the violation.
			2. Upon termination, the Receiving Organization will return or destroy all APCD Data and will not retain, nor allow any of its agents or subcontractors to retain, any APCD Data received under this Agreement. The Receiving Organization’s duty to destroy APCD Data includes, but is not limited to, the obligations to destroy all copies of APCD Data including electronic backup medium, and to destroy all APCD Data in accordance with the methods established by the U.S. Department of Health and Human Services (HHS) *Guidance to Render Unsecured Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals*. The Receiving Organization will confirm destruction in writing to RIDOH via Exhibit C: Certificate of Data Destruction or Retention.
			3. The following Sections survive expiration or termination of this Agreement: 2, 3, 7, 8, 9, 11, 12, 13, 14, and 16.
5. **Government Access.** TheReceiving Organization will provide requested records to the Director of RIDOH. Neither the Receiving Organization nor RIDOH waives any attorney-client, accountant-client, or other legal privilege or confidentiality as a result of this Agreement.
6. **Indemnification**. The Receiving Organization agrees to indemnify, hold harmless and defend RIDOH, Rhode Island and its affiliates, from and against any and every claim, cause of action, obligation, liability, judgment, damage, loss, cost, expense, and fee (including without limitation reasonable attorneys’ and court fees) arising out of or relating to the Receiving Organization’s breach of this Agreement, willful negligence, or failure to perform its obligations under this Agreement. If RIDOH, in its sole discretion, determines that the risk of harm created by such a breach or alleged breach of APCD Data requires notification of affected individuals and/or other remedies, the Receiving Organization agrees to carry out such remedies under the direction of and without cost to RIDOH. No other agreement between the parties alters a party’s liability under this Agreement, but this Agreement does not limit a party’s liability under any other agreement.
7. **Correspondence**. Each party will send any reports or notices required under this Agreement to the other party via email, fax, or first class mail according to the contact information listed below.

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| --- | --- |
| Receiving Organization Contact  | RIDOH Contact |
| Name: | Nicole Alexander-Scott |
| Title: | Director of RIDOH |
| Address: | 3 Capitol HillProvidence, RI 02908 |
| Preferred Phone: | Phone: 401-222-5960 |
| Fax: | Fax: N/A |
| Email:  | Email: Nicole.alexanderscott@health.ri.gov |

1. **Authority**. Each signatory agrees by signing below that it has authority to sign this Agreement on behalf of the party the signatory represents. Each entity agrees to be bound by the terms and conditions of this Agreement.

|  |  |
| --- | --- |
| Receiving Organization: | RIDOH  |
| Authorized Signatory | **Authorized Signatory** |
| Name: | Nicole Alexander-Scott |
| Title: | Director of RIDOH |
| Signature: | Signature: |
| Date: | Date: |
| Phone:  | Phone: 401-222-5960 |
| Fax: | Fax: N/A |
| Email: | Email: Nicole.alexanderscott@health.ri.gov |

**Exhibit B**

**RI APCD Data Display and Reporting Policy**

1. “Outputs” refers to any reports, analyses, displays, products, tables, manuscripts, presentations, and other data uses derived from APCD Data.
2. All RI APCD Data Outputs must adhere to the CMS cell size suppression policy, as stated in the *CMS Identifiable Data Use Agreement, Section 9*, available at <https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/Downloads/CMS-R-0235.pdf>. This policy stipulates: “that no cell (e.g. admittances, discharges, patients, services) 10 or less may be displayed. Also, no use of percentages or other mathematical formulas may be used if they result in the display of a cell 10 or less.”
3. Outputs must use complementary cell suppression techniques to ensure that cells with 10 or fewer observations cannot be identified by manipulating data in the Output.
4. Member-level records may not be disseminated or published in any form.

**Exhibit C**

**Certificate of Data Destruction or Retention**

**Receiving Organization Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DUA Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**INSTRUCTIONS:**

This Certificate must be completed and returned to RIDOH within 30 days of the End Date specified in the DUA number listed above (project completion date).

Please check the appropriate box below:

❒ I certify that the Receiving Organization has destroyed all RI APCD Data received from RIDOH under the DUA number listed above, including copies, subsets, and manipulated files, held by all individuals who had access to, and from all electronic media, in accordance with the terms of the DUA.

❒ I certify that the Receiving Organization has been approved by RIDOH to retain all RI APCD Data received from RIDOH under the DUA number listed above until \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [date]. Attach documentation of the approval.

**SIGNATURES:**

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| --- |
| Receiving Organization: |
| Authorized Signatory |
| Name: |
| Title: |
| Signature: |
| Date: |
| Phone:  |
| Fax: |
| Email: |