

INFORMATION MANAGEMENT AGREEMENT

THIS AGREEMENT is made as of the ____ day of _____, 2014.

BETWEEN:

GOVERNORS OF THE UNIVERSITY OF CALGARY a body corporate incorporated under the laws of the Province of Alberta on behalf of the data source provider (referred to as "DSP")

- and -

ALBERTA HEALTH SERVICES a body corporate incorporated under the laws of the Province of Alberta (referred to as "AHS")

OBJECTIVES:

The objective of this Information Management Agreement (IMA) is to authorize AHS to provide the DSP with data transmission and storage services that enable the DSP to share information with other authorized custodians through Alberta Netcare and the Shared Health Services Record Service. This objective aligns with section 56.2 (sharing and use, via the Alberta EHR, of prescribed health information among authorized custodians) of the *Health Information Act*.

NOW THEREFORE THE PARTIES TO THIS AGREEMENT WITNESS that in consideration of the premises and of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the Parties hereby covenant and agree as follows:

1.0 Definitions

1.1 In this Agreement:

- (a) "Alberta EHR" is as defined in section 56.1 of the HIA.
- (b) "Data" shall mean any individually identifying information provided by the DSP to AHS related to the Information Management Services provided by AHS.
- (c) "FOIP" shall mean the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, F-25 and any regulations made thereunder, as may be amended from time to time.
- (d) "HIA" shall mean the *Health Information Act*, R.S.A. 2000, H-5 and any

regulations made thereunder, as may be amended from time to time.

- (e) "Information Management Services" means those maintenance and support services for those DSP applications listed in Schedule A attached hereto and forming part of this Agreement.
- (f) "Party" or "Parties" shall mean the Parties to this Agreement, as the context requires.
- (g) "Representatives" means any directors, officers, employees, partners, agents, counsel, professional advisors or have a need to access the Data for the purpose of providing the Information Management Services to the DSP.

2.0 Appointment of Information Manager

- 2.1 The DSP hereby appoints AHS as an information manager for the purpose of providing it with Information Management Services as set forth in Schedule "A" attached.

3.0 Compliance with HIA and FOIP

- 3.1 It is acknowledged by the Parties hereto that AHS is being retained by the DSP in the capacity of independent contractor and not as an employee. The relationship of the DSP to AHS pursuant to the terms of this Agreement is solely that of custodian to information manager.
- 3.2 AHS agrees that it is aware of and will comply with the provisions of the HIA, FOIP and any other applicable legislation and this obligation shall survive the termination of this Agreement for as long as AHS holds or has access to Data.

4.0 AHS Obligations

- 4.1 In addition to its obligations in section 3.2 above and the Services specified in Schedule 'A', shall comply with the provisions set forth below:
 - (a) AHS agrees that all Data is confidential and shall protect the Data against such risk as unauthorized access, use, disclosure, destruction or alteration and shall limit access to the Data to authorized Representatives for use as set out in this Agreement.
 - (b) Without limiting any other provision, AHS shall comply with section 60 of the HIA and section 8 of the Health Information Regulation made under HIA with respect to the security and protection of the Data. Specifically, AHS agrees to implement and maintain reasonable safeguards to maintain the security, protection, availability and integrity of the Data.
 - (c) AHS shall, before disclosing any Data to any Representative, ensure that the terms and conditions of this Agreement are and will be fully complied with by any such Representative, including obtaining a confidentiality agreement obligating the Representative to keep Data in strict confidence and to be bound by all terms and conditions of this Agreement. AHS agrees that it shall be liable and

responsible for any breach of this Agreement by any of its Representatives.

- (d) AHS shall perform the Information Management Services for the DSP.
 - (e) AHS shall not collect, keep, hold, use or disclose any Data provided by the DSP for any purpose other than in performance of its duties under this Agreement.
 - (f) AHS reserves the right to unilaterally make data non viewable in Netcare if there is a data integrity issue that may impact patient safety or a DSP fails to meet the DSP's responsibilities. If it does so, AHS will notify the DSP in a timely manner.
 - (g) AHS reserves the right to approve or reject requests to enhance or change AHS clinical repositories or integration services in order to accommodate changes in the data source repositories, data format or content.
- 4.2 AHS shall return to the DSP or destroy all Data immediately after it no longer needs the Data to provide any service provided as part of the Information Management Services.
- 4.3 AHS shall not send, transmit or access any Data outside of Canada.
- 4.4 AHS may only disclose Data in response to a subpoena, warrant, order, demand or request by a Canadian court or other Canadian authority with jurisdiction to compel the disclosure, or as otherwise required by Canadian law. AHS shall promptly notify the DSP if it receives any such orders so that the DSP may seek a protective order or other remedy as appropriate. AHS shall cooperate with the DSP as reasonably necessary to help the DSP obtain a protective order. If the DSP does not obtain a protective order, AHS shall: a) furnish only that portion of the Data which is legally required, b) exercise its best efforts to obtain reliable assurance that the Data will be accorded confidential treatment, and c) promptly provide to the DSP, copies of the Data that was disclosed, as well as the request made for the Data.
- 4.5 AHS shall not disclose Data under any non-Canadian law, rule order, or document and shall immediately notify the DSP if it receives any subpoena, warrant, order, demand or request issued by a non-Canadian court or other foreign authority for the disclosure of Data.
- 4.6 AHS shall immediately notify the DSP of any release or disclosure of Data that is contrary to the provisions of this Agreement. AHS shall take immediate steps to contain such release or disclosure and report such breach to the AHS Information & Privacy office pursuant to the AHS Privacy Breach Investigation Process. AHS shall cooperate with the DSP investigation of such disclosure and the DSP efforts to recover the Data and shall ensure that its Representatives are aware of their obligations under this section.
- 4.7 AHS shall not intimidate, punish, terminate, penalize or otherwise harass any Representative if such Representative notifies the DSP of any breach of this Agreement.
- 4.8 AHS shall keep an audit trail or other log of its Representatives' access to Data, and shall provide this log to the DSP upon request. Such log or audit trail must contain the information required by section 6 of the Alberta Electronic Health Record Regulation.

4.8 The obligations of AHS under this section 4 shall survive the termination of this Agreement.

5.0 DSP Obligations

5.1 DSPs shall have the following responsibilities:

- (a) to ensure the integrity (accuracy, completeness, reliability) of the information and its source system;
- (b) to submit and obtain acceptance from the Office of the Information and Privacy Commissioner of Alberta of its PIA and to take appropriate steps to update the source system PIA to incorporate any changes to the system or administrative practice that facilitate the submission to Alberta Netcare;
- (c) to meet all AHS IT Security requirements as determined in its sole discretion by AHS IT Security and Compliance;
- (d) to obtain AHS IT approval prior to making changes to data format, content or source systems that feed information to AHS clinical repositories to be made available and accessible via Netcare;
- (e) to obtain AHS IT approval prior to making changes to the list of sites or clinics which submit data from within the DSP's organization;
- (f) to collaborate with AHS IT to establish appropriate development and testing timelines for any changes;
- (g) participation in AHS IT change management process by performing data integrity validation as required. AHS IT change management process shall apply to changes impacting integration services, AHS clinical repositories, Alberta Netcare Portal and Shared Health Record Services. These may include major releases, minor changes and emergency changes;
- (h) to ensure the DSP test process conforms to AHS DSP Test Plan and provide evidence as required of such conformance to the AHS Netcare Test Manager;
- (i) to comply with timelines and provide timely signoff that validation in sub paragraph (h) has been completed;
- (j) to provide timely investigation and remediation of identified data issues.
- (k) to provide ongoing education and training of respective data providers within the DSP organization with respect to documentation etiquette, awareness that documentation is shared and adherence to business processes which may impact data integrity;

6.0 Representations and Warranties

AHS represents and warrants and it is a condition of this Agreement that:

- (a) AHS is a resident of Canada for the purposes of the *Income Tax Act* (Canada);
- (b) AHS is and for the duration of the term shall remain, fully licensed to perform the services;
- (c) AHS is competent and has the necessary technical skills, qualifications, experience and training to perform and complete the services during the Term; and
- (d) AHS shall strictly comply with all laws and regulations applicable to the services.

7.0 Ownership and Control of Information

- 7.1 The Parties acknowledge that for the purposes of the HIA and FOIP, the Data remains under the custody and control of the DSP.
- 7.2 If AHS receives any request for access to the Data, under the HIA or under FOIP, it shall immediately refer such request to the DSP.

8.0 Collection from Other Custodians or Persons:

- 8.1 AHS is permitted to collect health information from other custodians or persons for the following purposes: any of the purposes that are permitted under the HIA, or the FOIP.

9.0 Requests for Correction or Amendment of Information:

- 9.1 AHS will respond to requests to amend or correct the Data by referring requests to the DSP.

10.0 Expressed wish of Individual relating to disclosure of Health Information:

- 10.1 AHS will address an expressed wish of an individual relating to the disclosure of the Data by referring the request to the DSP.

11.0 Audit

The DSP shall have the right upon reasonable notice, to audit AHS and make inspections of AHS' information systems and premises to determine compliance with the terms of this Agreement.

12.0 Indemnity

- 12.1 Without limitation and in addition to any other rights of the DSP against AHS, AHS shall:

- (a) be liable to the DSP for any and all direct losses, costs, damages and expenses whatsoever, including legal, accounting and other professional costs, expenses, fees and disbursements which the DSP may suffer, sustain, pay or incur; and
- (b) indemnify and hold the DSP harmless against all actions, proceedings, claims, demands, losses, costs, damages and expenses whatsoever, which may be brought against or suffered by it or which it may sustain, pay or incur;

that result or arise directly from collection, use or disclosure of all or any part of the Data.

12.2 Without limitation and in addition to any other rights of AHS against the DSP, the DSP shall:

- (a) be liable to AHS for any and all direct losses, costs, damages and expenses whatsoever including legal, accounting and other professional costs, expenses, fees and disbursements which AHS may suffer, sustain, pay or incur; and
- (b) indemnify and hold AHS harmless against all actions, proceedings, claims, demands, losses, costs, damages and expenses whatsoever, which may be brought against or suffered by it or which it may sustain, pay or incur;

that result or arise directly from collection, use or disclosure of all or any part of the Data.

12.3 The obligations under this section 12 shall survive any termination of this Agreement.

13.0 Breaches, Term and Termination

13.1 If AHS becomes aware of a breach of any term or condition of this Agreement it shall immediately notify the DSP and, if appropriate, take reasonable steps to remedy the breach.

13.2 The term of this Agreement shall commence on the date this Agreement is signed by both Parties and shall continue until AHS no longer provides any Information Management Services, holds Data or has access to Data.

13.3 The DSP may immediately terminate this Agreement upon written notice to AHS with or without cause.

13.4 AHS shall not provide Information Management Services to the DSP should this Agreement be terminated.

13.5 Upon termination of this Agreement, AHS shall securely dispose of copies of health information provided by the data source provider.

14.0 Notice

Every request, notice, delivery or written communication provided for or permitted by this Agreement shall be in writing and delivered to, or mailed, postage prepaid, or faxed

to the Party to whom it is intended as hereinafter set forth; namely

(a) If to the DSP:

University of Calgary
Privacy and Records Office
2500 University Dr. NW
Calgary, AB
T2N 1N4
Ph: 403 210-7598
Fax: 403 210-9635

(b) If to AHS:

Alberta Health Services
Information and Privacy Office
10101 Southport Road S.W.
Calgary, AB
T2W 3N2
Ph: 403 943-0424
Fax: 403 943-0429

15.0 Amendments and Additions

15.1 This Agreement shall not be modified, amended, or in any way varied or changed, except by a duly written executed instrument by the Parties.

16.0 Choice of Law

The terms and conditions of the Agreement shall be subject to and construed pursuant to the laws in force in the Province of Alberta.

17.0 Severability

Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision unless to do so affects the entire intent and purpose of this Agreement.

18.0 Public Document

This Agreement and the information contained herein may be made generally available to the public. AHS agrees that this document does not contain proprietary information and may be made available to the public at the DSP's discretion.

19.0 Conflict

This Agreement sets forth the complete understanding of the Parties with respect to this subject matter and supersedes all other prior and contemporaneous agreements, written or

oral, between them concerning such subject matter. In the event of any conflict between the provisions of this Agreement and the provisions of any other agreement between the Parties, the provisions of this Agreement shall control.

20.0 Waiver

No consent or waiver, express or implied by any Party of any breach or default by the other Party in the performance of any obligations hereunder shall be deemed or construed to be a consent or waiver to any other breach or default in the performance by such other Party of the same or any other obligation of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare any Party to be in breach or default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. No failure or delay by a Party in exercising any of its rights or pursuing any remedies available to it hereunder or at law or in equity shall in any way constitute a waiver or prohibition of such rights and remedies in the event of a breach of this Agreement.

21.0 Assignment

AHS shall not assign or subcontract all or any portion of the Information Manager Services without the DSP's express written consent.

22.0 Counterpart

This Agreement may be executed in counterpart. Each Counterpart shall be deemed an original and all of which together with this Agreement shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

Governors of the University of Calgary, General Counsel

Per: _____



Alberta Health Services

Per: _____